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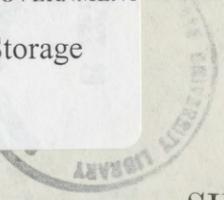
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REPEAL THE NAVAL STORES ACT

GOVERNMENT

Storage



HEARING

BEFORE THE

SUBCOMMITTEE ON FORESTS

OF THE

COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 7381

AUGUST 22, 1966

Serial VV

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REPEAL THE NAVAL STORES ACT

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REPEAL THE NAVAL STORES ACT

MONDAY, AUGUST 22, 1966

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FORESTS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 1302, Longworth House Office Building, Hon. John L. McMillan (chairman of the subcommittee) presiding.

Present: Representatives McMillan, Teague of California, O'Neal, Burton of Utah, and Hansen of Idaho.

Also present: John J. Heimburger, general counsel; Hyde H. Murray, assistant clerk; Mrs. Martha Hannah, staff; Fowler West, staff.

Mr. McMILLAN. The committee will come to order.

We have for consideration this morning H.R. 7381.

(H.R. 7381 and report follow:)

[H.R. 7381, 89th Cong., 1st sess.]

A BILL To repeal the Naval Stores Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Naval Stores Act approved March 3, 1923 (42 Stat. 1435; 7 U.S.C. 91-99), be hereby repealed.

Mr. McMILLAN. Congressman Burton, do you have a statement?

Mr. BURTON. Yes, sir; if this is the appropriate time I would like to make a statement.

STATEMENT OF HON. LAURENCE J. BURTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BURTON. Mr. Chairman, the Naval Stores Act was passed by this committee in March of 1923. There is some reference in a communication from the executive department that they think it should be referred to the Science and Astronautics Committee and I would resist that attempt because this is the committee of origin and this is the committee where it should remain, in my judgment.

My bill H.R. 7381 simply repeals the Naval Stores Act approved on March 31, 1923. The reason for this, Mr. Chairman, is that there is a technicality in the law that was passed in 1923 that prohibits the purchase of rosins from fossilized fuel and we have fossilized deposits in the State of Utah which meet, in every respect, the standards established by this committee and by the Department of Defense under that act.

Again I reassert this is a mere technicality in the law and for the benefit of the committee I would like to read a letter that the chairman

of the full committee, Mr. Cooley, received from the Department of Agriculture signed by the Secretary. He actually received two letters, but one is superseded by the other and I shall read the revised letter of August 4, 1966, and it says:

DEAR MR. CHAIRMAN—

This is addressed to Mr. Cooley—

This is in reply to your request of July 14, 1966, for a report on H.R. 7381, a bill to repeal the Naval Stores Act of 1923.

Although this Department supports repeal of the Naval Stores Act, we favor the proposed legislation which the Department recommended to the Congress on March 17, 1965.

In addition to repealing the Naval Stores Act, that proposal would repeal several other laws pertaining to specific commodities. Over the years economic conditions and marketing practices have changed so that the need for these specific acts is no longer as great as when these laws were enacted. Further, the Agricultural Marketing Act of 1946 provides authority to permit the continuation of the portion of these activities that need to be continued.

The Naval Stores Act provides standards for naval stores (spirits of turpentine and rosin) and authorizes the Secretary of Agriculture to modify such standards and to establish new standards for naval stores; authorizes the Secretary to provide for the analysis, classification, grading, and certification of naval stores upon request and on a cost recovery basis; and, under criminal penalty, requires the use of official naval stores standards in selling naval stores in interstate or foreign commerce, and prohibits false or misleading practices in such commerce in the sale of naval stores and similar activities.

Under the proposed legislation recommended by the Department, the provisions for establishment of naval stores standards and for the analysis, inspection, classification, and grading services on a fee basis for rosin and turpentine would be continued under the authority of the Agricultural Marketing Act of 1946.

Under the budget for fiscal year 1967 reductions in appropriation were estimated based on the proposed repeal of these several specific laws. The estimated savings in appropriations attributable to repeal of the Naval Stores Act is \$36,000 and about 3 man-years of employment.

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,

ORVILLE L. FREEMAN, *Secretary.*

Now Mr. Chairman, the bill that the Department recommends is pending before another committee. It would not only repeal sections of the Naval Stores Act which apply to turpentines and rosins but several other commodities. It is my feeling, Mr. Chairman, in all honesty this is a delaying tactic, this is a process of pushing it to another committee that will not act this year I am sure, and in Utah we are capable of producing rosins from fossilized stores as well and as adequately, sir, as you are from South Carolina from your white pines.

I would hope that this committee will not relinquish jurisdiction to another committee. In so doing you are merely putting it off and stalling it and delaying it and in effect killing it.

At this time, Mr. Chairman, with your permission I would like to call to the witness chair my constituent, Mr. Irving Bennett, who is general manager of the Pan American Resin & Chemical Co., and have him explain to us the position of the fossilized resin industry which is in Utah.

Mr. McMILLAN. Mr. Bennett. We will be glad to hear any statement you care to make.

Mr. TEAGUE. Mr. Chairman, may I ask Mr. Burton a question first?

Mr. McMILLAN. Yes.

Mr. TEAGUE. Mr. Burton, this is the first I have heard of this proposal. I have no idea of whether I am for it or against it, so I have an entirely open mind on the subject. I would like to know, however, why your purpose could not be accomplished by an amendment to authorize the use of fossilized deposits rather than repealing the whole Naval Stores Act.

Mr. BURTON. May I say to my friend from California that I cannot see any objection to an amendment. The way the original bill was written in 1923 makes it a criminal offense to purchase less than certain standards and so on and so forth. If we can accomplish the same thing by an amendment, I would have no objection to it.

Mr. TEAGUE. I am not saying now I would favor such an amendment, I am merely trying to get the problem in my mind.

Mr. O'NEAL. Mr. Chairman?

Mr. McMILLAN. Mr. O'Neal.

Mr. O'NEAL. I was interested in the same thing. My first impression was that you were recommending throwing out the baby with the bath water. I just wondered why it was necessary in order to serve your particular purpose, why we had to repeal the entire act.

Mr. BURTON. Let's put the shoe on the other foot. Why not repeal it? The Department itself, Mr. O'Neal, said the statute is obsolete; they said it in their report. They said to repeal it and save \$36,000 per year. Why not repeal?

Mr. O'NEAL. Did I understand you a little while ago when you were making an accusation of delaying tactics that was aimed at the Department, the Department itself?

Mr. BURTON. Yes, it was aimed at the Department.

Mr. O'NEAL. You are saying in one breath that the Department wants to repeal it and in the same breath that the Department is using delaying tactics.

Mr. BURTON. That is right; that is what I said.

I would like to say, Mr. Chairman, to my friends from California and Georgia, I would be happy to support any amendment they would care to introduce that would accomplish the purpose of my act. But it seems to me the simple thing to do is just to repeal it because in the Department's own report they said, "Under criminal penalty, it requires the use of official naval stores standards in selling naval stores in interstate or foreign commerce, prohibit false and misleading practices in such commerce," and so on.

The way the bill was written in 1923, Mr. O'Neal, it would make it a criminal offense for the Secretary or anyone involved in the purchase of rosins to purchase it from fossilized sources. It would make it a criminal offense. If you care to suggest an amendment that would accomplish what repeal would do, I would be very happy to withdraw my bill and support your amendment.

Mr. O'NEAL. Let me say, Mr. Burton, my question a moment ago was completely exploratory. I was not even conscious there was a Naval Stores Act until Friday morning when I got a call that we were to meet this morning. I do not know now what is in the Naval Stores Act. So I am here in the interest of informing myself.

Mr. BURTON. In the interest of informing you, I would like to say the way the bill is now written, as passed by this committee in March of 1923, it would make it a criminal offense for the Secretary or anyone else involved in the Government to purchase rosins that have a

fossilized base. It can only come from pine trees. I do not regard this as a threat to the economy of the rosin industry in the South; I merely regard it as an equalization.

Mr. O'NEAL. Was this passed in 1923 as an effort to develop high standards of grade and so forth?

Mr. BURTON. I think so. I think that is a fair statement.

Mr. O'NEAL. As matters now stand, you have no market anywhere on this earth for your product?

Mr. BURTON. We have a market for it, but you are shutting out a great market when you eliminate the entire Defense Department.

I would say this too: that I think it is a fair statement to say that when this act was passed in 1923, it was an effort to establish high standards of rosin, and if we cannot meet the same standards in fossilized base rosins, I would say shut us out. But when we can't compete because of a technicality in the law that was passed more than 40 years ago you eliminate this industry from fair competition. I say this is not fair. I think the committee ought to change it.

