IMPORTATION OF TOURIST LITERATURE, WORKS OF ART, WOOD MOLDINGS, AND BOOK BINDINGS AND COVERS

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

EIGHTY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 2411

AN ACT TO AMEND PARAGRAPH 1629 OF THE TARIFF ACT OF 1930 SO AS TO PROVIDE FOR THE FREE IMPORTATION OF TOURIST LITERATURE

JULY 16, 1959

Printed for the use of the Committee on Finance

UNITED STATES
GOVERNMENT PRINTING OFFICE
43527 WASHINGTON : 1959

COMMITTEE ON FINANCE

HARRY FLOOD BYRD, Virginia, *Chairman*

ROBERT S. KERR, Oklahoma
J. ALLEN FREAR, JR., Delaware
RUSSELL B. LONG, Louisiana
GEORGE A. SMATHERS, Florida
CLINTON P. ANDERSON, New Mexico
PAUL H. DOUGLAS, Illinois
ALBERT GORE, Tennessee
HERMAN E. TALMADGE, Georgia
EUGENE J. McCARTHY, Minnesota
VANCE HARTKE, Indiana

JOHN J. WILLIAMS, Delaware
FRANK CARLSON, Kansas
WALLACE F. BENNETT, Utah
JOHN MARSHALL BUTLER, Maryland
NORRIS COTTON, New Hampshire
CARL T. CURTIS, Nebraska

ELIZABETH B. SPRINGER, *Chief Clerk*

CONTENTS

STATEMENTS AND DEPARTMENTAL REPORTS ON H.R. 2411, RELATING TO TOURIST LITERATURE

STATEMENTS AND DEPARTMENTAL REPORTS ON ANDERSON AMENDMENT (JUNE 1, 1959–L) RELATING TO WOOD MOLDINGS

STATEMENT AND DEPARTMENTAL REPORTS ON ENGLE AMENDMENT (JULY 14, 1959–A) RELATING TO BOOK BINDINGS AND COVERS.

STATEMENTS AND DEPARTMENTAL REPORTS ON JAVITS AMENDMENT (APRIL 8, 1959–A) RELATING TO WORKS OF ART

IMPORTATION OF TOURIST LITERATURE, WORKS OF ART, WOOD MOLDINGS, AND BOOKBINDINGS AND COVERS

THURSDAY, JULY 16, 1959

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

The committee met, pursuant to call, at 10:20 a.m., in room 2221 New Senate Office Building, Senator Harry Flood Byrd (chairman) presiding.

Present: Senators Byrd, Long, Anderson, Douglas, Gore, McCarthy, Williams, Carlson, Bennett, and Curtis.

Also present: Elizabeth B. Springer, chief clerk.

The CHAIRMAN. The committee will come to order.

The hearing today is on the bill, H.R. 2411, providing for free importation of tourist literature, amendment 4-8-59-A by Senator Javits (context of S. 948 with the changes suggested by the State Department) relative to free importation of works of art and other exhibition material; amendment 6-1-59-L by Senator Anderson (context of S. 913 with modifications as suggested by the administration) with respect to importation of wood moldings; and amendment 7-14-59-A by Senator Engle (context of his bill S. 1176) with respect to importation of bookbindings and covers.

Copies of the bill and the three amendments referred to, as well as the departmental reports received on each will be inserted in the record.

(The bill, amendments and reports follow:)

[H.R. 2411, 86th Cong., 1st sess.]

AN ACT To amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph 1629 of the Tariff Act of 1930 is hereby amended by adding at the end thereof a new subparagraph to read as follows:

"(d) Tourist literature containing historical, geographic, timetable, travel, hotel, or similar information, chiefly with respect to places or travel facilities outside the continental United States, issued by foreign governments or departments, agencies, or political subdivisions thereof, boards of trade, chambers of commerce, automobile associations, or similar organizations or associations."

(b) This Act shall be effective as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after the day after the date of enactment of this Act.

Passed the House of Representatives March 23, 1959.

Attest:

RALPH R. ROBERTS, *Clerk.*

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., April 7, 1959.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of March 25, 1959, for the views of this Department with respect to H.R. 2411, an act to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature.

The bill would amend the free list provisions of the Tariff Act by providing for the duty-free importation of tourist literature issued by certain groups and which relates chiefly to places or travel facilities outside the continental United States. This Department recommends enactment of this legislation.

At the present time, only tourist literature issued as "public documents" of a foreign government may be entered duty-free. Other types of tourist literature, however, are dutiable, albeit at relatively low rates, under one of several tariff provisions depending on authorship of the literature and other considerations. The proposed bill would simplify the tariff treatment of tourist literature by eliminating the arbitrary distinction between government origin and other legitimate types of tourist publications and extending the duty-free treatment to them.

An identical bill (H.R. 5944) was introduced in the House of Representatives in the 1st session of the 85th Congress. The bill was considered by the Committee on Ways and Means, which unanimously recommended its enactment (H. Rept. No. 2536, 85th Cong., 2d sess.) and was passed by the House on August 15, 1958. This provision is one of several designed to encourage international travel, some of which have already been enacted and others being considered under legislation already introduced.

We have been advised by the Bureau of the Budget that it would interpose no objection to the submission of this report to your committee.

Sincerely yours,

FREDERICK H. MUELLER,
Under Secretary of Commerce.

U.S. TARIFF COMMISSION,
Washington, D.C., March 31, 1959.

MEMORANDUM ON H.R. 2411, 86TH CONGRESS, A BILL TO AMEND PARAGRAPH 1629 OF THE TARIFF ACT OF 1930 SO AS TO PROVIDE FOR THE FREE IMPORTATION OF TOURIST LITERATURE

H.R. 2411, if enacted, would amend paragraph 1629, a free-list provision of the Tariff Act of 1930, by adding at the end thereof a new subparagraph as follows:

"(d) Tourist literature containing historical, geographic, timetable, travel, hotel, or similar information, chiefly with respect to places or travel facilities outside the continental United States, issued by foreign governments or departments, agencies, or political subdivisions thereof, boards of trade, chambers of commerce, automobile associations, or similar organizations or associations."

TARIFF STATUS OF TOURIST LITERATURE

The basic statutory language in the tariff schedules of the Tariff Act of 1930 does not specifically mention tourist literature. In the schedules of that act, tourist literature is embraced within broader tariff provisions in paragraphs 1406, 1410, and 1629, and perhaps other paragraphs.

The most important of the tariff provisions relating to tourist literature are those in paragraph 1410, where, as a result of trade-agreement concessions, certain classes of tourist literature have been "carved out" of the broader statutory provisions and are presently dutiable at reduced rates of duty. Tourist literature consisting of books, pamphlets, and printed matter in paragraph 1410 and containing historical, geographic, timetable, travel, hotel, or similar information, chiefly with respect to places or travel facilities outside the continental United States is dutiable at the rate of 3¾ percent ad valorem if of bona fide foreign authorship, and at the rate of 6¼ percent if not of such authorship. Other tourist literature consisting of books, pamphlets, and printed matter in paragraph 1410 is dutiable at the rate of 5 percent ad valorem if of bona fide foreign authorship, and at the rate of 10 percent if not of such authorship. Drawings, engravings,

photographs, etchings, maps, and charts are dutiable under paragraph 1410 at the rates of 6¼ and 10½ percent ad valorem, the 6¼ percent rate applying to such articles containing additional text conveying historical, geographic, timetable, travel, hotel, or similar information, chiefly with respect to places or travel facilities outside the continental United States.

Paragraph 1406 provides for pictures, calendars, cards, placards, and other articles, composed wholly or in chief value of paper lithographically printed in whole or in part. Lithographically printed tourist literature, classifiable under this paragraph, is subject to duty at the rate of 15 cents per pound if it does not exceed 0.012 inch in thickness; 5 cents per pound if it exceeds 0.020 inch in thickness; and at various rates ranging from 12 to 16½ cents per pound if between those two thicknesses.

Paragraph 1629 provides for the free entry of "public documents issued by foreign governments." This provision has been held to include tourist literature issued wholly at the instance and expense of a foreign government or political subdivision thereof. For example, literature issued by foreign national railroads and similar government-owned travel facilities have been accorded free entry thereunder.

IMPORTS AND DOMESTIC PRODUCTION OF TOURIST LITERATURE

Imports under paragraph 1410 of tourist literature consisting of books, pamphlets, and printed matter, and containing information chiefly with respect to places or travel facilities outside the continental United States, for the years 1952–57 and January–June 1958, are shown in the tabulation on page 5. In this tabulation imports of drawings, engravings, photographs, etchings, maps, and charts containing additional text conveying information chiefly with respect to places or travel facilities outside the continental United States are included in the figures shown in the third column.

The tabulation appended at the end of this report shows the quantity and foreign value of certain lithographically printed articles imported under paragraph 1406 of the tariff act, for the years 1952–57 and January–June 1958. The data include a wide variety of prints, pictures, and designs for advertising, commercial, and artistic purposes; financial, legal, and general business forms and blanks; and industrial designs, patterns, sample books, and similar prints. For the years 1954–57 and January–June 1958 the data include lithographically produced post cards if more than twelve one-thousandths of an inch in thickness. Undoubtedly the data include some articles that would be classified as tourist literature, although they are not separated from other lithographed articles in import statistics. A partial analysis of imports for 4 months, 1 month in each quarter of 1957, indicates that tourist literature constitutes only a small portion of the total imports under paragraph 1406.

Statistical data are not available with respect to imports of tourist literature under the provisions for "public documents issued by foreign governments" in paragraph 1629.

Data on domestic production of tourist literature are not available, but production of tourist literature containing information with respect to places or travel facilities within the United States is known to be very large. Domestic production of tourist literature relating to places or travel facilities outside the continental United States, however, is probably very small. No data are available on exports, but there are probably no exports of tourist literature chiefly with respect to places or travel facilities outside the continental United States.

ANALYSIS OF H.R. 2411

The term "issued by foreign governments" describing public documents in paragraph 1629 has been administratively construed to embrace documents printed and published wholly at the instance and expense of a foreign government. Presumably, the same interpretation would be given to H.R. 2411 and only tourist literature printed and published wholly at the instance and expense of any of the organizations or associations mentioned in the bill would be entitled to free entry. The phrase "political subdivisions thereof" in line 10, page 1 of the bill seems to be ambiguous. It is not clear what is meant by a political subdivision of a foreign government, department, or agency. It seems more appropriate to refer to a political subdivision of a foreign country rather than of a foreign government, department, or agency.

Imports of tourist literature under the provisions of paragraph 1410 of the Tariff Act of 1930

Year	Of bona fide foreign authorship	Not of bona fide foreign authorship (including maps, charts, etc., regardless of authorship)
1952	$238,295	$67,039
1953	307,632	162,395
1954	295,689	50,271
1955	332,877	91,062
1956	310,376	139,962
1957	320,677	125,233
1958 (January-June)	172,047	54,010

Par. 1406. Other lithographic prints, not specially provided for: Imports for consumption, 1952–57, and January–June 1958

Item	1952	1953	1954	1955	1956	1957	January–June 1958
	Quantity (pounds)						
Under 13/1000 inch in thickness	344,771	416,106	381,871	406,864	501,157	630,418	371,671
13/1000–29/1000 inch in thickness	118,168	64,352	[1] 85,388	[1] 86,906	[1] 154,227	[1] 230,334	[1] 47,953
Over 29/1000 inch in thickness	77,205	142,800	[1] 200,505	[1] 222,296	[1] 186,151	[1] 286,443	[1] 46,108
Total	540,144	623,258	667,764	716,066	841,535	1,147,195	465,632
	Foreign value						
Under 13/1000 inch in thickness	$482,961	$564,984	$535,246	$563,821	$721,069	$831,380	$499,412
13/1000–29/1000 inch in thickness	200,821	121,266	[1] 140,785	[1] 148,761	[1] 173,731	[1] 304,399	[1] 71,029
Over 29/1000 inch in thickness	93,033	183,791	[1] 199,867	[1] 252,855	[1] 198,078	[1] 263,677	[1] 31,156
Total	776,815	870,041	875,898	965,437	1,092,878	1,399,456	601,597

[1] Includes post cards.