My bill 7381 repeals that law. It does not do anything particularly to change the standards because the Secretary still has the authority to set certain criteria and standards.

Mr. O'NEAL. Let's see if we can more particularize your interest. If I understand you, it is getting down to the point now where your principal interest is enabling the Defense Department to buy this product you have.

Mr. BURTON. That is correct, yes.

Mr. O'NEAL. And you are permitted to sell it on the world market, are you?

Mr. BURTON. Right.

Mr. O'NEAL. But your interest in it is in the Defense Department?

Mr. BURTON. Because the law in 1923 says the Defense Department is prohibited from considering it.

Mr. O'NEAL. I think I understand it a little better now.

Mr. McMILLAN. You may proceed Mr. Bennett.

STATEMENT OF IRVING BENNETT, GENERAL MANAGER, PAN AMERICAN RESIN & CHEMICAL CO., NEWARK, N.J.

Mr. BENNETT. Gentlemen I am the man that sparked this whole production out of Utah back in 1939 and 1940. While in the University of Utah I saw a little of this particular product that is in this coal here [indicating] and from that little sample this whole industry was established. We have a fossilized coal in Utah. The country as a whole has gotten to know that wherever we sell it. We have gone along through the years and we float this out with a flotation method used in the mining industry. We then clean up the solvent with a process we have to clean out the coal. We have two or three forms. One goes to the chewing gum industry one goes to the industrial finishes and another goes to the printing industry.

Through the years I have had a problem getting this thing marketed. We are higher priced than the principal rosins and hydrogenated rosins.

We never heard of the Naval Stores Act until 2 years ago when somebody said "You cannot use the word 'rosin.'" I said "We are not using the word 'rosin,' we are using the words 'fossilized rosin.'"

This is a new industry. They brought up this act to us.

We have today areas in this country where they are producing rosins. It is no longer the small producer of rosins. You have Hercules Powder, Hayden, Newport, and half a dozen giant producers of rosin. They are no longer producing rosins, they have got a big glut of this stuff. But they are processing it, liming it, hydrogenating it. They are chemically treating it all over and are still calling it hydrogenated rosin, limed rosin. When we come out in our industry and say we have fossilized rosin, they say it is against the Naval Stores Act.

We go to Europe with it and the tariff people get after us. Thirty-six percent. I say to them this is a new industry in Utah. I bring to them coal just like this. I went to every country in Europe where we had 36 percent of our consuls there, with their commercial attachés, helped me out by getting me to the right parties. We showed them the product. They finally said "All right, fossilized rosin, 2.8 percent."

We go to all the countries and go into Canada duty free. They called it synthetic originally but they had no category for it. Nobody seems to know this new industry in Utah. But we finally convinced them in every country, even in Italy where they do not want to call it anything but gums and balsam. So we ship it as gums and balsam. As long as we can ship our material, if they want to put it in that category, we do it. But the Naval Stores Act says—and this I only learned 2 years ago when the Inspector General's Office descended on us and said "You are now acting contrary to this Naval Stores Act." I said "What is this all about?"

"You cannot use the word 'rosin'."

Gentlemen, after going through the years establishing my tariffs and everything else and now suddenly to have them say we cannot use the word "fossilized rosin"—and Mr. Anderson agreed with me, the Assistant Administrator in Agriculture. I have gone through that Department and wound up with Mr. Steve Wrather, and I said "Look, we are in a quandary. What can we call this product?" He said he would turn to the legal department. And in the meantime the Inspector General's Office sent a man into our Salt Lake City office, to our office, and wants to see all of our records from 1940 to 1964, which we refused to do. I said I admit the fact we used the words "fossilized rosin." Let's get this thing out in the open. This act is antiquated. Let's do something about it.

Gentlemen, we have gone through the years now and have come up with a case here where if we do not get something done which prevents people from calling us criminals, according to that act there, when we use the word "rosin" in conjunction with the word "fossilized," all of our work has gone for naught.

We have a plant and we are going into another one and if we have to pay this duty it is going to kill us. That is about it.

Mr. BURTON. Why can you not—and I want to underscore this point—why can you not use the term?

Mr. BENNETT. Because the Naval Stores Act says that any naming of any product with the word "rosin" in it is against the law. You cannot use the word "rosin."

Mr. BURTON. Unless it comes from what?

Mr. BENNETT. Unless it comes from pine stumps or has such and such a spec on it. They have certain specifications which we agree with, we know.

Mr. BURTON. Do you get your rosin from a fossilized source?

Mr. BENNETT. From the coal of Utah.

Mr. BURTON. Is that correct?

Mr. BENNETT. That is right.

Mr. BURTON. And you are prohibited by the Naval Stores Act from calling it "fossilized rosin"? This is because it comes from a fossilized source rather than the plant source; is that correct?

Mr. BENNETT. Yes; and the ironic thing is we do not call it rosin, just "fossilized rosin."

Mr. BURTON. My next question is, how does your rosin measure up in terms of standards and quality as compared to the plant source?

Mr. BENNETT. Let me say this briefly: Our rosin is about 6 or 7 million years old. It has been fossilized. It has gone way above this rosin you have today here. We go into the same markets as that rosin, but not as rosin as such, but processed rosin where they change it chemically but still call it rosin. They call it themselves limed rosin or hydrogenated rosin.

Mr. BURTON. You are not answering my question directly, and I do not think this committee is going to repeal the Naval Stores Act to permit an inferior brand of rosin to be purchased.

Mr. BENNETT. Right.

Mr. BURTON. This is what I am asking you: Is this inferior in any respect?

Mr. BENNETT. No. This is the highest grade of rosin that ever appeared on the market.

Mr. BURTON. Higher than what?

Mr. BENNETT. Than the rosins they have on the market. It is a product that has been established. We go into areas where they cannot go in. We go into areas where we help their rosin by a customer combining their cheaper rosins with our better ones. This is the sum and substance of the whole deal.

Mr. TEAGUE. Mr. Bennett, suppose a potential buyer had a use for a rosin and he was satisfied that he could use either yours or a rosin coming from pine trees or stumps, being fully satisfied he could use either source. How would your price compare with the rosin from other sources?

Mr. BENNETT. Our price is much higher.

Mr. TEAGUE. Much higher?

Mr. BENNETT. That is right, sir. We have a superior product. We go in and we upgrade some of these resins they call the limed rosins and hydrogenated rosins. They use the word "rosin" all over but they are cheaper than ours, but they cannot work in certain areas where we go in with ours, and they combine them and make a better product out of them.

Mr. TEAGUE. So your contention is that you have a high quality product and under present law you are forbidden from selling it to the Defense Department?

Mr. BENNETT. We are forbidden from going out and declaring it for tariff purposes. We go into Europe, we go into Canada and we get into New Zealand and Australia. They ask us what this product is and we send them a piece of coal and say this is a fossilized rosin. Millions of years ago there were these conifers and the ancestral pines, and the metamorphosis of coal taking place and you have a fossilized rosin remaining. So we go into Canada duty free and we go into

Europe. Instead of the 36 percent where we never could get into the market, we come in with 2.8 percent. If this law stays, we have to give up all of that foreign business because we would have to no longer say it is fossilized rosin, which it is. It is like calling myself my own name. I cannot use it because the law is against that. This is the oldest rosin in the world, fossilized rosin. It is a new industry. It is much more expensive than these rosins that are found in the South.

Mr. O'NEAL. Who has ruled you cannot use the word "rosin"? Is it some Federal court? Is it the Department of Agriculture?

Mr. BENNETT. The Department of Agriculture, sir. I have a letter from a Mr. Morse 2 years ago where he first called my attention that we were acting contrary to the law of 1923, the Naval Stores Act; it is a criminal offense, et cetera.

I came in to see him and brought him the coal. He agreed with me and says, you are right but with the Naval Stores Act we cannot do a thing for you.

Mr. O'NEAL. Do you have the sentence or paragraph in the Naval Stores Act?

Mr. McMILLAN. Here is a copy of the act.

Mr. BURTON. Mr. Chairman, while he is reading that, I would like to read into the record a portion of the letter from the Department of Agriculture, signed by Secretary Freeman, addressed to the Speaker under date of March 17, 1965. It pertains to several subjects which I will not belabor the committee with. These subjects are the Standard Container Act of 1916 and 1928, the Tobacco Plant and Seed Exportation Act of 1940, the Wool Standards Act in 1928, but the thing we are interested in is the paragraph pertaining to the Naval Stores Act of 1923.