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, April 10, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for a statement of this Department's views on H.R. 2411, to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature.

The bill would provide for the duty-free entry of tourist literature containing historical, geographic, timetable, travel, hotel, or similar information, chiefly with respect to places or travel facilities outside the continental United States, issued by foreign governments or departments, agencies, or political subdivisions thereof, boards of trade, chambers of commerce, automobile associations, or similar organizations or associations.

The Department does not anticipate any administrative difficulty if the bill is enacted.

This Department has been advised by the Bureau of the Budget that there was no objection to the submission of an identical report on this bill to the Committee on Ways and Means.

Very truly yours.

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[H.R. 2411, 86th Cong., 1st sess.]

AMENDMENTS

(June 1, 1959–L)

Intended to be proposed by Mr. ANDERSON to the bill (H.R. 2411) to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature, viz:

On page 2, line 3, strike out "Act" and insert in lieu thereof "section".

On page 2, after line 6, insert the following new section:

"SEC. . (a) Paragraph 412 of section 1 of the Tariff Act of 1930, as amended (19 U.S.C., sec. 1001, par. 412), is amended by adding at the end thereof the following: 'All moldings, wholly or in chief value of wood, including finger-jointed, Linderman-jointed, and other glued-up moldings, shall be dutiable at the rate (however established) applicable to wood moldings to be used in architectural and furniture decoration.' "

"(b) For the purposes of section 350 of the Tariff Act of 1930, as amended, the foregoing amendment shall be considered as having been in effect continuously since the original enactment of section 350: *Provided*, That for the purposes of including a continuance of the customs treatment provided for in such amendment in any trade agreement entered into pursuant to section 350 prior to the entry into force of the amendment pursuant to subsection (c), the provisions of section 4 of the Trade Agreements Act, as amended (19 U.S.C. 1354), and of sections 3 and 4 of the Trade Agreements Extension Act of 1951, as amended (19 U.S.C. 1360 and 1361), shall not apply.

"(c) The foregoing amendment to the Tariff Act of 1930, as amended, shall enter into force as soon as practicable, on a date to be specified by the President in a notice to the Secretary of the Treasury following such negotiations as may be necessary to effect a modification or termination of any international obligations of the United States with which the amendment might conflict, but in any event not later than ninety days after the date of enactment of this Act."

Amend the title so as to read: "An Act to amend the Tariff Act of 1930 so as to provide for the free importation of tourist literature, to clarify the dutiable status of wood moldings, and for other purposes."

MAY 15, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR BYRD: This is in reply to your request of February 5, 1959, for the views of the Bureau of the Budget on S. 913, to amend the Tariff Act of 1930 with respect to the dutiable status of wood moldings.

The Departments of State, Treasury, and Commerce in their reports to your committee do not recommend enactment of this bill. The Treasury report points out that existing statutory procedures provide a number of safeguards for domestic producers. The State and Commerce reports note that if the domestic industry concerned feels that it is being caused or threatened with serious injury from imports an appropriate procedure for seeking relief would be through section 7, the escape clause provision, of the Trade Agreements Extension Act of 1951, as amended.

In addition, the Department of Agriculture has reported to the Bureau that it does not favor enactment of the bill, primarily because it feels that the escape-clause procedure is available for granting such relief as may be deemed necessary.

The Bureau of the Budget concurs with the views expressed in the above reports and recommends that S. 913 not be enacted.

Sincerely yours,

(Signed) PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

THE SECRETARY OF COMMERCE,
Washington, May 22, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of February 5, 1959, requesting the views of this Department with respect to S. 913, a bill to amend the Tariff Act of 1930 with respect to the dutiable status of wood moldings.

The bill would alter the present status of wood moldings, now entered under paragraph 401 along with other forms of lumber, and classify such moldings under paragraph 412 among various manufactured forms of wood. At the present time under paragraph 401, such moldings are subject to a duty of 25 cents per 1,000 board feet plus an import excise tax of 75 cents per 1,000 board feet. Under paragraph 412, the duty would be 17 percent ad valorem. However, section 2 of S. 913 makes the original 1930 rate applicable, and therefore the bill, if enacted, would subject the affected moldings to an ad valorem rate of 40 percent. As a rough approximation, by converting the present specific duty to an equivalent ad valorem basis, the Department estimates that the duty would be increased from less than 1 percent to 40 percent plus 75 cents per 1,000 board feet (a total of approximately 42 percent).

Import figures respecting moldings are not available from official sources inasmuch as the data for moldings are not reported separately. The figure as to current U.S. production of moldings also is not available. Based on trade information, it appears that the effect of the bill would fall mainly on imports of ponderosa pine moldings produced in Mexico, and hardwood moldings from the Philippines.

The increase in duty which would be occasioned by the subject bill is sizable and would appear therefore to require a strong factual justification. Such facts as are presently available to the Department do not provide an adequate justification. If the domestic industry believes itself seriously adversely affected by imports, it would seem appropriate that the procedure for obtaining relief established by law, namely, the escape clause under section 7 of the Trade Agreements Act of 1951, as amended, be employed and an application for relief be filed with the Tariff Commission.

In the light of the above, the Department does not recommend enactment of S. 913.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FREDERICK H. MUELLER,
Under Secretary of Commerce.

DEPARTMENT OF STATE,
May 21, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, U.S. Senate.

DEAR SENATOR BYRD: Thank you for your communication of February 5, 1959, requesting the Department of State to submit a report on S. 913, a bill to amend the Tariff Act of 1930 with respect to the dutiable status of wood moldings.

It is our understanding that the proposed legislation would amend the clause in paragraph 412 of the tariff act providing a rate of 40 percent ad valorem for "wood moldings and carvings to be used for architectural and furniture decoration" to include, and make dutiable at that rate, wood moldings for use other than as architectural and furniture decoration. This would result in a very substantial increase in duty in the case of some types of wood moldings.

We understand that certain wood moldings are now classified as sawed lumber and timber n. s. p. f., under paragraph 401 if of fir, hemlock, larch, pine, or spruce and under paragraph 1803 if of other species of wood. The duty on "sawed lumber and timber n. s. p. f., of fir, hemlock, larch, pine or spruce" under paragraph 401 is 25 cents per 1,000 feet, board measure, plus a maximum import tax of 75 cents per 1,000 feet, board measure. There is no tariff on other species entering under paragraph 1803; however, there are import taxes (up to $3 per 1,000 feet board measure) depending upon the species of wood involved.

So far as we are aware, imports of these moldings which might become subject to the 40 percent rate consist almost exclusively of wood moldings the lower rates of duty and import tax applicable to which have been the subject of trade

agreement concessions. While precise statistics are not available, it appears that domestic production is large in comparison with imports of wood moldings. Nevertheless, if domestic producers of the products involved feel that they are being caused or threatened with serious injury by increased imports due to trade agreement concessions, there is an established procedure through which they can seek relief. This is section 7, the escape-clause provision, of the Trade Agreements Extension Act of 1951, as amended. Resort to this provision is the appropriate method for handling this matter, and legislation does not appear necessary.

For the foregoing reasons, the Department of State is opposed to the enactment of this legislation.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary
(For the Secretary of State).

U.S. TARIFF COMMISSION,
Washington, March 18, 1959.

MEMORANDUM ON S. 913, 86TH CONGRESS, A BILL TO AMEND THE TARIFF ACT OF 1930 WITH RESPECT TO THE DUTIABLE STATUS OF WOOD MOLDINGS

S. 913 proposes to amend paragraph 412 of the Tariff Act of 1930 by striking out "wood moldings and carvings to be used in architectural and furniture decoration" and inserting in lieu thereof "wood moldings, including finger-jointed, Linderman-jointed, and other glued-up moldings, and wood carvings to be used in architectural and furniture decoration."

Wood moldings to be used in architectural and furniture decorations, specifically provided for in paragraph 412 of the tariff act, were originally dutuable at 40 percent ad valorem, but pursuant to a concession included in the General Agreement on Tariffs and Trade (GATT) a reduced rate of 17 percent ad valorem applies to such moldings. Except for wood moldings for architectural and furniture decoration, moldings of wood are not specifically provided for in the tariff act. According to kind, type, or degree of manufacture, they may be classified as manufactures of wood not specially provided for under paragraph 412 at 16⅔ percent ad valorem, or they may be classified as lumber at the rates of duty or import tax (ranging from $0.25 to $1.50 per thousand board feet) provided for the respective species of lumber under paragraph 401 of the tariff act or section 4551 of the Internal Revenue Code of 1954, as modified. With some insignificant exceptions,[1] these rates are reductions, pursuant to trade-agreement concessions, from the original rates provided in the tariff act or the Internal Revenue Code.

Wood moldings are manufactured in the United States from various species of wood and in most lumber and millwork areas. There are some plants which specialize in production of moldings, but the product is widely produced in conjunction with other planing mill products and millwork. The census reported in 1954 total value of U.S. production of interior trim and moldings at $131 million, of which sawmill and planing mills accounted for $24 million, millwork plants for $104 million, and miscellaneous woodworking concerns for the remainder. The total is not directly comparable to imports, since it probably includes many items of trim types which are not similar to imported moldings, especially those imports which are classified as lumber.

Moldings other than decorative architectural and furniture moldings and other than picture-frame moldings are the kinds that are most extensively produced and widely used. They comprise the general or ordinary types of wood moldings used for trim and finish in houses and other structures. They consist of strips of wood that have been worked or molded to different patterns. Patterns or shapes may range from simple beveled or single rounded surfaces or edges such as quarter round or half round to patterns embracing combinations of convex and concave curves and flat surfaces. Usually, they are shaped or molded by passing the wood through planing machines or molders having appropriately adjusted cutting blades or profile attachments, and the pattern is generally a continuous or straight line one—that is, the same combinations of curves and planed surfaces or profile is maintained throughout the length of the piece.

[1] Moldings of balsa, box, ebony, lancewood, and lignum-vitae if classified as lumber, which is very rare.

Customs classification problems have arisen in determining the tariff status of wood moldings of the types discussed in the immediately preceding paragraph. The principal problem has been whether they are classifiable as lumber at specific rates which are generally equivalent to less than 1 percent ad valorem, or as manufactures of wood not specially provided for at 16⅔ percent ad valorem.

Moldings made from a single piece of wood but which still retain the characteristics of a material are considered to be classifiable as lumber. The ordinary forms which are classifiable as lumber if made from a single piece include among others such patterns as quarter round, half round, base shoe, cove, and crown moldings. However, moldings made of a single piece of wood but which have been so advanced in condition that they can no longer be considered a lumber material have been held by the Customs Bureau to be distinct articles of wood and classifiable as manufactures of wood, not specially provided for, at the much higher rate of 16⅔ percent ad valorem. They would include items such as door sills, hand rails, and stair rails. Also held classifiable as manufactures of wood are moldings made from two or more smaller pieces of wood glued together.[2]

It is understood that S. 913 was introduced because of complaints from saw and planing mill operators in the Southwest of competition from imported "single piece" pine moldings from Mexico which are being classified for duty purposes as lumber.[3] These moldings are generally made of Ponderosa pine and when imported are dutiable at a combined rate of duty and import tax of $1 per thousand board feet ($0.25 duty and $0.75 import tax). Moldings are usually sold on a lineal foot basis, and it takes a large number of lineal feet of small size moldings to equal 1,000 board feet. For instance, 100 lineal feet of molding 13/16 x 1 inch would probably be equivalent to about 10½ board feet. Based on the value of some sample imports the duty and tax of $1 per thousand board feet was equivalent to an average of about one-half of 1 percent.

Imports of moldings are not separately reported in official import statistics, but are either classified with other lumber of the respective species, or with miscellaneous wood products. The Tariff Commission made a partial analysis of lumber imports from Mexico in the period October 1957–March 1958. The analysis covered all items entered from Mexico under the classification of pine other than Northern white and Norway pine. (This is the class which includes all imports of pine lumber from Mexico.) The analysis showed that in the 6-month period imports identified as molding amounted to 6,901,000 board feet, having a total foreign value of $1,702,868. The average unit value was $247 per thousand board feet, and the equivalent ad valorem of the duty was four-tenths of 1 percent. Further random sampling shows that imports of such moldings from Mexico are continuing; also, it is possible that there are imports of moldings of other species of wood from Canada. However, the Commission has not been apprised of any complaints regarding such imports from Canada.