Mr. Chairman, I would ask your permission to be able to read that paragraph.

Mr. McMILLAN. All right.

Mr. BURTON. The paragraph reads as follows:

Naval Stores Act of 1923 provides for establishment of standards for naval stores (spirits of turpentine and rosin); authorizes the Secretary to provide a grading and certification service on request and on a cost recovery basis; requires the use of the official naval stores standards in selling naval stores in commerce;"

To digress a moment, this is what the gentleman from Georgia is concerned about in his colloquy with Mr. Bennett—

and prohibits false or misleading practices in sale of naval stores in commerce. When enacted, the law was needed to provide a basis for attaining uniformity in these products and in marketing practices related thereto. Since that time significant changes have occurred in the handling and marketing of naval stores. Further, the Agricultural Marketing Act of 1946 provides authority for the establishment of standards and for inspection and grading on a fee basis. It also prohibits fraudulent actions related to inspection such as false labeling of products as being officially graded or inspected. Therefore, the retention of the Naval Stores Act is no longer necessary.

Mr. Chairman, attached to that letter is a series of recommendations from the Secretary of Agriculture pertaining to five laws that have been enacted by Congress that he recommends should be repealed. Without going through the whole list, I would only refer to section 2 of this recommended bill which says: "Be it enacted that the Acts of Congress listed below are hereby repealed" and then section 2

reads: "The Naval Stores Act approved March 3, 1923, 42 Stat. 1435 (7 U.S.C. 91-99)."

I will submit that letter for the record.

Mr. McMILLAN. Without objection, it will be inserted in the record at this point.

(The letter follows:)

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 17, 1965.

HON. JOHN W. McCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a proposed bill to repeal the Standard Container Acts of 1916 and 1928, Tobacco Plant and Seed Exportation Act of 1940, Naval Stores Act of 1923, and Wool Standards Act of 1928.

Over the years, economic conditions and marketing practices have changed so that the need for these Acts is no longer as great as when the legislation was passed. Therefore, to promote greater efficiency and economy in Government, in accordance with the President's request, we are recommending the repeal of these Acts. The portion of these activities that needs to be continued will be performed under the Agricultural Marketing Act of 1946. Savings in appropriations realized by repeal of these Acts, involving limited or special interests, would be available for use in areas of more vital public importance.

The following paragraphs set forth in more detail the reasons for the Department's proposal:

Standard Container Acts of 1916 and 1928 prescribe standard sizes and capacities for certain types of baskets and hampers used in shipping fresh fruits and vegetables. When these laws were enacted, baskets and hampers were used for a large part of the fresh fruits and vegetables shipped in containers and standardization of the volume capacity was needed to prevent deception. Since that time, there have been many changes in shipping containers for fresh produce. Crates, lugs, boxes, and bags not in existence at that time have been developed and are now most commonly used. Also, the construction material has changed significantly with fiber board, paper, and film now being commonly used. These containers are not standardized by Federal law as to capacity or shape. Most fresh fruits and vegetables are today sold by weight or count rather than by volume measure so that deception due to slight variations in container volume is no longer an important marketing factor. Less than 10 percent of the fresh fruits and vegetables are now marketed in the regulated types of baskets and hampers.

These Acts, therefore, have been of decreasing importance in recent years and the Department does not believe that there is sufficient justification for continuing the program.

Tobacco Plant and Seed Exportation Act of 1940 was intended to protect American tobacco growers by restricting the exportation of tobacco seed and plants to experimental purposes only, with a written permit granted by the Secretary of Agriculture. Since 1940, tobacco production outside of the United States has expanded considerably and research in tobacco seed breeding and production is now well established in most of the tobacco producing countries of the world. As other countries have succeeded in producing flue-cured tobacco (the type that the Act was primarily intended to protect), the need for restricting American exports has practically ceased to exist. This Act, therefore, is of very limited usefulness and the cost of administering it is no longer justified.

Naval Stores Act of 1923 provides for establishment of standards for naval stores (spirits of turpentine and rosin); authorizes the Secretary to provide a grading and certification service on request and on a cost recovery basis; requires the use of the official naval stores standards in selling naval stores in commerce; and prohibits false or misleading practices in sale of naval stores in commerce. When enacted, the law was needed to provide a basis for attaining uniformity in these products and in marketing practices related thereto. Since that time significant changes have occurred in the handling and marketing of naval stores. Further, the Agricultural Marketing Act of 1946 provides authority for the establishment of standards and for inspection and grading on a fee basis. It also prohibits fraudulent actions related to inspection such as false labeling of products as being officially graded or inspected. Therefore, the retention of the Naval Stores Act is no longer necessary.

Wool Standards Act of 1928 provides for the development of standards for wool grades, and for educational and demonstrational programs on wool standards.

The authority contained in this Act is also contained in the Agricultural Marketing Act of 1946. Currently, there are no active Federal grading programs for wool and wool products. Adequate grade standards are available for trade operations and a de-emphasis of this work is planned for the future. The necessary periodic review and maintenance of the standards can be performed adequately under the Agricultural Marketing Act of 1946. The repeal of the Wool Standards Act will reduce the number of laws administered by the Department without restricting the Department's authority to establish and maintain wool standards.

The combined result of repeal of the five Acts would be an annual reduction of \$113,000 in Federal expenditures and related employment, and a similar reduction in direct appropriations from the general fund of the Treasury.

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,

ORVILLE L. FREEMAN, *Secretary.*

A BILL To repeal certain acts relating to containers for fruits and vegetables, exportation of tobacco plants and seed, naval stores and wool, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Acts of Congress listed below are hereby repealed:

(a) The Act of August 31, 1916, entitled "An Act to fix standards for Climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and for other purposes," 39 Stat. 673, as amended (15 U.S.C. 251-256);

(b) The Act of May 21, 1928, entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes," 45 Stat. 685, as amended (15 U.S.C. 257-257i);

(c) The Act of June 5, 1940, entitled "An Act to prohibit the exportation of tobacco seed and plants, except for experimental purposes," 54 Stat. 231 (7 U.S.C. 516-517);

(d) The Naval Stores Act approved March 3, 1923, 42 Stat. 1435 (7 U.S.C. 91-99);

(e) The Act of May 17, 1928, entitled "An Act To authorize the appropriation for use by the Secretary of Agriculture of certain funds for wool standards, and for other purposes," 45 Stat. 593 (7 U.S.C. 415b-415d).

SEC. 2. This Act shall become effective on _____.

Mr. McMILLAN. Continue, Mr. Bennett.

Mr. BENNETT. Gentlemen, we never realized anything about this Naval Stores Act until 2 years ago as it affected the use of the word "rosin." They then sent the Inspector General to my office out at Salt Lake City and San Francisco, and I called the Department of Agriculture, and they said, "We will put a stop to it. It is making a Federal case out of it."

It is not right because we are legitimate people, an old mining company in Utah. We are associated with them. This Naval Stores Act, as I say, was written in 1923. It had to protect a lot of small growers and pullers of stumps down there. But the picture has changed radically since those days. We have gone into the story thoroughly and, as I said before, there is Hercules Powder and Hayden Newport and four or five others of our competitors who have combined all of these different operations and are giants compared to us. We have a few million pounds of our products. We do not even go into their fields except in two or three where they cannot match our quality.

Mr. O'NEAL. Does Hercules get their product out of the dead stump?

Mr. BENNETT. That is right.

Mr. O'NEAL. Are they permitted the use of the word "rosin"?

Mr. BENNETT. That is right. All this is, it is a resinous material and they call it rosin.

Mr. O'NEAL. And they are permitted to do so?

Mr. BENNETT. That is right.

Mr. O'NEAL. Have you had any litigation in court about this use of the word "rosin"?

Mr. BENNETT. Outside of the Inspector General's Office being in our office, we have had none.

Mr. O'NEAL. You have just been confronted with a letter or a ruling from the Inspector General of the Department of Agriculture, but you have had no litigation?

Mr. BENNETT. No litigation up to now; no, sir.

Mr. O'NEAL. You are merely concerned with the label you put on your product?

Mr. BENNETT. We call it Parcoresin. We do not call it rosin but declare it as Utah fossilized rosin and this they object to.

Mr. O'NEAL. I understand, but you are permitted to sell it, and you have a high-quality product, but your only concern here today with this whole question turns on the label that you are permitted to put on your product?

Mr. BENNETT. Not the label, sir, the declaration for tariff purposes. We do not use the word in the label, we call it Parcoresin.

Mr. O'NEAL. You are denied the use of the word "rosin"?

Mr. BENNETT. That is right.

Mr. O'NEAL. But you believe a rose by any other name smells as sweet?

Mr. BENNETT. Let me say these are two different animals.

Mr. O'NEAL. And you believe a rose is a rose is a rose, is it not?

Mr. BENNETT. That is for sure.

Mr. O'NEAL. And a rosin is a rosin is a rosin?

Mr. BENNETT. If you look in the dictionary under "rosin" it refers you to "resin," and if you look under "resin" it says, "See rosin." They play around with the word "rosin." There is no such thing as rosin. It has always been a resinous material found in the tree stumps and coming out of the trees in the form of sap. There has never been—it goes back millions of years, in Biblical times they had rosin and they took it upon themselves to say you cannot use the word "rosin." This is the thing that stumped us for tariff purposes because we have got to use the words "fossilized rosin."

Mr. O'NEAL. If I read correctly here in the Naval Stores Act in the section on definitions, you have a definition of naval stores and have a definition of spirits and turpentine, gum spirits of turpentine, wood turpentine, all of these things. Down in paragraph (g) you have, "rosin includes gum rosin and wood rosin."

Mr. BENNETT. Right.

Mr. O'NEAL. And somebody has ruled that does not include your product; is that correct?

Mr. BENNETT. No; but I say we are in violation of this act. This is what they tell us.

Mr. BURTON. That is what he is saying, Bennett's rosin is fossilized.

Mr. BENNETT. Ours is coal rosin.

Mr. O'NEAL. What is the difference between gum rosin and wood rosin?

Mr. BENNETT. Gum rosin is an excretion from the trees coming out the side where they tap the trees.

Mr. O'NEAL. It does not say "tree" and it does not say "wood" and that makes a distinction between this and wood rosin?

Mr. BENNETT. Anybody in the chemical industry can tell you that rosin taken out of the stumps is different than the gum. Today they have tall oil rosin. The techniques that have taken place in the last few years have made the Naval Stores Act so antiquated it is hard to put in words. There has been more done with rosin than you can ever think about. They are doing it every day, making worse competition for us, but we manage to take it. We are higher priced than they are, but we have a better product.

Mr. BURTON. Mr. Chairman?

Mr. McMILLAN. Mr. Burton.

Mr. BURTON. Mr. Bennett, do you have any idea what the national production of these rosin products is in pounds or gallons?

Mr. BENNETT. Ours?

Mr. BURTON. I mean the national production.

Mr. BENNETT. It runs into millions and millions of pounds. We do not have it complete here. I know it runs into millions and millions of pounds. In fact they have got so much they do not know what to do with it at the present time. They use tall oil now in the production of rosin.

Mr. BURTON. What was your production last year?

Mr. BENNETT. About 6 or 7 million pounds.

Mr. BURTON. Would you care to venture a calculated guess as to what the national production was last year?

Mr. BENNETT. Of the rosins?

Mr. BURTON. Yes.

Mr. BENNETT. I would say it might be 150 billion pounds. I do not know, it is large. There was an article on it.

Mr. BURTON. You said 150 billion pounds. Do you mean 150,000 tons?

Mr. BENNETT. 150,000 tons. Hundreds of thousands of tons. I do not have the figure because we never got independent in the product, sir.

Mr. BURTON. Are you going to close down any industries in the South with your fossilized rosin competition?

Mr. BENNETT. Not at all. We helped them out, as a matter of fact, because we go in there and upgrade the rosin it produces so it can be used in certain areas.

Mr. BURTON. Are the industries in the South opposed to you coming into participation under the Naval Stores Act?

Mr. BENNETT. Nobody is opposing me on anything. Somebody lodged a complaint against us using the words "fossilized rosin."

Mr. BURTON. Has the southern pine rosin industry opposed you on this act? Have they opposed this bill?

Mr. BENNETT. Not that I know of.

Mr. BURTON. Your competition is not going to be such that, in your judgment, it will hurt anybody that is manufacturing gum rosin or stump rosin today?

Mr. BENNETT. It cannot hurt anybody. As I say, we have got people like Hercules and Hayden Newport and others who can take care of themselves. I say nobody protects us. We go out and battle the market. I say we do not hurt them at all.

Mr. BURTON. Why do you say your rosin is superior to the gum rosin and stump rosins produced in the South?

Mr. BENNETT. Because over a period of millions of years this rosin has been changed, it has fossilized. The meeting point has been im-

proved and all of the other products have been improved. In fact, we have certain charts that run similar in curvature to the others, but we have a superior product. It has parts in there that are not even known. We do not know too much about the product after all this time. That is why it has a high iodine number and does not oxidize and our product never oxidizes highly; the others do.

Mr. O'NEAL. Did I understand you blended yours into the others?

Mr. BENNETT. That is right. It can be used with every known resin of like solvency. That is what makes it so good. For tariff purposes we have to be able to say fossilized rosin, which is the proper classification. There is no other classification. You can see that by the coal up there. That is part of this whole raw material. It is something new. There are not many people around outside of the immediate industry that know about it.

Mr. BURTON. Are there any other fossilized rosin producers you know of?

Mr. BENNETT. No. They tried, but they have to get rid of the coal which is the big problem out there. This is why we are the only ones so far.

We started this industry in 1944 when our first carload moved out, and we were going along and nobody bothered us until 2 years ago, to repeat myself, and this is why we come here. And we agree here that the act is antiquated. It was needed years ago when there was much fraud in the offering of rosin. I worked with the Standard Chemical Co. years ago and they used to use rosin and there were always arguments on the quality of it and the Department comes along and sets standards. That is fine, but when they put that little part in there and said you cannot use the word "rosin" when it is not this rosin of this spec, and then along we come with a new industry and they say "We will take criminal proceedings if you use that word 'rosin' with 'fossilized'." That is not right.

Mr. BURTON. Mr. Chairman, we use criminal penalties if they used the word "rosin."

I mentioned earlier in my testimony that the Department favors another bill pending before another committee. In essence the other bill tends to correct the situation applying to four or five other industries or minerals or whatever you want to call them. But this committee passed the Naval Stores Act.

Let's not wait for the Science and Astronautics Committee. They are not as diligent as the House Committee on Agriculture as far as I am concerned. This will merely delay it in my judgment. There will be no action this year.

I would urge this committee to consider H.R. 7381 and act on something that is within our penumbra of jurisdiction.

Mr. TEAGUE. What is the word?

Mr. BURTON. Penumbra, scope, horizon or shadow. Do it now and not merely delay and wait for some inactive committee to act.

Mr. McMILLAN. Are there further questions?

Mr. O'NEAL. Mr. Bennett, have you argued with the Department that, while your product did not come from a tree recently, it originally did come from a tree?

Mr. BENNETT. We explained the whole picture. They have it.

Mr. O'NEAL. But they were adamant.

Mr. BENNETT. That is right. They said this is an act of Congress and our hands are tied. We cannot do a thing about it.

As I say, that act is antiquated, with the scientific departments of Hercules and the others who can police their own products better than anybody can ever dream of.

Mr. O'NEAL. You could prove in a court that it did come from a tree, could you not?

Mr. BENNETT. There it is right there and the metamorphosis of coal takes place over millions of years—the conifers, the pine trees, the old ancestral pines down there, and everything turns to coal except the rosin in the tree.

Mr. O'NEAL. I say you could prove that in court, could you not?

Mr. BENNETT. Sure.

Mr. BURTON. Will the gentleman yield?

Mr. O'NEAL. Yes.

Mr. BURTON. Why would you want to put this company to the expense it would cost in litigation to reinterpret an act passed by this committee of Congress? He spent I am sure several thousand dollars coming back here to talk to me on at least three occasions. I know what it costs to fly from Washington to Salt Lake City. He spent \$300 to get back here to us this morning. Why subject him to legal fees and all of this business about trying to win a court case, because if he won a court case they would appeal and reappeal it. I think we should correct our own mistakes.

I am sure my friend from Georgia is not trying to subject him to that. Let's not go that round. That is not fair.

Mr. McMILLAN. The committee can decide that question in executive session.

Are there any further questions?

Have you completed your statement?

Mr. BENNETT. I tell you gentlemen we have had no brief with the Naval Stores Act. We never bothered them and they never bothered us. We could go along if it was not for the fact our tariffs would be upset.