The competition complained of is not confined to the southwestern region but also occurs in other areas.

TECHNICAL ANALYSIS OF THE BILL

Section 1 of the bill proposes to extend the present provision in paragraph 412 for "wood moldings to be used in architectural and furniture decoration" so as to include all kinds of wood moldings. It is apparently assumed that all wood moldings would thereby become dutiable at the reduced rate now applicable only to wood moldings for architectural and furniture decoration, namely, 17 percent ad valorem. However, the enactment of section 1 of the bill in its present form might actually result in subjecting all wood moldings that are not for architectural and furniture decoration to the statutory rate of duty for moldings for architectural or furniture decoration, namely, 40 percent ad valorem, plus the reduced import tax on such wood moldings as might be considered to be lumber for the purposes of section 4551 of the Internal Revenue Code.

The language preceding the proviso in subsection (a) of section 2 is designed to permit the President to negotiate trade-agreement concessions on wood moldings, and authorizes the treatment of the increased rate established by section 1

[1] Finger jointing is a method in which the ends of short pieces of wood are notched or tenoned so that they can be meshed fingerlike to form longer pieces. Linderman jointing is a method of joining various pieces edgewise to form wider pieces. Actually, the wood is so processed before being made into molding.

[2] The bill may also be designed to give legislative approval of the customs classification of molding made from glued-together pieces of wood as manufactures of wood rather than as lumber.

as the base rate for determining the extent to which the President can modity duties to carry out such concessions.

The proviso in subsection (a) of section 2 would authorize the "binding" of the rates established by section 1 in any trade agreement entered into prior to the entry in force of the amendment without going through the customary procedure of notice of intention to negotiate a trade agreement and the "peril point" procedure.

Sul section (b) of section 2 of the bill affords the President an opportunity to adjust existing trade-agreement obligations so as to avoid conflict by reason of the increase in duties that would result from the enactment of section 1. However, the increased duties are to go into effect, regardless of conflict with international obligations, 90 days after the enactment of the act.

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, May 19, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of February 5, 1959, requesting the views of this Department on S. 913, to amend tne Tariff Act of 1930 with respect to the dutiable status of wood moldings.

The proposed legislation would amend paragraph 412 of the Tariff Act of 1930, as amended, to strike out "wood moldings and carvings to be used in architectural and furniture decoration" and by inserting in lieu thereof "wood moldings, including finger-jointed, Linderman-jointed, and other glued-up moldings, and wood carvings to be used in architectural and furniture decoration". While the proposed legislation could be interpreted several ways, it is understood that it is intended to make all wood moldings classifiable under paragraph 412 with duty at the reduced rate of 17 percent ad valorem (full rate 40 percent). Under any interpretation it wo have the effect of increasing rates of duty which are the subject of international trade agreements.

Existing statutory procedures provide a number of safeguards for domestic producers. The President's program as outlined in his foreign economic message of January 10, 1955, and in his annual reports on the trade agreements program, the most recent of which was transmitted to the Congress on May 19, 1958, does not propose the type of legislation envisaged by S. 913.

In view of these considerations, the Treasury Department would not recommend the enactment of S. 913.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

LAURENCE B. ROBBINS,
Acting Secretary of the Treasury.

[H.R. 2411, 86th Cong., 1st sess.]

AMENDMENTS

(July 14, 1959-A)

Intended to be proposed by Mr. Engle to the bill (H.R. 2411) to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature, viz:

Page 2, line 3, strike out "Act" and insert in lieu thereof "section".

At the end of the bill insert the following new section:

"SEC. . (a) Paragraph 1631(a) of the Tariff Act of 1930, as amended, is further amended by inserting 'book binding or cover,' after 'book,'.

"(b) The amendment made by this section shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after the tenth day following the date of enactment of this Act."

Amend the title so as to read: "An Act to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature and to transfer to the free list of such Act book bindings or covers imported by certain institutions."

BUREAU OF THE BUDGET,
May 4, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request of February 27, 1959, for the views of the Bureau of the Budget on S. 1176, to transfer to the free list of the Tariff Act of 1930 book bindings or covers imported by certain institutions.

The Secretary of the Treasury anticipates no unusual administrative difficulties if the present temporary suspension of duties on book bindings or covers is made permanent as proposed in S. 1176. The Departments of State and Commerce in letters to you indicate that they have no objection to enactment of this legislation. In addition, the Department of Labor finds that there do not appear to be any employment problems in connection with this proposal and would not object to its enactment.

The Bureau of the Budget concurs with the above departmental positions and has no objection to passage of S. 1176.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference

THE SECRETARY OF COMMERCE,
Washington, D.C., July 15, 1959.

Hon. HARRY F. BYRD
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request dated February 27, 1959, for the views of this Department with respect to S. 1176, a bill to transfer to the free list of the Tariff Act of 1930 book bindings or covers imported by certain institutions.

In recent years book bindings or covers have been included for stipulated periods of time in the list of items covered by paragraph 1631(a) of the Tariff Act of 1930, as amended. The paragraph permits the duty-free importation of books and other enumerated items by schools, colleges, libraries, and societies or institutions established for religious, philosophical, educational, scientific, or literary purposes, provided that the importations are for their own use or for the encouragement of the fine arts.

The privilege of duty-free importation of book bindings or covers accorded the specified institutions expired September 1, 1958.

These importations are not commercially significant, being principally importations of covers for foreign books in the collections of libraries and other educational institutions.

The bill, by eliminating duties on importations of book bindings or covers by the authorized institutions, would be helpful to them since the budgets of these organizations are limited.

The Department of Commerce has no objection to the enactment of this legislation.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

FREDERICK H. MUELLER,
Acting Secretary of Commerce.

DEPARTMENT OF STATE,
May 7, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, U.S. Senate.

DEAR SENATOR BYRD: Reference is made to your letter of February 27, 1959, acknowledged on March 2, 1959, requesting this Department's views on S. 1176, a bill to transfer to the free list of the Tariff Act of 1930 book bindings or covers imported by certain institutions.

The Department of State has examined S. 1176 from the viewpoint of foreign economic objectives and has no objection to its enactment.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,
Assistant Secretary,
(For the Secretary of State).

U.S. TARIFF COMMISSION,
Washington, March 18, 1959.

MEMORANDUM ON H.R. 4576 AND S. 1176, 86TH CONGRESS, IDENTICAL BILLS TO TRANSFER TO THE FREE LIST OF THE TARIFF ACT OF 1930 BOOKBINDINGS AND COVERS IMPORTED BY CERTAIN INSTITUTIONS

The bills, which are identical, would amend paragraph 1631(a) of the free list of the Tariff Act of 1930 to include therein "bookbindings or covers." Paragraph 1631(a), as amended, now provides for duty-free treatment of books, charts, engravings, etchings, lithographic prints, maps, music, sound recordings, slides and transparencies, and photographs imported by educational, literary, and other institutions for their own use or for the encouragement of the fine arts and not for sale.

Section 2 of Public Law 694, 83d Congress, amended paragraph 1631 to include bookbindings or covers for a 2-year period (to September 1, 1956). The period was extended until September 1, 1958, by section 4 of Public Law 723, 84th Congress. Either bill, the subject of this memorandum, if enacted, would permanently amend paragraph 1631 to include bookbindings or covers.

The Tariff Act of 1930 does not specifically mention bookbindings and book covers, except those wholly or in part of leather. In that act, bookbindings and book covers (which are loose protective coverings) wholly or in part of leather not specially provided for are dutiable under paragraph 1410, whether imported separately or as a component part of a book. The duty originally imposed on these articles in the 1930 Tariff Act was 30 percent ad valorem. Successive reductions in the duties pursuant to trade agreements have brought the rates down to 7½ percent on bindings and 15 percent on covers. Other bookbindings or covers, if imported separately, would probably be dutiable under paragraph 1413 as manufactures of paper not specially provided for at the reduced rate of 17½ percent ad valorem (originally 35 percent).

The bookbinding industry in the United States, as classified by the Bureau of the Census in 1954, comprised 730 establishments primarily engaged in edition, trade, job, and library bookbinding. Total value of receipts of the industry was $112 million, of which $101 million represented receipts for bookbinding and the remainder consisted of receipts for secondary and miscellaneous products. In addition, bookbinding by concerns primarily classified in other industries brings the total value of bookbinding receipts in 1954 to $117 million. In 1957 the total value of receipts for bookbinding by both classes of concerns was $150 million. These totals do not include bookbinding activities of the establishments binding books printed in the same establishments.

Data are not available on domestic production of bookbindings or book covers which may be directly comparable to those imported by the institutions named in paragraph 1631. However, the value (receipts) of library binding (including job and rebinding) which probably is nearest in comparability to imports here considered amounted to $16,160,000 in 1954. Later data are not available. Data on imports of book bindings and covers by institutions in paragraph 1631 are also not available. It is likely, however, that such imports would be primarily replacement bindings and covers for foreign books in the possession of the named institutions. Dutiable imports of bookbindings of leather were valued at $87,000 in 1957 and $142,000 in 1958; imports of dutiable book covers were valued at $32,000 in 1957 and $36,000 in 1958.

The Commission is not aware of any complaints against imports under the previous temporary duty exemption.

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, May 8, 1959.

Hon. HARRY F. BYRD
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of February 27, 1959, requesting the views of this Department on S. 1176, to transfer to the free list of the Tariff Act of 1930 book bindings or covers imported by certain institutions.

The proposed legislation would make permanent the temporary exemption from duty accorded to book bindings and covers imported by public libraries, schools, and similar institutions by section 2 of the act of August 28, 1954 (68 Stat. 874), as extended to September 1, 1958, by section 4 of the act of July 16, 1956 70 Stat. 554).

This Department encountered no unusual administrative difficulties under the temporary suspension laws and anticipates none if the suspension of duty is made permanent.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

A. GILMORE FLUES,
Acting Secretary of the Treasury.

[H.R. 2411, 86th Cong., 1st sess.]

AMENDMENTS

(April 8, 1959–A)

Intended to be proposed by Mr. JAVITS to the bill (H.R. 2411) to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature, viz:

Page 2, line 3, strike out "Act" and insert "section".

Page 2, after line 6, insert the following new section:

"SEC. 2. (a) Paragraph 1720 of the Tariff Act of 1930, as amended (19 U.S.C., sec. 1201, par. 1720), is amended to read as follows:

" 'PAR. 1720. Models of inventions and other improvements in the arts, to be used exclusively as models, and as exhibits in exhibitions at any college, academy, school, or seminary of learning, any society or institution established for the encouragement of the arts, science, or education, or any association of such organizations, and incapable of any other use.'

"(b) Paragraph 1807 of such Act, as amended (19 U.S.C., sec. 1201, par. 1807), is amended to read as follows:

" 'PAR. 1807. (a) Original paintings in oil, mineral, water, vitreous enamel, or other colors, pastels, original mosaics, original drawings and sketches in pen, ink, pencil, or watercolors, or works of the free fine arts in any other media including applied paper and other materials, manufactured or otherwise, such as are used on collages, artists' proof etchings unbound, and engravings and woodcuts unbound, lithographs not over twenty years old, or prints made by other hand transfer processes unbound, original sculptures or statuary; but the terms "sculpture" and "statuary" as used in this paragraph shall be understood to include professional productions of sculptors only, whether in round or in relief, in bronze, marble, stone, terra cotta, wood, metal, or other materials, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, alabaster, or from metal or other material, or cast in bronze or other metal or substance, or from wax or plaster, or constructed from any material or made in any form as the professional productions of sculptors only, and the term "original," as used in this paragraph to modify the words "sculptures" and "statuary," shall be understood to include the original work or model and not more than ten castings, replicas, or reproductions made from the sculptor's original work or model, with or without a change in scale and regardless of whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed. The terms "painting," "drawing," "sketch," "sculpture," and "statuary," as used in this paragraph, shall not be understood to include any articles of utility or for industrial use, nor such as are made wholly or in part by stenciling or any other mechanical process; and the terms "etchings," "engravings," and "woodcuts," "lithographs not over twenty years old," or "prints made by other hand transfer processes," as used in this paragraph, shall be understood to include only such as are printed by hand from plates, stones, or blocks etched, drawn, or

engraved with hand tools and not such as are printed from plates, stones, or blocks etched, drawn, or engraved by photochemical or other mechanical processes.