One of your consul boys in Germany told me we were doing a job over there like thousands of others to bring back good dollars into this country. I said as long as we have good tariff protection—3.8, 3.2, and 2.5 percent. This after I spent much time and money bringing over coal to them and arguing with the Tariff Department. It was different language but I managed to get by. We finally did it—fossilized rosin, and the Naval Stores Act says you are a criminal if you use that word "rosin" in there. I think that act is antiquated.

We came along long after this industry was established, in 1949. So I say to you we are hurting nobody, that the Naval Stores Act would not do anybody any good today because of the controls that Hercules and Hayden Newport and others have over their rosin, and the buyers of that have their own scientific departments, and nobody buys quality rosin that is not rosin, I know. So this was written to protect them at one time but they do not need protection. All it is doing now is hurting us as far as our tariff setup is broad. That is it, gentlemen.

Mr. McMILLAN. Thank you, Mr. Bennett.

Is Mr. Grange here.

**STATEMENT OF GEORGE R. GRANGE, DEPUTY ADMINISTRATOR,
MARKETING SERVICES, CONSUMER AND MARKETING SERVICE,
U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY S. E.
WRATHER, DIRECTOR, TOBACCO DIVISION, AND RONALD
CIPALLA, OFFICE OF GENERAL COUNSEL**

Mr. GRANGE. I have with me Mr. Wrather and Mr. Cipalla, whom I would like to have join me, with your permission.

Mr. BURTON. Could you have the witnesses identify themselves? Are they with the Department of Agriculture?

Mr. McMILLAN. They are with the Department of Agriculture.

Mr. Grange, will you identify yourself?

Mr. GRANGE. Yes, I shall.

Mr. Chairman, we appreciate this opportunity to appear on this bill. My name is George R. Grange. I am Deputy Administrator for Marketing Services of the Consumer and Marketing Service. On my right is Mr. S. E. Wrather, Director of the Tobacco Division of our agency, which is the Division assigned the responsibility for the administration of the Naval Stores Act. And on my left is Ronald Cipalla, Office of General Counsel of the Department of Agriculture.

With your permission, sir, I would like to make some remarks concerning the Department's proposal connected with the repeal of the Naval Stores Act, and then if there are questions I would like to have these two gentlemen help me if it is necessary in responding to your questions.

I do not have a prepared statement, Mr. Chairman. Let me just briefly try to give you the reasons for the Department's recommended repeal for the Naval Stores Act. Then I would like to make a few remarks concerning the subject which you have been discussing earlier concerning the particular case that is now brought to your attention.

Mr. McMILLAN. Proceed as you like. We will be glad to hear any statement you may care to make.

Mr. GRANGE. Thank you, sir.

The Department recommended the repeal of the Naval Stores Act without any regard or without knowledge of the particular case you have been discussing here earlier. I would like to make that clear so you understand there was no connection between the two, because the Department's recommendations for repeal of the Naval Stores Act, the Standard Containers Act, the Wool Standards Act, and the Tobacco Plant and Seed Export Act was made first 3 or 4 years ago with the objective of clearing the books and clearing the Department's activities of some marketing laws which in our judgment had outlived their usefulness. And because of changes that had taken place in the 30, 40, and 50 years that had transpired since these various laws have been enacted, they were no longer needed today. Although the amount of money being spent in administering these laws is not great, a total of \$113,000 this year, it was still our judgment in the interest of both economy as well as making an effective contribution to the marketing system that these laws should be repealed rather than continued in effect.

It is for this reason, Mr. Burton, in the response from the Secretary dated August 4 that we again reiterated our recommendation that all five of these laws be repealed rather than just repealing the Naval Stores Act itself.

Also, as the Secretary's report stated, we do favor repeal of the Naval Stores Act. We were not saying it has to be a package proposition but we certainly want to reiterate our original recommendation and the recommendation which we would continue to put before the committee.

Mr. BURTON. May I just interrupt you to say that I would certainly support the Department on all of the recommendations that were contained in your March 17 letter, one paragraph of which I read into the record.

You pointed out that by repealing the Standard Containers Act, the Tobacco Plant and Seed Exportation Act, the Naval Stores Act, the Wool Standards Act, that you save \$113,000, and I do not think really any member of this committee would be opposed to that. The only thing is that we do not have jurisdiction over all of those. There is not any question but that we have jurisdiction over the Naval Stores Act, and by Secretary Freeman's account \$36,000 of the \$113,000 that would be saved by repeal of these others would be saved by repeal of the Naval Stores Act.

While we cannot today or tomorrow or the next day act on all of these others, this committee, Mr. Chairman, does have jurisdiction over the Naval Stores Act.

I was not being critical of the Department in saying that—well, I guess I was. In response to the question from the gentleman from Georgia, I did say I think the Department's approach to this matter in recommending against my bill and saying that you are for another bill pending before another committee, I think you are delaying the question. We can act on this one.

I recommend that you come out and support this bill and let's get that one out of the way and then we will go to work on some of the others, but we cannot act on all five of them at once.

Mr. McMILLAN. We will take that question up in executive session and let's hear what Mr. Grange has to say on this subject.

Mr. GRANGE. Thank you.

I do not think there is a misunderstanding between what I am saying and what you are saying, Mr. Burton, except with this regard—and I will not belabor this point, Mr. Chairman, I know you want to move along.

The Department did support your bill H.R. 7381. We went on to say that we also preferred action on the original recommendation which would cover the other four acts too. We did not object to the bill.

Specifically, with reference to the Naval Stores Act which is the matter before the committee at this moment, the Naval Stores Act contains three primary provisions. I would just like to cover these briefly.

This goes to the merit of the act itself, now, without regard to the particular case that you were discussing earlier.

One of the provisions is that it provides for standards for naval stores which includes spirits of turpentine and rosin and authorizes the Secretary of Agriculture to modify such standards and to establish new standards for naval stores. This is one provision—the establishment of standards.

I would like to come back to that in a moment after I outline the other two.

Secondly, it authorizes the Secretary of Agriculture to provide for the analysis, classification, grading, and certification of naval stores upon request and upon a cost recovery basis. So the second one is the inspection of naval stores.

The third one is, under criminal penalty, it requires the use of the official standards in interstate or foreign commerce and prohibits false or misleading practice in such commerce in the sale of naval stores.

Now this special legislation in our regard is no longer needed because the Department under the Agricultural Marketing Act of 1946 has the authority to establish standards for all agricultural commodities, including naval stores, and to provide inspection and grading services for such commodities on a voluntary basis with fee to be charged to recover the cost of providing the inspection.

In addition to this, the Agricultural Marketing Act of 1946, as it was later amended I believe by the 83d Congress, provides that there shall not be any false or fraudulent use made of any grade standards, that no one may falsely claim that a product has been inspected and certified officially when in fact it has not been, and other safeguards intended to protect the integrity of the standards and the official inspection and grading service.

We provide voluntary inspection on about 75 percent of the rosin and about 35 percent of the turpentine currently. The remainder of the rosin and turpentine is not federally inspected and is not grade labeled. Therefore, the mandatory use of the Federal standards for these products is relatively meaningless because we do not know if use is made of the standards on the uninspected portion of these products. It would appear, therefore, that repeal of the act should have no effect on the production and marketing of turpentine and rosin and should not impair the grade standards and inspection services which are available.

Now, with regard to rosin, the official grade standard for rosin consists simply of 13 different grades which show different colors of the rosins and the grades are contained in a little box like this with 13 separate color standards ranging from very light to very dark. They are visual aids and the rosin can be prepared and matched between the two nearest ones to see which one it meets and which one it would fail to meet.

These are the official standards for rosin. There are 80-some-odd sets of these grades out for use within the industry. They may have official certification performed by one of our licensed inspectors or the company may do it on their own. This is a very common technique.

Just to show there would be no change if we did it under the Agricultural Marketing Act of 1946, here are the official color standards for honey under the Agricultural Marketing Act of 1946. It happens that a number of the rosin colors are practically identical with some of these honey color standards that go from light amber to water white, white, and so on. It takes two of these boxes to cover the total number of color standards on honey.

Just a couple other illustrations on our visual aids. I did not bring this because of southeastern interests in this question but these are the pimientos—

Mr. McMILLAN. What?

Mr. GRANGE. Pimientos.

Mr. McMILLAN. Pimento?

Mr. GRANGE. Yes. You take your pick as to the pronunciation. This is published in the Federal Register as the official USDA color orange and orange yellow to distinguish between the grades of pimientos.