" '(b) The Secretary of the Treasury or his delegate may at his discretion admit free of duty works of the free fine arts of unprecedented or unforeseen kinds or media not apparently included under subparagraph (a) of this paragraph, but in this case he may require an affidavit from a curator or other official of a non-commercial museum or art gallery that the kind of object in question represents some school, kind or medium of art within the meaning of the "free fine arts" as used herein.'

"(c) Paragraph 1809 of such Act, as amended (19 U.S.C., sec. 1201, par. 1809), is amended to read as follows:

" 'PAR. 1809. (a) Works of art, collections in illustration of the progress of the arts, sciences, agriculture, or manufacturers, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities, and artistic copies thereof in metal or other material, imported in good faith for exhibition purposes within the territorial limits of the United States by any State or by any society or institution established for the encouragement of the arts, science, agriculture, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation, for the purpose of erecting a public monument, and not intended for sale nor for any other purpose than herein expressed; but bond shall be given, under such rules and regulations as the Secretary of the Treasury may prescribe, for the payment of lawful duties which may accrue should any of the articles aforesaid be sold, transferred, or used contrary to this paragraph within five years after the date of entry hereunder and such articles shall be subject at any time within such five-year period to examination and inspection by the proper officers of the customs: *Provided*, That the privileges of this subparagraph (a) shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character.

" '(b) In connection with the entry of works of art and other articles claimed to be free of duty under this paragraph, surety on bonds may be waived in the discretion of the Secretary of the Treasury or his delegate.

" '(c) Articles entered under this paragraph may be transferred from one institution to another, subject to a requirement that proof as to the location of such articles be furnished to the collector at any time, and such articles may be transferred temporarily to a commercial gallery or other premises for eductional, scientific, agricultural, or cultural purposes or for the benefit of charitable organizations, and not for sale, upon an application in writing in the cases of each transfer describing the articles and stating the name and location of the commercial gallery or premises to which transfer is to be made, and provided in the case of any transfer under this paragraph the sureties, if any, on the bond assent in writing under seal or a new bond is filed. No entry or withdrawal shall be required for a transfer under this subparagraph.'

"(d) Paragraph 1811 of such Act, as amended (19 U.S.C., sec. 1201, par. 1811), is amended to read as follows:

" 'PAR. 1811. (a) Works of art (except rugs and carpets made after the year 1700), collections in illustration of the progress of the arts, works in bronze, marble, terra cotta, parian, pottery, or procelain, objects of art of ornamental character or eductional value, and antiquities, which shall have been produced prior to one hundred years before their date of entry, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of the Treasury may prescribe. Picture frames over one hundred years old may be entered at any port of entry.

" '(b) Violins, violas, violoncellos, and double basses, of all sizes, made in the year 1800 or prior year.

" '(c) Ethnographic or artistic objects made in traditional aboriginal styles and made at least fifty years prior to their date of entry, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of the Treasury shall prescribe.'

"(e) Paragraph 1812 of such Act, as amended (19 U.S.C., sec. 1201, par. 1812), is amended to read as follows:

" 'PAR. 1812. Gobelin and other hand-woven tapestries used as wall hangings.'

"(f) This section shall become effective with respect to merchandise entered, or withdrawn from warehouse, for consumption on or after the thirtieth day after the date of enactment of this Act."

Amend the title so as to read: "An Act to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature, to liberalize the tariff laws for works of art and other exhibition material, and for other purposes."

JUNE 10, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your request of February 6, 1959, for a report from the Bureau of the Budget on S. 948, a bill "To liberalize the tariff laws for works of art and other exhibition material, and for other purposes."

The Department of Commerce report to your committee expresses sympathy with the bill's objectives, but recommends, for reasons stated therein, that paragraph 1812 of the Tariff Act of 1930 not be revised as the bill proposes. The Secretary of the Treasury anticipates no unusual administrative difficulties if the bill were enacted to embody certain suggested alterations referred to in the memorandum accompanying his report, and the Department of State supports enactment of the bill.

The Bureau would favor enactment of S. 948 if amended as suggested by the Secretary of the Treasury, and would have no objection to its further amendment as suggested by the Department of Commerce.

Sincerely yours,

(Signed) PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

THE SECRETARY OF COMMERCE,
Washington, June 23, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of February 6, 1959, for the views of the Department of Commerce with respect to S. 948, a bill to liberalize the tariff laws for works of art and other exhibition material, and for other purposes.

This bill is designed to amend various sections of the Tariff Act of 1930, as amended, for the purpose of clarification and in order to bring certain definitions up to date, particularly insofar as newer forms of art are concerned. The effect of the bill would be to include on the free list certain display objects and certain art forms now subject to duty.

The Department of Commerce is in sympathy with the objectives of the bill but has little direct interest in the subject matter inasmuch as industry and commerce are not very directly involved. Therefore, no substantive comment is being made by this Department as to the adequacy of the proposed revised definitions and tariff listings, other than with respect to the proposed revision of paragraph 1812.

S. 948 proposes to modify paragraph 1812 as follows:

Present listing: "Gobelin tapestries used as wall hangings."

Proposed listing: "Gobelin and other handwoven tapestries used as wall hangings."

The proposed revision would permit the introduction duty-free of handwoven cloth declared to be tapestries, regardless of whether or not such articles are for commercial sale. This seems to go beyond the purposes of the bill and to introduce the possibility of unanticipated competition between imported commercial-type tapestries and U.S. produced woven materials. Accordingly, it is recommended that the proposed revision of paragraph 1812 not be made.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

FREDERICK H. MUELLER,
Under Secretary of Commerce.

JUNE 12, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of February 6, 1959, which was acknowledged on February 10, requested a report from the Department of State on S. 948, a bill to liberalize the tariff laws for works of art and other exhibition material, and for other purposes.

The Department has studied the proposed measure from the viewpoint of its foreign policy implications and has no objection to its enactment. The bill is apparently intended to modernize some of the provisions of the Tariff Act of 1930 relating to duty-free entry of works of art, so as to include modern art forms. In our opinion, such an amendment should prove beneficial to our foreign relations.

We note that the present bill, S. 948, is virtually identical with the bill S. 3900, which was introduced in the 85th Congress, except that the drafters of the present bill have removed a discriminatory feature which was contained in section 4, subsection (c) of S. 3900, to which the Department of State objected in a report on S. 3900 dated August 11, 1958. We are pleased that this feature has been removed and support enactment of S. 948.

It is our understanding that the loss of tariff revenues would be inconsequential compared with the benefits derived from this bill. However, we prefer to leave definitive comment on the revenue aspects and the administration of customs laws to the Department of the Treasury, which has primary responsibility for these matters.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, JR.,
Assistant Secretary
(For the Acting Secretary of State).

U.S. TARIFF COMMISSION,
Washington, April 22, 1959.

MEMORANDUM ON H.R. 2505, H.R. 4887, H.R. 6249, AND S. 948, 86TH CONGRESS, BILLS TO LIBERALIZE THE TARIFF LAWS FOR WORKS OF ART AND OTHER EXHIBITION MATERIAL, AND FOR OTHER PURPOSES

H.R. 2505, H.R. 4887, H.R. 6249, and S. 948 are substantially identical bills, and references hereinafter to "the bill" will refer to all four bills.

The bill proposes the amendment of paragraphs 1720, 1807, 1809, 1811, and 1812 of the Tariff Act of 1930, as amended, so as to expand the scope of these duty-free paragraphs to include items not now included therein. These free-list paragraphs may be characterized as provisions for the encouragement in the United States of the industrial and the free fine arts. The proposed amendment of each paragraph will hereinafter be discussed separately.

PARAGRAPH 1720

Paragraph 1720 now provides for the duty-free entry of "Models of inventions and of other improvements in the arts, to be used exclusively as models and incapable of any other use." Section 1 of the bill would add a provision permitting duty-free treatment of models "if used in educational and cultural exhibitions." It is understood that this amendment is intended to permit museums, architectural schools, and other institutions to import models duty free for exhibition, including display in commercial galleries, when the purpose is educational or cultural.

Paragraph 1720 appears to have had its origin in the Tariff Act of 1883. The following provision appeared in the free list of that act: "Models of inventions and other improvements in the arts; but no article or articles shall be deemed a model or improvement which can be fitted for use." This language, slightly changed, and with "patterns of machinery" added, was carried in the Tariff Acts of 1890, 1894, and 1897.

In administering this free-list provision, the Treasury Department construed the language "models of invention or improvement in the arts" as meaning "an object, * * * from which working machines, devices, or structures are to be made" (T.D. 22981 (1901)). However, in litigation arising under the 1897 act, the Circuit Court for the Southern District of New York held that certain models of steamships intended for exhibition in the United States offices of the Hamburg-American Line were free of duty as "models of inventions and of other improvements in the arts" (*Boas* v. *United States* (1904) 128 Fed. 470). The court held that the models could not be "fitted for use" otherwise than as models. These decisions were brought to the attention of the Congress in "Notes on

Tariff Revision" prepared for the committees of Congress in 1908 during the preparation of the tariff provisions which became the Tariff Act of August 5, 1909. In this document the *Boas* case was referred to, and under "Comments and Suggestions" it was stated:

"It would seem that an interpretation of this paragraph more in harmony with the intention of the lawmakers is that found in T.D. 22981 (April 23, 1901), wherein the Treasury Department refused to pass free of duty the miniature copy of a steamship."

Congress apparently accepted the suggestions made in "Notes on Tariff Revision" and in enacting the Tariff Act of 1909 changed the language of the provision in question to read:

"Models of invention and of other improvements in the arts, to be used exclusively as models and incapable of any other use."

The identical provision was thereafter carried in the Tariff Acts of 1913, 1922, and 1930.

In a case arising under the Tariff Act of 1922, the U.S. Court of Customs and Patent Appeals, in *United States* v. *American Brown Boveri Electric Corporation* (17 CCPA (Customs) 329 (1929)), held that before an article may be classified as a model under paragraph 1620 it must be exclusively used for the making or building of something. In a new case an attempt was made to overcome the effect of the *Brown Boveri* case. In this new case (*Cunard Steamship Co.* v. *United States*, 22 CCPA (Customs) 615 (1935)) miniature steamship models imported for display or exhibition at the steamship offices and elsewhere were held not to be entitled to duty-free treatment under paragraph 1620 of the 1922 act, thus expressly affirming the *Brown Boveri* case.

The proposed amendment to paragraph 1720 of the 1930 Tariff Act would seem to have the effect of overriding the interpretation of the court of the present language of paragraph 1720; in other words, it would permit steamship models such as those involved in Cunard Steamship Co., supra, to be imported free of duty.

PARAGRAPH 1807

Original paintings in oil, mineral, water, or other colors, pastels, original drawings and sketches in pen, ink, pencil, or water colors, artists' proof etchings unbound, and engravings and woodcuts unbound, original sculptures or statuary, including not more than two replicas or reproductions of the same, are duty free under paragraph 1807 if they meet the special definitions or requirements set forth in the paragraph.

Section 2 of the bill would extend the scope of paragraph 1807 to include "original works of art in any other media including applied paper and other materials, manufactured or otherwise, such as are used on collages." Under the present provisions of the tariff act, the works of art which are entitled to duty-free entry are limited to those made with the traditional materials named in the preceding paragraph. There are now many works of recognized artists produced with paper, cloth, and other materials pasted, glued, sewn, pinned, or nailed together, and others combined with drawings or paintings in traditional mediums, all known as collages, which are well recognized as works of art and which are on exhibition as such in many of the art museums in the United States. These modern works of art have been excluded from free entry as works of art because of their component materials and have been classified under the dutiable schedules of the tariff act according to their component material of chief value. Despite the fact that these items have received no statutory recognition for tariff classification purposes as works of art, they have, in effect, been recognized as works of art for customs appraisement purposes, being often valued for customs purposes far beyond the mere cost of the materials because of their art value. Considerable criticism has been voiced in recent years over the disparity in the treatment for customs purposes of traditional art and modern art of this nature.

Section 2 would extend the current provision in paragraph 1807 for "artist proof etchings unbound, and engravings and woodcuts unbound" by adding "lithographs not over 20 years old or prints made by other hand transfer processes unbound." Engravings, etchings, and lithographic prints which have been printed over 20 years at the time of importation are duty free under paragraph 1629(a) of the Tariff Act of 1930. The provision in the bill for lithographs would be limited to "only such as are printed by hand from plates, stones, or blocks etched, drawn, or engraved with hand tools and not such as are printed from plates, stones, or blocks etched, drawn, or engraved by photochemical or other mechanical processes."

Original prints produced by hand and used in limited editions are made by several techniques such as artists' proof etchings, engravings, woodcuts, and lithographs. The purpose of the proposed amendment is to include the hand-lithographed prints produced from stones drawn by hand and other prints made by other transfer processes which are not now covered by paragraph 1629(a).

Section 2 would further amend paragraph 1807 to extend the scope of the provisions for sculptures and statuary. Currently, the terms "sculpture" and "statuary" are limited to "professional productions of sculptors only, whether in round or relief, in bronze, marble, stone, terra cotta, ivory, wood, or metal, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, or alabaster, or from metal, or cast in bronze or other metal or substance, or from wax or plaster, made as the professional production of sculptors only * * *."

Two replicas or reproductions only are included in the current exemption. The two replicas or reproductions must have been the first two produced after the original and must have been the production of the sculptor who made the original in the case of replicas, and the production of, or under the supervision of the sculptor who made the model, or of another sculptor, in the case of reproductions.

It had been the practice of the customs service to limit the provisions for "sculptures" and "statuary" to representations of natural objects, chiefly of animal or human form. However, in a decision rendered on June 20, 1958, *Ebeling & Reuss Co.* v. *United States* (93 Treas. Dec. No. 26, p. 46, C.D. 2009), the U.S. Customs Court held that the terms "sculptures" and "statuary," as used in paragraph 1547(a) of the Tariff Act, are not limited to representations of natural objects but may include "abstract" subjects or so-called modern art. The Bureau of Customs is now following the principle of this decision in the administration of tariff provisions covering sculptures or statuary.

The proposed amendment would include all sculptures and statuary which are professional productions of sculptors, without regard to the materials from which made. However, the manner in which the bill would amend the description of the materials from which such articles may be made tends to leave the provision both cumbersome and awkward. It also retains the words "or cast in bronze or other metal or substance, or from wax or plaster" the meaning of which has caused interpretative difficulties. Your committee may wish to consider entirely new descriptive matter for page 2, lines 13 through 21, of the bill which could read as follows (the first word in brackets would also be necessary with respect to H.R. 2505 and H.R. 6249): "[to] include professional productions of sculptures only, whether cut, carved, or otherwise wrought by hand from, or cast in, any material or substance, whether in the abstract or in imitation of natural objects, and whether in round, in relief, or in any form, and the term 'original', as used in this paragraph to".

The suggested substitute language would include figures made by professional sculptors from wire and other materials when such figures rise to the dignity of works of art, even though they are not "in round or in relief" as the present language of the bill would require.

The bill would amend the provision for two replicas or reproductions of sculptures or statuary, which, as previously pointed out, must have been the first two produced after the original, to include "10 castings, replicas, or reproductions made from the sculptor's original work or model, with or without a change in scale and regardless of whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed."

It has been held that a replica, for the purposes of paragraph 1807, means a duplicate or copy of an original work made by the artist who created the original, whereas a reproduction is made from a model casting created under the supervision of a professional sculptor, either the one who created the model or another (C.D. 1606). It would appear, therefore, that a "replica" as the term has been judicially interpreted can be made only by the sculptor of the original work. Accordingly, to include in the term "replicas" works made after the creator of the original is dead would bring within the term "replicas" works which are not replicas as judicially defined. The proposed language would introduce the word "castings" in conjunction with replicas and reproductions. It appears that a casting of a sculpture or statue would be a reproduction. To avoid confusion, it might be desirable to define all these terms in the statute.

When a sculptor creates an acceptable piece of statuary, about 10 castings or replicas are generally cast which measure up to the dignity of a work of art. This number of replicas is said to be needed to meet the demand of art museums and is approximately the number which may be made by casting before the mold deteriorates.

PARAGRAPH 1809

Paragraph 1809 now covers:

"Works of art, collections in illustration of the progress of the arts, sciences, agriculture, or manufactures, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities and artistic copies thereof in metal or other material, imported in good faith for exhibition at a fixed place by any State or by any society or institution established for the encouragement of the arts, sciences, agriculture, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation, for the purpose of erecting a public monument, and not intended for sale nor for any other purpose than herein expressed."

A bond with surety is required to assure proper use of the imported article entered under this provision or the payment of lawful duties should the article within 5 years after the date of entry be sold, transferred, or used contrary to the declaration of intended use at the time of importation. The paragraph contains a proviso "that the privileges of this paragraph shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character."

Section 3 of the bill would amend the present paragraph 1809 by doing away with the requirement that the exhibition be at a fixed place and require in lieu thereof that the exhibition be within the "territorial limits of the United States." Section 3 would also permit the collector of customs, in his discretion, to waive the requirement of a surety on the bond. It is assumed that the collectors might waive the surety requirements in cases where the need for surety is nominal, the importer is a municipality, the importer is an organization of such renown that the requirement of a surety is not warranted, and in similar cases.

Section 3 provides that "articles entered under this paragraph [1809] may be transferred from one institution to another, subject to a requirement that proof as to the location of such articles be furnished to the collector at any time" and provided the sureties, if any, on the bond assent in writing under seal or a new bond is filed.

Temporary transfers would also be permitted "to a commercial gallery or other premises for education, scientific, agriculture, or cultural purposes, or for the benefit of charitable organizations, and not for sale, upon an application in writing in the case of each transfer describing the articles and stating the name and location of the commercial gallery or premises to which transfer is to be made." In the case of any transfer, whether from one "institution" to another or to a commercial gallery or other premise, the sureties, if any, on the bond must assent in writing under seal, or a new bond filed. Thus, an application requirement is provided in the bill in the case of temporary transfers to commercial galleries or other premises for the indicated purposes, but none is provided in the case of transfers between "institutions."

Section 10.49(c) of the Customs Regulations now permits transfers for the purposes of paragraph 1809 upon "an application in writing in the case of each transfer describing the articles and stating the name of the institution to which transfer is to be made, provided the sureties to the bond assent in writing under seal or a new bond is filed." The bill would abolish the regulatory application requirement in the case of "institutions." This would leave the determination of whether transferee institutions are proper institutions for the purpose of paragraph 1809 entirely up to the transferor institution and would usurp the normal function of the administrative agency.

Apparently in lieu of surveillance through application requirements in the case of transfers between institutions, the bill would require proof as to the location of the articles transferred to be furnished the collector "at any time." This might be construed to mean at the pleasure of the importing institutions, which presumably is not intended. It is suggested that the words "upon demand" be substituted for "at any time."

The provision that no entry or withdrawal shall be required for a transfer under proposed new subparagraph (c) of paragraph 1809 is in accord with the existing customs regulations.

The proposed authorization for transfers to commercial galleries or other premises for the stated purposes would be in conflict with the provision of paragraph 1809 "that the privileges of this paragraph shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character." The proviso to proposed subparagraph (a) in paragraph 1809 should perhaps be amended by including therein the language "Except as provided in subsection (c) of this paragraph."

It should be noted that the transfer privilege is not extended by the bill to State and municipal corporations, but only to "institutions" and to commercial galleries and other premises.

PARAGRAPH 1811

Section 4 of the bill would amend the provisions of paragraph 1811, which deals with antiques, by limiting the free-entry privilege to antiques that are 100 years or more old at the time of entry. Currently, the duty-free provision for antiques is limited to those which were produced prior to 1830. The antiques provision in the free list of the several tariff acts preceding the act of 1930 each had a minimum age criterion of 100 years at the time of importation. In the Tariff Act of 1930 the particular provision for antiques was amended to cover only those antiques produced prior to 1830.[1]

The determination of the artistic merit and age of a particular article for purposes of paragraph 1811 has not been without difficulty under the present tariff act. Trained experts in this field are not available at all ports of entry. The customs service has restricted consumption entries (other than certain baggage entries) for virtually all articles claimed to be classifiable under paragraph 1811 to only nine major ports in the United States and one in Hawaii pursuant to the authority of section 489 of the Tariff Act of 1930. A fixed cutoff date for antiques, such as the present one, would be desirable from an administrative standpoint.

Section 4 of the bill would make it mandatory on customs officials that antique frames on original works of antique or modern art be permitted entry at any port of entry rather than at the 10 designated ports. Such frames are classified as "furniture" for the purposes of section 489 of the Tariff Act of 1930, as amended, which reads as follows:

"Furniture described in paragraph 1811 shall enter the United States at ports which shall be designated by the Secretary of the Treasury for this purpose. If any article described in paragraph 1811 and imported for sale is rejected as unauthentic in respect to the antiquity claimed as a basis for free entry, there shall be imposed, collected, and paid on such article, unless exported under customs supervision, a duty of 25 per centum of the value of such article in addition to any other duty imposed by law upon such article."

It is suggested that the substance of section 489, properly modified to except frames on works of art, be made a part of paragraph 1811.

A new duty-free provision would be added by S. 948 to paragraph 1811 to cover "Ethnographic or artistic objects made in [the] traditional aboriginal styles [of the North, Central, and South American countries and of the Caribbean Islands, the countries of the African continent, and of the islands of Micronesia, Melanesia, Polynesia, Indonesia, and Australia,] and made at least fifty years prior to their date of entry." (The bracketed words are in H.R. 2505 and H.R. 6249 only.) In substance, this provision would extend free entry to articles over 50 years of age which are of a traditional style that reflects or illustrates the life, culture, or art of the first known natives of any country or area, or the named countries or areas. The age limitation and other specifications would not be simple to administer. The omission of the named countries or areas from S. 948 would avoid possible conflict with "most-favored-nation" commitments of the United States.

PARAGRAPH 1812

Section 5 of the bill would amend the provisions for "Gobelin tapestries used as wall hangings" to read: "Gobelin and other handwoven tapestries used as wall hangings." Paragraph 1812 has been construed as covering only Gobelin tapestries produced in the Manufacture Nationale des Gobelins factories at Paris and Beauvais under the direction and control of the French Government, if of a kind used as wall hangings (Customs Regulations, sec. 10.54). Tapestries not made at Gobelin but designed by recognized artists are not duty free because of their place of manufacture and component materials. The common meaning of the word "tapestry" is a heavy, handwoven, reversible textile, commonly figured and used as a wall hanging, carpet, or furniture covering. A Gobelin tapestry is a kind used almost exclusively as a wall hanging. The insertion of the words "and other handwoven" between "Gobelin" and "tapestries" in paragraph 1812,

[1] In the Tariff Commission's "Summary of Tariff Information, 1921" relative to the 1922 tariff bill as passed by the House of Representatives, the Commission, in discussing the antiquities provision, stated with respect to the age criterion, "A definite date instead of 100 years might be advisable; 1820 would be especially appropriate for furniture and might be applied also to other articles enumerated in the paragraph." The suggestion was not adopted in the 1922 Tariff Act, but probably influenced the adoption of the year 1830 in the Tariff Act of 1930.

would, of course, expand the present scope of the paragraph to include many other tapestries used as wall hangings. It might be noted that the term "Gobelin" has set a high-quality standard for the tapestries covered by that duty-free provisions which would no longer pertain should the amendment be made.

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, June 11, 1959.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: In your letter of February 6, 1959, you ask for a report on S. 948, a bill introduced by Senator Javits of New York to liberalize the tariff laws for works of art and other exhibition material, and for other purposes.

The proposed legislation would broaden the scope of the free provisions of the Tariff Act of 1930 with respect to models of inventions and other improvements in the arts, original works of art, antiques, certain handwoven tapestries, and certain ethnographic or artistic objects at least 50 years old, made in traditional aboriginal styles. It would also relax the free entry requirements concerning exhibition material so as to permit the transfer of such material between institutions subject to certain restrictions.