This is another one of our lima beans where we use a color paddle and put the lima beans on the paddles to get the different color graduations. So far as the standards, there could be no question that these could be promulgated under the Agricultural Marketing Act of 1946 the same as they are now, could be revised if necessary, and inspection and grading could be provided. There would be protection against any false claims of official inspection and grading.

The difference would be two, I believe. First there would be no requirement that the official grades be used in trading. This is optional, but at present we are only inspecting 75 percent of the rosin and 35 percent of the turpentine. The other difference would be that there would be no restriction as to the use of word "rosin" versus the word "resin" insofar as agricultural legislation is concerned. Any limitation on the use of these terms would in all probability have to go to the Federal Trade Act regarding the use of fraudulent, misleading, or deceptive terms for any product for sale in interstate commerce.

As to the case involving Mr. Bennett, I would like to say only this, that the question of whether this is a violation of the Naval Stores Act has been referred to the Department of Justice, as we are required to do when we have evidence that there is a violation of a criminal statute. I am not acquainted with its current status so far as the Department of Justice is concerned. The act as it is now written says that rosin has to be made from either wood turpentine or gum turpentine. Gum turpentine comes from a living tree by definition, and wood turpentine comes from wood by definition in the act.

Mr. O'NEAL. This is the distinction that would be involved in the Parco Resin Co.? They get it from a dead stone, they cook the stone. What would it be called?

Mr. GRANGE. It could be called rosin with some descriptive term that would describe the processing performed on the rosin. The act specifically provides that qualifying terms may be used in addition to wood rosin and gum rosin.

Mr. O'NEAL. The word "prehistoric" perhaps?

Mr. GRANGE. No. This would get you in a different question. First rosin has to come from a living tree or from a stump, let us say. Then you can use an additional qualifying term if you have started with rosin in the first place as defined in the act.

We are under some handicap in talking about the information we have concerning the similarities and dissimilarities between this fossilized product and regular rosin because it is a case that is out of our hands so far as the Department of Agriculture is concerned, and under our usual restrictions we are expected not to discuss the merits or demerits or evidence or issues while it is in this status.

Mr. O'NEAL. Are you saying it is a question for the Department of Justice rather than the Department of Agriculture?

Mr. GRANGE. The case has been referred to the Department of Justice.

Mr. O'NEAL. How long ago?

Mr. GRANGE. In the early part of the year, February perhaps.

Mr. O'NEAL. Have they come out with a ruling?

Mr. GRANGE. No. It is still under consideration in the Department.

Mr. BURTON. The law as presently written specifies that rosin must come from a gum source or a tree stump source and when it comes to a fossilized source that is out of your jurisdiction?

Mr. GRANGE. That is our interpretation, yes.

That completes my statement, Mr. Chairman. I will be glad to respond to any further questions.

Mr. O'NEAL. I have a few questions.

As I understand you, and also from the letter from Mr. Freeman dated August 4, what you are suggesting is a repeal of the Naval Stores Act so that you might rely on the Agricultural Marketing Act of 1946?

Mr. GRANGE. Yes, sir.

Mr. O'NEAL. Would that help Mr. Bennett in his problem? If you were under the Agricultural Marketing Act it could not be argued that his product is an agricultural product so this would not be helping him at all, would it?

Mr. GRANGE. It would help him so far as the Department of Agriculture is concerned because we then would have no law that defined what was rosin.

Mr. O'NEAL. In other words, you could make your own ground rules?

Mr. GRANGE. The ground rules then, I believe, would depend on what the interpretation might be under the Federal Trade Act which, as you know, does contain a general prohibition against describing any article for sale in false or misleading terms. Whether this could be construed to be false or misleading, I would have no idea.

Mr. O'NEAL. But you would have far greater—I would not say power, but you would have far greater flexibility following your suggestion?

Mr. GRANGE. Yes. To show you the flexibility, if the Naval Stores Act were repealed and if we then promulgated the standards under the Agricultural Marketing Act of 1946, as we would have to in order to give them official status, we could, if we wished, define the product to include the fossilized product along with the natural product.

Mr. O'NEAL. But you would not have to come back to Congress if you made a change and that is why you like it better?

Mr. GRANGE. We would have that flexibility and could do it under the language we have under the Agricultural Marketing Act of 1946.

Mr. McMILLAN. As I understand your statement, the Department of Agriculture would desire to have this entire package repealed but they would not object to this bill of Mr. Burton's being enacted, which would take care of only part of the problem, is that right?

Mr. GRANGE. Yes, Mr. Chairman, we support Mr. Burton's bill. In addition, if we had our preference, of course, we think we can make an equally good and strong case for the repeal of the other acts.

Mr. McMILLAN. Do either of the other gentlemen desire to make a statement?

Mr. WRATHER. No.

Mr. CIPALLA. No.

Mr. McMILLAN. Mr. Burton?

Mr. BURTON. No.

Mr. McMILLAN. That is all. Thank you.

Mr. GRANGE. Thank you, Mr. Chairman.

Mr. O'NEAL. Mr. Chairman, I would like the privilege of introducing Mr. Smith.

Mr. McMILLAN. Come to the table, Mr. Smith.

Mr. O'NEAL. I would like to say by way of introduction that I just met Mr. Smith this morning myself. I did not know him prior to today and did not know anything about his problem prior to today.

Mr. Smith is not one of my constituents but he lives just outside my congressional district and for that reason I would like to present him to the committee. He is an attorney for the American Turpentine Farmers Association. We have been dealing here with naval stores and if I might be permitted one brief moment of facetiousness, he graduated from the Naval Academy at Annapolis. He also had a complete legal education at the University of Maryland in Baltimore and has been practicing law in Georgia since 1935 and has been an attorney for the American Turpentine Farmers Association, which is a cooperative, since its organization and its general counsel since 1937.

Mr. McMILLAN. Mr. Smith we will be delighted to hear what you have to say on this subject.

STATEMENT OF J. LUNDIE SMITH, REPRESENTING THE AMERICAN TURPENTINE FARMERS ASSOCIATION

Mr. SMITH. Thank you.

I would like to say before I identify more particularly the people I represent in the hearing of Mr. Bennett and to Mr. Burton that it is no part of the purpose of this cooperative to create a closed shop. We are not here asking this committee not to repeal this act in order to freeze the present types and kinds of rosin.

The Naval Stores Act itself contains two relevant provisions. One of them is that rosin includes gum rosin and wood rosin. The act does not say that it is restricted to those two products.

Mr. Burton may feel that I am indulging in semantics. I would like to illustrate I am not. There is a further provision of the act that says: "The Secretary of Agriculture is authorized to establish and promulgate standards for naval stores for which no standards are herein provided."

This act was passed in 1923. I believe that I am correct in saying that at that time there was no such product as tall oil rosin. Tall oil rosin is a byproduct in the manufacture of paper from pine wood. There is no mention at all of tall oil rosin.

Mr. O'NEAL. Would you spell that?

Mr. SMITH. Tall oil, t-a-l-l. It might be more properly pronounced tall oil, I suppose.

There is no mention of tall oil or tall oil rosin in the Naval Stores Act and I just read to the committee a provision authorizing the Secretary to establish and promulgate standards for new types of rosin. The Secretary has already demonstrated that he is aware of that power in permitting tall oil rosin to be sold in commerce and labeled rosin. So there is nothing rigid about these classifications and standards to the extent of admitting new products such as Mr. Bennett's product.

And I say, without any opportunity of consulting my clients beforehand, that there would be no objection to either amending the Naval Stores Act if the Department of Justice persists in its indolence, nor would there be objection if the Secretary of Agriculture promulgated standards for fossilized rosin and included it in the Naval Stores Act. So there is no competitive motive on our part to restrict Mr. Bennett.

I think the Department is wrong in its decision, first for the reason Mr. O'Neal pointed out, that this coal was primarily wood; and second, because of the provision in here enabling the Secretary to promulgate new standards.

Mr. BURTON. Mr. Smith, you referred to the indolence of the Justice Department. Do you not think they are so much involved in civil rights and civil riots that it may be years before a decision is reached by them in this matter?

Mr. SMITH. If I understood the witness correctly, they have had it 5 years already. I think sometimes the dilatory tactics of lawyers are pretty well advertised, but I think 5 years is a little bit long.

The people I here attempt to represent are the American Turpentine Farmers Association, which is a cooperative marketing association with some 4,000 to 4,500 members over the Southeast from South Carolina to Louisiana. My clients are people engaged in the gum naval stores business. The gum naval stores business, as distinct from other types of naval stores business, consists of the production of crude pine gum or oleoresin from which turpentine rosin is processed and this pine gum is taken from the living pine tree by scarring it and causing the tree to bleed, as it were. It is an agricultural commodity. No other type of naval stores is an agricultural commodity. So it is obvious at the beginning that if the Department of Agriculture repeals or persuades the Congress to repeal the Naval Stores Act, and since the Secretary would have no jurisdiction over nonagricultural commodities under the Agricultural Marketing Act of 1946, we would have complete bedlam in that there would be absolutely no standards for naval stores anywhere in the world.

I do not agree with the second witness who testified that this act is obsolete. So, far from being obsolete, the authority that we now have in this industry to sell our products as being federally inspected products, as being graded according to U.S. standards, those two features are among our biggest selling points in the export business, and we sell rosin from Antwerp to Australia. So, far from being obsolete, this act is used and applied every day in the gum naval stores industry as well as in other branches of the industry.

I would say in Mr. Bennett's hearing that he himself, if he carries out my suggestion that the Secretary act under his powers here, or that the Congress act by amendment, that he himself would value the Naval Stores Act and ask this committee not to repeal it. Otherwise, anybody could ship anything—that is an exaggeration, of course—anybody could ship anything in the resinous family and call it rosin, and he would not like it any better than we would.

Mr. BURTON. Mr. Chairman, will the gentleman yield at this point?

Mr. Smith, would you agree with Mr. Bennett's theory that the fossilized rosins are superior in quality to the gum or stump rosins? Maybe that is not a fair question. I will rephrase it: Is it comparable?

Mr. SMITH. I will embarrass myself more than you are. I never heard of it until Mr. Bennett told me about it.

Mr. BURTON. What you are saying about H.R. 7381 is that we would be doing away with some Federal standards that have been set for exportation. Would you oppose an amendment to my bill that would keep the Federal standards, but would include fossilized rosin?

Mr. SMITH. Not at all. This is not a closed corporation and nobody is trying to make it so. I am not a chemist.

Mr. BURTON. My main interest in this bill is to qualify my industry in Utah on the same basis yours is. I would not do it on the basis it is superior or on the basis it is competitive. The Department of Agriculture and others have in effect acknowledged this. Mr. Chairman, it was not I who said the Naval Stores Act was archaic; it was the Department. I just want to qualify my industry. That is a fair thing to do, I think.

Are you against repeal of the Federal Standards Act simply because it disqualifies my industry or are you willing to let my industry come in and compete with the others under the Federal Standards Act?

Mr. SMITH. I will tell you in a few words why we oppose the repeal. We oppose it because of the export feature where we use the Federal inspection U.S. standards as a sales point. Second, we oppose it because there would be absolute confusion to the point of bedlam in the industry if these standards went down the drain. And third—and this is one of the most important reasons—we do not want the naval stores standards and grades turned over to anybody for administrative manipulation. Our relationships with the Department of Agriculture at this time are the most cordial that you can imagine. We have no criticism whatever of any of its administrative acts. But unless somebody could guarantee the immorality of the present personnel or their perpetual tenure, we do not want the question of our standards made an administrative act in the Department of Agriculture or any other department. There are a number of people in the administrative agencies that we feel that anything that is new is per se better than anything that exists. There is no more dangerous animal in American than the eager beaver, and we do not want our destinies entrusted to him. We have more confidence in this committee and in the Congress than we do in any administrative outfit in the U.S. Government.

Mr. BURTON. Could I interpose this? I am advised by counsel that the export standards would still exist with the repeal of the Naval Stores Act and that the standards would still be in effect under the Marketing Act of 1946.

Mr. SMITH. I think your counsel means, sir, that it is the present intention of the present incumbent to retain them. I want the authority of the Congress behind me to say they must be retained.

Mr. BURTON. Well, I think, as I understand it, Mr. Smith, the 1946 Marketing Act would still spell out the standards you want to protect, and I admire you for trying to protect them.

Mr. O'NEAL. Will the gentleman yield?

Mr. BURTON. Yes.

Mr. O'NEAL. I call the gentleman's attention to the fact Mr. Grange pointed out if we relied on the Agricultural Marketing Act—in the first place I do not know if your product would be considered as an agricultural product and would qualify—but the changes that could be made from time to time could be made by the Department

itself and this committee and the Congress would be relinquishing its authority.

Mr. BURTON. I think that is a good point. With the chairman's permission I would like to recall Mr. Grange with Mr. Smith so we could straighten this out.

Mr. SMITH. Mr. Chairman, may I speak one moment further on the committee counsel's statement. I would like the committee's counsel to state whether or not standards for naval stores are specifically mentioned in the Agricultural Marketing Act or whether he feels merely that the standards would be within the purview of the Agricultural Marketing Act?

Mr. MURRAY. I am relying on the report dated August 4, 1966, from the Department of Agriculture on this bill; one paragraph of which says:

Under the proposed legislation recommended by the Department, the provisions for establishment of naval stores standards and for the analysis, inspection, classification, and grading services on a fee basis for rosin and turpentine would be continued under the authority of the Agricultural Marketing Act of 1946.

Mr. SMITH. It would until somebody changes his mind, Mr. Chairman.

Mr. O'NEAL. Mr. Chairman, may I point out Mr. Heimbürger is nodding in agreement.

Mr. HEIMBURGER. Perhaps I had better make that oral. I was nodding to the chairman that to the best of my recollection the Agricultural Marketing Act of 1946 does not stipulate what standards are to be promulgated but gives the Secretary general authority to develop and promulgate grades and standards for agricultural commodities. This was strengthened, as Mr. Grange pointed out, by a later law which makes it a criminal offense for anybody to sell a product claiming it has been graded when it is not in fact so graded.

Mr. SMITH. Of the three types of naval stores—gum naval stores, wood naval stores, and the tall oil rosin—of those three only gum rosin, the product processed by my clients—

Mr. O'NEAL. From the living tree?

Mr. SMITH. From the living tree, is the only one that is an agricultural commodity. Under the Agricultural Marketing Act the Secretary could promulgate standards regulating the gum naval stores and leave the industrialist to sell high, wide, and handsome without any restriction.

Mr. BURTON. As I understand your testimony, you are not opposed to the fossilized rosin coming in the export business but you are interested in maintaining standards?

Mr. SMITH. And keeping them within the grasp of this committee and of the Congress.

Mr. BURTON. Will you say for the record you are not opposed to the fossilized rosin industry coming in?

Mr. SMITH. I will say I am assuming the soundness of Mr. Bennett's statement that this is a rosin.

Mr. BURTON. And you and I both have to assume that Mr. Bennett is correct in saying that this fossilized rosin is of comparable quality to your stump or gum rosin?

Mr. SMITH. Yes. I will say more than that. I will say if it is a rosin, regardless of its superiority or quality, if it is a rosin it should be in the Naval Stores Act.

Mr. BURTON. Very good. Now, Mr. Smith, you have been introduced as and I am sure you are a very competent attorney. Are you prepared now to offer this committee an alternative to an outright repeal, which is what is contained in my bill, H.R. 7381. Can you offer an alternative?

Mr. SMITH. I think nothing that has been said here this morning would require more than just this: A determination by the Secretary of Agriculture that the fossilized rosin is included.

Mr. BURTON. You are begging the question because the Secretary in reading the law Mr. O'Neal read to us has determined he cannot include fossilized rosin and it has been referred to the Department of Justice. I do not want to wait for the Department of Justice to reach a decision.

Mr. TEAGUE. Will the gentleman yield?

I do not think we should ask Mr. Smith to do our work. It is simple to repeal or amend.

Mr. SMITH. If it is a rosin and an amendment to the Naval Stores Act is necessary to include it where I have just said it should be already then there would certainly be no objection.

Mr. BURTON. Did you not testify that the way the Naval Stores Act is worded it is exclusive and the Secretary has determined I guess on the best legal advice he could get that he cannot include fossilized rosin. Is that true Mr. Grange?

Mr. GRANGE. Yes, that is true.

Mr. BURTON. The Secretary has already determined that. I think this committee ought to give him some direction.

Mr. SMITH. All right sir.

Mr. O'NEAL. Might I ask what Mr. Grange has to say about the omnibus paragraph Mr. Smith referred to?

Mr. SMITH. Rosin includes gum rosin and wood rosin but it is not restricted to that.

Mr. O'NEAL. What is the provision you read?