Enclosed is a memorandum relative to the Department's views as to the proposed legislation. For administrative reasons the report concurs with the general objectives of the bill and suggests various changes therein and the insertion of an effective date.

No unusual administrative difficulties are anticipated if the bill were enacted to embody certain suggested alterations referred to in the memorandum.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

A. GILMORE FLUES,
Acting Secretary of the Treasury.

MEMORANDUM RELATIVE TO S. 948, A BILL TO LIBERALIZE THE TARIFF LAWS FOR WORKS OF ART AND OTHER EXHIBITION MATERIAL, AND FOR OTHER PURPOSES

Paragraph 1720 (p. 1, lines 6 through 9 of the bill)

Under existing law models of inventions and other improvements in the arts provided for in paragraph 1720 of the tariff act are "to be used exclusively as models and incapable of any other use." The proposed amendment would add: "except as they may be used in educational and cultural exhibitions." This apparently means that the models could be used for any purpose in such exhibitions.

The scope of the term "educational and cultural" in line 9 is difficult to determine. What is an educational and cultural exhibition does not lend itself to precise definition. Difficult questions of personal opinion and preference enter into such determinations.

It is suggested that the bill specify in other terms the classes of institutions to which the privileges are to be accorded. An example is found in Public Law 85-458, 85th Congress (H.R. 7454) approved June 13, 1958, which provides that "any college, academy, school, or seminary of learning, any society or institution established for the encouragement of the arts, science, or education, or any association of such organizations may import free of duty" certain specified articles.

Paragraph 1807 (p. 1, line 10, all of p. 2, and p. 3, lines 1 through 14, of the bill)

Paragraph 1807 of the present act permits the free entry of certain specified types of articles, such as original paintings and original sculptures. Although the term "works of art" does not appear in this paragraph, it has been judicially determined that the articles provided for therein must be works of the free fine arts. The proposed legislation would broaden the provision to permit the free entry of "original works of art in any other media."

S. 948 has been sympathetically examined in the light of its known objectives. Legislation accomplishing the purposes of the bill should go far toward relieving the customs service of administrative difficulties inherent in the several "works of art" provisions in the tariff act and should reduce criticism from sources which

believe that those provisions and their administration represent an outdated, illiberal approach to the problem of the tariff treatment of "works of art." It is concluded, however, that S. 948 in its present form would probably not fully accomplish its objectives and would not relieve the customs service of the difficulties experienced under the existing provisions covering "works of art."

The problem centers largely around the term "works of art" itself, which is a term of uncertain meaning and one which by its nature involves controversy. To the extent that the classification of the objects designed to be covered by S. 948 can be disassociated from the term "works of art," the purposes of the bill would be furthered and administrative difficulties removed or lessened.

There is a tendency upon the part of critics of the existing provisions to urge that all objects of beauty in any media should be classified under the existing "works of art" provisions. The customs service is not empowered to do this, however. In the case of *Frei Art Glass Co.*, v. *United States* (15 CCA 132 (T.D. 42214)), the U.S. Court of Customs Appeals said with respect to certain glass mosaic paintings:

"That these importations are works of art in the general acceptance of the terms must be conceded. They embody the artistic conception and artistic execution as well. If it were a matter of first impression, the court might well conclude that they were works of art in every sense, and as such included within that designation as it appears in paragraph 1449. But we feel we are precluded from so doing by an almost uniform administrative practice of long standing and by a line of well-considered authorities."

We have endeavored to suggest a statutory definition for the term "works of art" which would be administrable, but without success. It is our opinion, therefore, that the problem might be met most successfully by allowing the existing provisions to stand, in the main, as previously enacted thereby continuing the benefit of prior judicial constructions; but to add to paragraph 1807 a general provision which would include objects—although not covered by existing law, or which may be in fact already covered—which are certified by a curator or other qualified representative of a noncommercial museum or art gallery to be of museum or art gallery quality and examples of some kind or school of art and of such excellence or interest that the museum or art gallery is displaying or would display articles of such kind, for noncommercial exhibition, as an example of art in some media of an artist or artists of some period, school, country, or locality.

Paragraph 1547 of the tariff act provides for the assessment of duty on certain classes of objects referred to as "works of art." This provision, which has resulted in considerable administrative difficulty, reads in its entirety as follows:

"(a) Works of art, including (1) paintings in oil or water colors, pastels, pen and ink drawings, and copies, replicas, or reproductions of any of the same, (2) statuary, sculptures, or copies, replicas, or reproductions thereof, valued at not less than $2.50, and (3) etchings and engravings, all the foregoing, not specially provided for, 20 per centum ad valorem. (The 20 per centum rate referred to in the statute has been reduced to 10 per centum by trade agreement.)

"(b) Paintings in oil, mineral, water, or other colors, pastels, and drawings and sketches in pen and ink, pencil, or water color, any of the foregoing (whether or not works of art) suitable as designs for use in the manufacture of textiles, floor coverings, wall paper, or wall coverings, 20 per centum ad valorem. (Rate currently 5 per centum by trade agreement.)"

There is discernable in certain recent decisions of the U.S. Customs Court a tendency to regard paragraph 1547(a) as covering any article, irrespective of the medium involved, which is regarded by expert witnesses as qualifying as a work of art and which is for nonutilitarian purposes. *F. Lunning, Inc. Traders Service Corp. et al.* v. *United States* (39 Cust. Ct. Reports 271, C.D. 1941); *Ebeling & Reuss Co.* v. *United States* (Vol. 93 Treas. Dec. No. 26, p. 46, C.D. 2009); *Donald Peters*, v. *United States* (Vol. 93, T.D. No. 48, p. 35. C.D. 2042).

If this point of view is declared to be the law, the scope of paragraph 1547(a) would be broadened to include types of articles which are regarded as works of art by certain proponents and advocates but which do not meet the traditional concept of works of art under the tariff act.

The administrative difficulties probably would be reduced under such a construction of paragraph 1547(a), but not eliminated. There would still be the necessity for proof that the objects offered for entry are accepted as works of art; and the difficulty of deciding what is or is not utilitarian, for example, in the case of certain classes of vases, pitchers, and candlesticks, is obvious.

As is made clear by the case of *Wm. S. Pitcairn Corp.* v. *United States* (39 Ct. Cust. Appls. 15), the extent to which we are dealing with "works of art" in the

traditional tariff sense under paragraph 1547(a) in the case of "statuary, sculptures, or copies, replicas, or reproductions thereof, valued at not less than $2.50" is not completely defined. The $2.50 value provision would seem to contemplate that articles which are not of the very highest artistic merit are provided for; and under the Pitcairn case the actual importations (i.e., the "copies, replicas, or reproductions") need not be the work of the sculptor himself.

We are faced with another problem in connection with "works of art," Paragraph 1810 of the tariff act provides for the free entry of "stained or painted window glass or stained or painted glass windows which are works of art when imported to be used in houses of worship, valued at $15 or more per square foot." The question of the meaning of the term "works of art" in this provision is presently before the U.S. Customs Court. It is understood that counsel for the protestant is relying upon the frequently reiterated statement of the customs courts that the term "works of art" has the same meaning wherever used in the tariff act and that it is limited to "works of the free fine arts."

Line 8, page 2, of the bill would specifically provide for "collages." The greater the number of objects which could be specifically provided for in the statutes as articles to which the Congress desires to accord the "works of art" classification the greater will be the reduction in the problems, legal and administrative, which S. 948 is designed to correct.

Paragraph 1809 (p. 3, lines 17 through 25, all of p. 4, and p. 5, lines 1 through 8)

The word "provision" in page 4, line 8, should be changed to "paragraph" in order to make sure that the contrary uses of subparagraph (c) are covered. On page 4, line 12, the word "paragraph" should be changed to "subparagraph (a)," to make sure of no inconsistency between the proviso of subparagraph (a) and the temporary commercial transfer in subparagraph (c).

Apparently an application to the collector is not necessary under this bill for the transfer of articles under paragraph 1809 from one institution to another, thus allowing the first institution to make the decision as to the character of the second institution.

At the present time, the Bureau determines from a study of evidence presented, such as a copy of the institution's charter and a statement regarding the uses of the imported articles, whether the requirements of the law as to the character of the organization and the uses of the articles are being met. It does not seem desirable to delegate such functions to an institution, subject only to a check by the Bureau. Therefore, it is suggested that subsection (c) of the proposed paragraph 1809 read substantially as follows:

"(c) Articles entered under this paragraph may be transferred from one society, institution, or corporation to another such organization specified in subparagraph (a), and such articles may be transferred temporarily to a commercial gallery or other organization established for the purposes specified in subparagraph (a) or for the benefit of charitable organizations, and not for sale, upon an application in writing in the case of each transfer describing the articles and stating the name and location of the society, institution, corporation, commercial gallery, or other organization to which transfer is to be made, and provided in the case of any transfer under this paragraph the sureties, if any, on the bond assent in writing under seal or new bond is filed. No entry or withdrawal shall be required for a transfer under this subparagraph."

In harmony with our remarks on page 1 of this memorandum with respect to paragraph 1720, we believe that the words "for educational, scientific, agricultural, or cultural purposes" appearing in lines 24 and 25 on page 4 of the bill should be defined since the scope of that term is difficult to determine.

If the intent of the bill is to provide for the transfer of articles to societies, institutions, corporations, or organizations other than those established for the encouragement of agriculture, arts, education, or science, to States, municipal corporations, commercial galleries, or for the benefit of charitable organizations, those institutions or organizations should be specified.

On page 4, line 18 of the bill, the word "collector" should be changed to "Secretary of the Treasury or his delegate".

Paragraph 1811 (p. 5, lines 9 through 25, and p. 6, lines 1 and 2)

Lines 20, 21, and 22, page 5, provide that antique frames on original works of antique or modern art may be entered at any port of entry. For the reasons previously stated, the words "antique" and "original works of antique or modern art" would be difficult to interpret and administer. It is therefore suggested that the meaning of "antique frames" be clarified and that the kind of articles

in the frames contemplated be described in terms other than original works of antique or modern art.

Line 25, page 5 and lines 1 and 2 page 6 of the bill provide for a new subsection of paragraph 1811 under which free entry would be accorded ethnographic or artistic objects made in the traditional aboriginal styles and made at least 50 years prior to their date of entry.

We do not believe that this provision could be administered by the customs service without encountering unusual administrative difficulties. Customs officers at the various ports would find it very difficult to determine whether a given object was artistic or ethnographic, produced in aboriginal style and whether that style was traditional. It would also be quite difficult to determine whether the object was of the requisite age.

A better approach would seem to be as suggested under our comments as to paragraph 1807, that is, that the customs service be authorized to accord free entry to such objects as are covered by a proper certificate by a designated authority. This would greatly lessen the administrative difficulties which could not be met under this provision as it now stands in the bill.

In this connection we wish to invite attention to the provisions of paragraphs 1817 and 1819 of the tariff act which permit the free importation of the articles covered thereby only when the claim for free entry is accompanied by affidavits certifying to certain essential facts required by the law.

Paragraph 1812 (p. 6, lines 3 through 6 of the bill)

Under the present provision only Gobelin tapestries produced in the Manufacture Nationale des Gobelins factories at Paris and Beauvais under the direction and control of the French Government which are of a kind used as wall hangings are entitled to free entry (*Rogers* v. *United States*, 21 CCPA 560; T.D. 46989. Section 10.54, Customs Regulations).

Certain tapestries are presently provided for under the dutiable provisions of paragraphs 908 and 1119 of the tariff act. The bill would provide for the free entry, not only of Gobelin tapestries, but for all handwoven tapestries whether of wool, cotton, or other material, which are of a kind used as wall hangings.

It is recommended that, if the bill is to be enacted, it be amended to become effective with respect to merchandise entered, or withdrawn from warehouse, for consumption on or after the 30th day after enactment. This is desirable from an administrative standpoint since it would afford the Department an opportunity to advise customs field officers of the change in the law before such a change takes effect.

The CHAIRMAN. Our first witness will be Mr. John P. Weitzel, Assistant General Counsel of the Treasury Department, who will speak on the bill as well as the proposed amendments.

STATEMENT OF JOHN P. WEITZEL, ASSISTANT GENERAL COUNSEL, TREASURY DEPARTMENT; ACCOMPANIED BY W. E. HIGMAN, CHIEF, DIVISION OF TARIFF CLASSIFICATION, BUREAU OF CUSTOMS; AND DONALD L. E. RITGER, ASSISTANT TO THE CHIEF COUNSEL, BUREAU OF CUSTOMS

Mr. WEITZEL. Mr. Chairman, and members of the committee, I first would like to introduce the gentlemen I have with me.

On my right, Mr. William E. Higman of the Classification Division, Bureau of Customs; on my left, Mr. Donald Ritger, Assistant to the Chief Counsel, Bureau of Customs.

It is a privilege to appear before this committee. We have been asked to testify on H.R. 2411, a bill "to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature" together with amendments which are intended to be proposed to the bill.

The basic statutory language of the Tariff Act of 1930 does not specifically mention tourist literature by name. The type of tourist

literature that is covered by H.R. 2411 is dutiable presently at the rate of 3¾ percent ad valorem, if of bona fide foreign authorship, and at the rate of 6¼ percent if not of such authorship. Under paragraph 1629 free entry is provided for "public documents issued by foreign governments" and this provision has been held to include tourist literature issued wholly by or at the instance and expense of a foreign government or subdivision thereof.

The bill before this committee would provide for the duty-free entry of tourist literature containing historical, geographic, and travel-type information concerning places or travel facilities outside the continental United States, issued by foreign governments, boards of trade, chambers of commerce, automobile associations, or similar organizations or associations. The bill would simplify the tariff treatment of such tourist literature and extend the application of the present duty-free treatment to a broader class of tourist literature.

The Treasury Department has no objections to the bill and does not anticipate that it would have any difficulty administering the provisions of the bill if it is enacted.

We have also been asked to comment on the amendment intended to be proposed to H.R. 2411 by Senator Anderson to clarify the dutiable status of wood moldings.

Since 1930, following the passage of the Tariff Act of 1930, wood moldings have been regularly classified under established practices at various rates of duty depending upon the type of molding and the type of wood from which the molding is made. The more simple types of one-piece wood moldings such as baseboard and ceiling moldings we are familiar with in our houses are manufactured simply by sawing and planing. They have been classified under the applicable lumber provisions of the Tariff Act based on the species of wood involved certain species being free of duty under paragraph 1803(1) and certain other species of wood being dutiable under paragraph 401 with duty at the trade agreement rate of 25 cents per thousand board feet measure. Such moldings are also subject to import tax under section 4551 of the Internal Revenue Code of 1954 at trade agreement rates varying from 75 cents to $3 per thousand board feet measure. Moldings of certain types of pine and spruce are exempted from this import tax.

More intricate type moldings which are hand carved or the like have been classified since 1930 under paragraph 412 as wood moldings or carvings to be used in architectural or furniture decoration at the trade agreement rate of 17 percent ad valorem.

The amendment before this committee would amend paragraph 412 to provide that all moldings wholly or in chief value of wood, including various types of moldings made of two or more pieces of wood, shall be dutiable at the rate applicable to wood moldings to be used in architectural and furniture decoration—in other words, the more intricate types of moldings. The effect of the amendment would be to make all the foregoing types of moldings dutiable at the 17 percent trade agreement rate. This amendment would increase the rate of duty presently applicable to most types of wood moldings. The amount of the increase would vary depending upon the type of molding. By our estimates the rate of duty on some types would be increased 170 times.

Under the amendment it is uncertain to us whether wood moldings would continue to be treated as lumber so as to remain subject to the internal revenue tax.

Senator ANDERSON. Would you explain why it is uncertain? Don't just make the flat statement, but would you explain why it is uncertain?

Mr. WEITZEL. Yes, sir; I would be glad to.

Would you like me to do it right now?

Senator ANDERSON. I would like to know right now.

Mr. WEITZEL. It depends, Senator Anderson, on the question of classification. The internal revenue tax applies to lumber. It is phrased in terms of lumber.

The language in your bill would take moldings which are now classified under the lumber paragraph out of that paragraph. Our people are not certain

Senator ANDERSON. That would not be uncertain, would it?

Mr. WEITZEL. Well, that would not be uncertain

Senator ANDERSON. Tell me what is uncertain?

Mr. WEITZEL. Well, what is uncertain is whether that same principle would apply to this internal revenue tax. You see, your bill relates to the duty.

We have two incidents. We have the duty and we have the import taxes that are imposed under the Internal Revenue Code.

Senator ANDERSON. On lumber, but if it is not lumber it would not be a conflict, would it?

Mr. WEITZEL. Well, the question is whether, by the definitional change or the change of classification that your bill makes in the rate of duty, the principle of that would also apply to the internal revenue tax.

Senator ANDERSON. If it is not lumber it would, would it not?

Mr. WEITZEL. Yes, it would.

Senator ANDERSON. Then, what is uncertain about it?

Mr. WEITZEL. What is uncertain about it is the technical definition of what is lumber. That is the whole problem here.

Do I make myself clear?

Senator ANDERSON. You certainly do not. But go ahead.

Mr. WEITZEL. The rates of duty on all of the types of molding covered by this amendment are presently the subject of international trade agreements and concessions thereunder.

In view of the fact that various avenues of relief are open to domestic producers who believe they are being seriously injured or threatened with serious injury by increased imports due to trade agreement concessions--particularly the escape-clause provision of the Trade Agreements Extension Act of 1951, as amended--the Treasury Department cannot recommend the enactment of this amendment. We call the attention of the committee to the adverse reports which we understand the committee has received from the Departments of State and Commerce.

Also we have been asked to comment on the amendment to H.R. 2411 intended to be proposed by Senator Javits to liberalize the tariff laws for works of art and other exhibition material. This amendment would amend five different paragraphs of the Tariff Act of 1930.

The first section would amend paragraph 1720 which presently provides for duty-free entry of models of inventions and other im-

provements in the arts which are to be used exclusively as models and incapable of any other use. The proposed amendment would broaden the provisions of the existing law to permit free entry for such items when they are to be used as exhibits at exhibitions at specified types of educational and cultural institutions.

The Treasury has no objection to this portion of the proposed amendment and would have no difficulty in administering it if certain technical amendments were made. We would be happy to cooperate with the committee or its staff in working out such amendments or to discuss them at this time if the committee so desires.

The remaining sections in Senator Javits' proposed amendment cover the field of works of art which has been a source of great difficulty over the years to both the Treasury Department and importers. With the advent from time to time of rather unprecedented new forms of expression in the artistic field and the use of new types of media, the Bureau of Customs has had many difficult problems in applying these provisions of the Tariff Act which have not been changed in substance since 1930. The basic question has been how to determine what is a work of art within the meaning of the law. Opinions as to what is a work of art vary both among the public and among experts. There has been frequent criticism of some of the individual decisions in this area.

The proposed amendments would broaden the scope of the present provisions of the Tariff Act which provide for free entry of original works of art, antiques, and certain hand-woven tapestries. Duty-free entry would be accorded to works of the free fine arts in media not covered by the present law, including original paintings in vitreous enamel, original mosaics, collages, and certain lithographs and prints. The criteria for determining whether various articles qualify as antiques would also be changed.

Presently, paragraph 1811 provides that for such articles to qualify for duty-free treatment they must have been produced prior to 1830—which was, of course, 100 years prior to the passage of the Tariff Act of 1930. This provision would be changed to provide for duty-free entry of such articles produced 100 years or more before their date of entry into this country. A new free-entry provision would be inserted covering ethnographic or artistic objects in traditional aboriginal styles and made at least 50 years prior to entry.

Paragraph 1812 providing for duty-free entry of Gobelin tapestries used as wall hangings would be broadened to accord free entry also to all handwoven tapestries whether of wool, cotton, or other material which are of a kind used as wall hangings. The amendment would also amend paragraph 1809 to permit exhibition material entered free of duty to be transferred between institutions.

We favor the general purposes of Senator Javits' proposed amendment. It would alleviate many of the difficulties that have been encountered in administering existing law. We feel that in its present form it would create certain new difficulties in administration which, however, we believe could be corrected if certain amendments were made. We would appreciate the opportunity of consulting with the committee or its staff about such amendments so that suitable legislation could be recommended for enactment.

That concludes my statement, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Are there any questions?

Senator ANDERSON. I had some questions. I would just as soon make a statement.

Let me show you two pieces of molding of wood. One is solid and the other is finger-jointed.

When I took this matter up originally with the Treasury Department how were these both regarded?

Mr. WEITZEL. As I understand it, Senator Anderson, forgetting for the moment what kind of wood they may be made of——

Senator ANDERSON. They were both regarded as lumber; is that right?

Mr. WEITZEL. I believe, Senator Anderson, that one piece was regarded as lumber, the one-piece one, and that the two-piece one was regarded as manufactured wood, and let me check with Mr. Higman; is that right?

Mr. HIGMAN. Yes.

Senator ANDERSON. That is not correct. You can check it. At the time I wrote you, you replied to me on October 29, 1958, that you regarded both of these pieces as lumber, and then after we got into some argument about legislation, you wrote me on December 23, 1958, and you said you were happy to inform me that you could now classify this as molding [indicating] and this as lumber [indicating].

I wish you would look at the two of them and tell me about them as to why you can do that.

If there is simplicity in planing—is the planing identical?

Mr. WEITZEL. As far as the form and planing go, Senator Anderson, they look identical. The only difference seems to be one is glued together.

Senator ANDERSON. One is glued, and the other is not.

You say:

> The more simple types of one-piece wood moldings—such as baseboard and ceiling moldings in houses—are manufactured simply by sawing and planing.

Look at both pieces and see if these are a simple sawing and then a simple planing. Are not there some patterns around in there, grooved a little bit, and so forth?

Mr. WEITZEL. Well, as I understand it, Senator Anderson, and I am only an amateur woodworker——

Senator ANDERSON. I assure you you are no more than I am.

Mr. WEITZEL. You can use a plane that has a blade cut in a certain fashion so that a piece of wood can be run through it and come our, for instance, with these grooves or the form on this side.

Senator ANDERSON. That is true, you can also do it with a piece that is patched together, can you not?

Mr. WEITZEL. Surely.

Senator ANDERSON. So they are identical, but you give one of them one treatment and the other one the other treatment.

Mr. WEITZEL. That is correct.

Senator ANDERSON. Yes, it is. How do you explain it?

Mr. WEITZEL. I would explain it, Senator Anderson——

Senator ANDERSON. Because the people who merchandise these are pretty effective lobbyists, are they not?

Mr. WEITZEL. Pardon.

Senator ANDERSON. Because the commission merchant has been a pretty good lobbyist.

Mr. WEITZEL. No. My understanding, Senator Anderson, has been that the administrative practice has been consistent.

I would never be one to completely defend some of the strange results that may come out of the Tariff Act. But sometimes our people, you see, cannot help what may appear to be a strange result.

Senator ANDERSON. I understand. But you say in the letter that you wrote me on October 29, 1958, about these being classified under the lumber provisions, you say:

> This is in accord with the decision of the Board of General Appraisers . . .

this is Treasury Department letter TC 481.21.

> This is in accord with the decision of the Board of General Appraisers, now the U.S. Customs Court, of October 25, 1915.

Was there a law passed after 1930 that changed that?

Mr. WEITZEL. Let me check with Mr. Higman.

Senator ANDERSON. Well, Congress tried to. It is Section 412, and it said:

> Spring clothespins 20 cents per gross; holding rules, quote all the foregoing . . .

and with a list of these things, and they put in the provision—

> wood moldings.

After Congress tried its best to correct this by putting in "wood moldings" in 1930. Why do you still hang on to 1915?

Mr. WEITZEL. The Treasury Department was faced with that question very soon after the enactment of the Tariff Act of 1930, Senator Anderson, and they put out a ruling which is dated November 22, 1930, explaining that it was the Treasury Department's interpretation of the intent of Congress that the phrase "wood moldings and carvings" which is, as you know, the language in the Tariff Act, was intended to cover the types of wood moldings that are hand carved or at least are so complex that they cannot be made by ordinary planing process.

Senator ANDERSON. Well now, you relate that to those two pices of wood in front of you.