Mr. SMITH (reading):

The Secretary of Agriculture is authorized to establish and promulgate standards for naval stores for which no standards are herein provided.

And "naval stores" means spirits of turpentine and rosin. It does not say it means gum rosin or wood rosin or fossilized rosin.

Mr. GRANGE. We have promulgated other standards since the passage of the act in 1923. The standards for tall rosin were promulgated July 26, 1950. By interpretation of what is meant by "naval stores", the tall oil rosin is a byproduct of the papermaking industry but it is still a product of wood and it has been our interpretation that the word "rosin" was intended to be the product from a living tree, tree stump, or wood used in the making of paper. The Department has promulgated other standards since 1923.

It is our interpretation that a product coming from a vein in the coal even though it may have been deposited there from a predecessor to a pine tree millions of years ago, is beyond the scope of the Naval Stores Act. I recognize that this is subject to interpretation. It is not completely black and white. It seemed rather clear to be the interpretation we should place under the act and that is the interpretation under which we have been acting.

Mr. TEAGUE. Mr. Grange, you would have no difficulty, nor would your legal department have any difficulty, in placing a different inter-

pretation on the act should this committee amend rather than repeal the act and where "rosin" is defined as including gum rosin and wood rosin we should add "and that obtained from fossilized material" or whatever the words are. You would have no objection to that?

Mr. GRANGE. No, sir.

Mr. BURTON. Will the gentleman yield?

Would you object to that, Mr. Smith?

Mr. SMITH. No, sir.

Mr. BURTON. Mr. Bennett, would you object?

Mr. BENNETT. Yes, I would strongly object. We are an independent agency. We have our standards. Why should we be subjected to all the rules of the Department of Agriculture when we are operating with good standards and we know what we have.

Mr. McMILLAN. We are only trying to give you some status.

Mr. BENNETT. All we want is for them to know we have a fossilized rosin and not have the Department of Justice come after us as criminals.

Mr. TEAGUE. Legislative processes are quite often a matter of compromise.

Mr. BENNETT. I appreciate that.

Mr. TEAGUE. Would you rather have nothing if you cannot have repeal or would you be a little satisfied if we amended the act?

Mr. BENNETT. Simply exclude Utah fossilized rosin.

Mr. McMILLAN. You mean exclude you out?

Mr. BENNETT. That is right.

Mr. HEIMBURGER. It does not seem that would solve the gentleman's problem if the problem is tariff classification, because if fossilized rosin is excluded it would be some indication that it is not rosin, so this would not be an answer to it.

Mr. BENNETT. This is a Utah fossilized rosin and the source is wood.

Mr. O'NEAL. If we put the words in the act he would have to prove it is fossilized rosin.

Mr. BURTON. According you you, Mr. Bennett, you have no fear of meeting the standards set forth by Mr. Grange and Mr. Smith. I am trying to figure out how we can cut you in.

Mr. BENNETT. We have to send samples in and there is no such thing because this rosin is millions of years old.

Mr. SMITH. The Department of Agriculture will license an employee of Mr. Bennett's company, give him a set like the chairman has, ask him to hold Mr. Bennett's samples up to the light and see which rosin most nearly matches the color of the rosin that Mr. Bennett makes.

Mr. O'NEAL. That is fixing a grade after he qualifies as a rosin.

Mr. SMITH. Yes.

Mr. BURTON. What could we do to put you on an equal footing with the other people and preserve the present standards of rosin?

Mr. BENNETT. We are willing to let them keep the standards they have but we do not want to be accused of doing something that is against the law.

Mr. BURTON. Is the only way this could be done by outright repeal?

Mr. HEIMBURGER. No, I think it can be done by amending the act. There are several ways it could be done. The start of the definition reads: "When used in this chapter 'rosin' includes gum

rosin and wood rosin." I think an amendment could be made there including rosin from nonwood sources.

Mr. BURTON. What would be wrong with that, Mr. Bennett, adding "rosin from nonwood sources"?

Mr. BENNETT. What happens after that? We are a mining company. We dig it out and float it. Will we have to set up a lab center to say "This is the color" or "This is the color"? We cannot afford to do it. Somebody put a claim against us that we are using the word "rosin" and we want to get out of that.

Mr. O'NEAL. This is a voluntary program, is it not?

Mr. SMITH. In the gum industry there is a CCC loan program and all rosin going in that program must be federally graded. Beyond that it is voluntary.

Mr. TEAGUE. Then Mr. Bennett would not be required to come to them to get graded, is that correct?

Mr. GRANGE. That is right. As far as getting inspection and grading it is on a voluntary basis. The statute is vague as to standards if they do not come in for inspection and grading. Last year about 76 percent of the rosin was officially inspected and graded.

Mr. BURTON. Mr. Grange, do you favor outright repeal rather than the amendment offered by Mr. Teague?

Mr. TEAGUE. I have not offered any amendment. I suggested it.

Mr. GRANGE. Yes, sir.

Mr. BURTON. You favor outright repeal rather than an amendment that would say sources other than wood?

Mr. GRANGE. Yes, for this reason: It would, as far as I know, take care of Mr. Bennett's problem assuming he has a legitimate valid problem that should be corrected.

Mr. BURTON. The Department of Agriculture, then, favors outright repeal as against an amendment?

Mr. GRANGE. Yes. I do not like to disagree with Mr. Smith because he said some kind things about us, but the Secretary of Agriculture, under the Naval Stores Act, has the same discretionary power to adopt standards, repeal standards, or change them as he has under the Agricultural Marketing Act of 1946.

Mr. BURTON. That is an important thing to keep in mind.

Mr. SMITH. But that power is limited to agricultural commodities. The only reason the Secretary of Agriculture has that power under the Naval Stores Act is because it was specifically given to him and that power is strictly limited. He does have some authority to promulgate standards for new naval stores, new rosin. One of my objections to repeal is that the regulatory powers of the Secretary of Agriculture would be limited to telling my people, the gum rosin people, what to do, and he would have no authority over the tall oil rosin or wood rosin.

Mr. GRANGE. I do not agree with that. It is not in accord with the interpretation our general counsel has given to the definition of agricultural products under the Agricultural Marketing Act of 1946, which is a very broad definition. It is my understanding that this definition includes all products derived from any forestry product source, and this would include both the tall oil rosin as well as the wood rosin along with the gum rosin. If your narrow definition is correct, Mr. Smith, I would agree with you that there would be a problem of separating the gum rosin from the other rosins.

Mr. SMITH. If the gentleman is correct the Secretary of Agriculture can promulgate standards for this table, and I submit he cannot.

Mr. BURTON. Whether you tap a living pine to get resin or take a stump and boil it or get it from the coalbin, it still comes from a plant.

Mr. HEIMBURGER. I would like to ask Mr. Grange or Mr. Cipalla one question: Is my understanding of the Naval Stores Act correct in this respect, that if a producer of rosin wishes to sell this without reference to the U.S. standards he can do so without becoming subject to the criminal provisions of the act?

Mr. CIPALLA. May I answer that?

Mr. GRANGE. When you say standards do you mean without reference to the grades?

Mr. HEIMBURGER. Yes.

Mr. CIPALLA. Right, provided the product fell under the definition of rosin under the act and under the regulations of the act, the term "rosin" could be used in describing the product in advertising, selling or shipping it.

Mr. HEIMBURGER. So if we were to include rosin from nonwood sources, or some such language, then he could describe this as rosin and as long as he did not refer to any U.S. grade specifications he could sell it without being in violation of the act?

Mr. GRANGE. Yes, sir.

Mr. SMITH. May I state for the record I do not agree with that.

Mr. MURRAY. The repeal of the act would save \$36,000 a year in administrative expenses, is that correct?

Mr. GRANGE. Yes.

Mr. MURRAY. And if it were repealed would you contemplate the same standards promulgated under the Naval Stores Act would be instituted under the Agricultural Marketing Act of 1946?

Mr. GRANGE. Yes.

Mr. SMITH. May I state that section 5, subsection (a) of the Naval Stores Act says:

The following Acts are hereby declared injurious to commerce in naval stores and are hereby prohibited and made unlawful:

(a) The sale in commerce of any naval stores, or of anything offered as such, except under or by reference to United States standards.

What I said was voluntary is the Federal inspection program. That means the manufacturer assumes the responsibility for its being in accordance with the United States grades and standards.

Mr. McMILLAN. Thank you, gentlemen. We will go into executive session.

(Thereupon, the subcommittee resolved itself into executive session.)