Mr. WEITZEL. These we would consider can be made by an ordinary planing process; in other words, you can run them through.

Senator ANDERSON. But you classify one as lumber and the other one you put under this wood molding classification. If they are both so complicated that they are all finished up with fine filigree, you show me where the difference is.

They are identical, except one is pasted together where there was a bad piece of the board.

Mr. WEITZEL. There are three possible classifications for wood moldings, Senator Anderson. There is the duty-free classification which relates to lumber, not further advanced and sawed and planed. That is how one-piece moldings have been classified.

Then the second way of classification is as manufactures of wood.

Now, what in technical language that means is something that has been manufactured beyond the stage of lumber, just sawed and planed. That was how they have been classifying the glued-up moldings which, as you very properly indicate, here of the completely same design,

and if they were painted over no one of us would know that they were not a one-piece——

Senator ANDERSON. Is there a functional difference in the house?

Mr. WEITZEL. I would not presume there would be any difference.

Senator ANDERSON. They are used in identically the same fashion.

Mr. WEITZEL. I would assume so.

Senator ANDERSON. Once the paint is over them you could not tell one from the other.

Mr. WEITZEL. I am sure I could not.

Senator ANDERSON. One has one duty and the other has another duty.

Mr. WEITZEL. That is right; and then the third classification, if I may go on, is the classification for wood moldings of the intricate type, hand-carving and things that could not be done by a planing operation.

Senator ANDERSON. Do you know if the amount of foreign molding imported is significant?

Mr. WEITZEL. I do not know. We have tried to find that out. But the way statistics are kept, wood moldings are part of a larger classification, and we have checked with the Tariff Commission, and we have not been able to find accurate figures.

Possibly some of the business interests in the country have some, but we have not been able to get some figures separating them out.

Senator ANDERSON. If you do not know what it involves, how do you know that you are against it?

Mr. WEITZEL. Well, all we know on that, Senator Anderson, is that there are trade agreement rates and trade agreement concessions on all of these types of moldings, and violations of our international commitments would be involved if the duty were raised by legislation, as opposed to a domestic industry taking the escape-clause route.

I want to assure that we are not saying that the domestic industry is not being injured. We have no knowledge on that.

Senator ANDERSON. I just think since we have been in this controversy for months that it might have occurred to somebody to find out what the situation was with regard to the importation of molding.

Mr. WEITZEL. Well, we have inquired some, but the principle that is the basis for our position is that the escape-clause route should be taken by an injured domestic industry because of the international commitments.

Senator ANDERSON. It is your contention then that where it says "wood moldings and carvings used in architectural and furniture decoration" you think they only refer to wood molding that was used in furniture decoration?

Mr. WEITZEL. No, sir. It could be used in a house, a very fancy, I guess you would call it, frieze, a type of molding that was hand-carved, and we announced that in 1930.

Senator ANDERSON. What I am getting at is that you regarded the phrase "wood moldings and carvings to be used in architectural"—so that the phrase "to be used in architectural and furniture decoration" applied to wood moldings as well as to carvings?

Mr. WEITZEL. I believe so; yes.

Senator ANDERSON. But could it not be that the carvings is what they were trying to explain and not the wood moldings? Did you find any legislative history to justify your interpretation?

Mr. WEITZEL. I have not checked the legislative history myself, but, you see, there was the Treasury interpretation of the legislative history made in 1930 which we have been following ever since it was published.

Senator ANDERSON. Was it an interpretation of legislative history or was it an interpretation by the Treasury Department without regard to legislative history?

Mr. WEITZEL. May I read the last paragraph of the published statement in 1930?

Senator ANDERSON. Yes.

Mr. WEITZEL. This was a statement by the Commissioner of Customs approved by the Secretary of the Treasury. This is just the last paragraph:

> In view of the foregoing, the bureau believes that it was the intent of Congress in enacting the new provision in paragraph 412 merely to increase the rate of duty on certain moldings already dutiable, and not to affect the classifications of moldings which are the product of a planing process only and were accordingly admitted free of duty under previous tariff acts. As the provision in question was intended for the protection of woodworkers or wood carvers, as stated on the floor of the Senate, the bureau is of the opinion that it should be limited to moldings which are cut or carved to a degree which would exclude them from classification under a provision for lumber not further manufactured than planed.

Then it says:

> You will please be governed accordingly because this was an instruction to the collectors of customs all around the country.

Senator ANDERSON. Well, then, wood molding used in architectural work, in your opinion, is for wood carvers only? In other words, when I put wood molding in a place in my house, which is pretty decorative around the top of the ceiling or some place of that nature, that is for a wood carver only?

Mr. WEITZEL. Generally; there could be a little variation.

Senator ANDERSON. Generally?

Mr. WEITZEL. I am being fairly technical, Senator Anderson.

Senator ANDERSON. I would just like to ask you, do you live in a house here in Washington?

Mr. WEITZEL. Yes, sir.

Senator ANDERSON. Is the molding in that house done by a hand carver?

Mr. WEITZEL. No, sir.

Senator ANDERSON. Then what are we talking about, Mr. Weitzel? You and I know that molding is not done by a wood carver.

Mr. WEITZEL. We have no statistics, but on my lay knowledge I would agree with you, Senator Anderson.

Senator ANDERSON. Yes.

Then why was not the amendment in accordance with that? Why was it not interpreted the way it was supposed to be interpreted?

Mr. WEITZEL. Our people went into it very carefully, Senator Anderson, and I notice here, looking earlier into this ruling that, for instance, there was testimony when the Tariff Act of 1930 was being considered, from the International Wood Carvers Association and other carvers associations.

Senator ANDERSON. They took care of them by adding the word "carvings" along with "wood moldings."

They were trying to protect them both. But having done it, there was no reason for the Treasury Department to decide:

Well now, they tried to protect both the wood molding industry and the carving industry, therefore we will protect the carving industry, and never mind the wood molding industry.

Mr. WEITZEL. My attention has been called here to one additional possibility, in answer to your last question.

Moldings that are made by carving machines—frankly, I do not know what carving machines are—would also be covered by this paragraph; it would be hand carvings and moldings made by whatever carving machines are. They must be different from ordinary planing.

Senator ANDERSON. I think we recognize that these moldings up there in those panels are probably made with a carving machine. They are not done by hand; but they are still decorative, are they not?

Mr. WEITZEL. They are very decorative.

Senator ANDERSON. Yes.

Mr. WEITZEL. You have a nice new committee room.

Senator ANDERSON. Well, there is some question about that. [Laughter.]

Senator DOUGLAS. Not as elaborate as the headquarters of the Treasury.

Senator ANDERSON. Well, there is no point in our continuing to argue about it, except to say that this is an interpretation which you could come to if you ignore the first three words of that section, "wood moldings and." The Treasury says, "We will protect carvings to be used in architectural and furniture decoration," but it ignores the fact that Congress tried to say that wood moldings used for architectural work should be taxed under a certain formula. The Treasury has held to that, even though the Congress deliberately, in 1930, changed the old procedure.

I want to say to you that because it has been that way, what importance is there to the importation of wood moldings? How much is the trade from Mexico that requires you to do it that way? Volumewise, how much is it? It is only a relative handful of commission merchants who handle it this way.

Has the Mexican Government issued any protest to you?

Mr. WEITZEL. Not that I know of.

Senator ANDERSON. Not that you know of.

Why do we worry about a handful of commission merchants who say, "We want to have it a certain way, regardless of what the Congress did"?

Mr. WEITZEL. I, as I say, know of no protest from the Mexican Government. The State Department may have had some. We probably would not have heard about that. I do not know.

Senator ANDERSON. Is there anybody from the State Department here on this?

Mr. WEITZEL. I do not believe there is.

Senator ANDERSON. That is all, Mr. Chairman.

The CHAIRMAN. Any further questions?

Senator CARLSON. Mr. Chairman, I have a question.

Mr. Weitzel, my knowledge of moldings is limited to having bought a few hundred feet in the last few years and of using a few moldings for picture frames, so I am not a specialist in this field.

I have received a number of complaints from Kansas and the Middle West in regard to this proposed amendment, and I think I would like to at least place one letter in the record, Mr. Chairman, from the Frank Paxton Lumber Co. of Kansas City.

This is a very large concern, and one sentence of the letter reads:

I am keenly interested in this matter as the Frank Paxton Lumber Co. imports Philippine mahogany moldings from an American manufacturer operating in the Philippines, and this business would be subject to serious adverse effects if the Anderson amendment to H.R. 2411 is adopted.

Do you have any comments on that?

Mr. Weitzel. We, of course, Senator Carlson, are not completely familiar with the domestic industry economics or the import situation; but we do feel that there is a regularized way of handling problems that this domestic industry feels they have today, and that way, established in the Trade Agreements Act, is through escape clause proceedings.

We are not expert in all of such matters, and the Tariff Commission is expert in balancing these difficult interests, and in determining the facts.

Senator Carlson. Could you tell me what would happen in case the Anderson amendment is approved by this committee and the Congress to the importation of this particular type of Mahogany moldings from the Philippine Islands?

Mr. Weitzel. Does the letter further describe the type of moldings, Senator Carlson?

Senator Carlson. No, it does not.

I gather from the testimony here this morning there are many types and many ways to make these moldings.

Mr. Weitzel. If it were what we call one-piece molding, simply planed, there would be a very large duty increase, because today mahogany one-piece moldings of that type are duty free. This would impose a 17 percent duty on such moldings.

There is also a small import tax on them.

Economically, I do not imagine that would be too significant. So it would amount to a change from duty free to 17 percent ad valorem.

Senator Carlson. I can appreciate their interest in that. That is all, Mr. Chairman.

(The letter referred to follows:)

Frank Paxton Lumber Co.,
Kansas City, Mo., July 8, 1959.

Senator Frank Carlson,
Senate Office Building,
Washington, D.C.

Dear Senator Carlson: Inasmuch as I reside in the State of Kansas, at 4917 Glendale Road in Johnson County, I am taking the liberty of writing you regarding a matter which greatly concerns me.

I understand the Senate Committee on Finance is holding public hearings on Thursday, July 16, on a bill, H.R. 2411, to which amendment has been proposed by Senator Anderson which would have the effect of special duty, to an ad valorem duty of 16⅔ percent. I am keenly interested in this matter as the Frank Paxton Lumber Co. imports Philippine mahogany moldings from an American manufacturer operating in the Philippines and this business would be subject to serious adverse effects if the Anderson amendment to H.R. 2411 is adopted. We, therefore, strongly oppose the said Anderson amendment to H.R. 2411 and can find in

our long experience in dealing with both domestic and imported woods no reason for disturbing the long standing and generally accepted classification of ordinary moldings as lumber, subject to no ad valorem duties.

Your study of and interest in this matter would be appreciated. I understand that Mr. James D. Williams, Jr., of the law firm of Barnes, Richardson & Colburn, is following this matter and may call on your office in connection therewith. Any assistance you can give Mr. Williams will be appreciated.

Thanking you in advance for your consideration and help, I am

Yours very truly,

WINTHROP WILLIAMS, *Manager.*

Senator ANDERSON. Now, wait. What is your responsibility; to protect this lumber company, or to interpret the law correctly?

Mr. WEITZEL. To interpret the law correctly, Senator Anderson.

Senator ANDERSON. Is mahogany molding not used in furniture decoration?

Mr. WEITZEL. I imagine it is. I have seen——

Senator ANDERSON. So you admit it duty free because of this piece of wood over here that we have.

Mr. WEITZEL. Well, it would depend on the type. Now——

Senator ANDERSON. Does it? It says "wood moldings and carvings for use in architectural and furniture decoration." So anything that is used in furniture decoration takes the other rate; does it not?

Mr. WEITZEL. Let me check this with Mr. Higman, my expert, on it. I am sorry for the delay, Senator Anderson.

Senator ANDERSON. That is all right, because you will find it is brought in as lumber. The inspector does not look at it and say, "What is it destined for?" He picks it up and says "lumber," and that is the end of it.

Mr. WEITZEL. Mr. Higman advises me it would depend on the type of molding, even though it were used for furniture, as to which classification——

Senator ANDERSON. Will he testify that the inspector looks at the final use to which this is to be put?

Mr. HIGMAN. It is my impression, Senator, that the field officers, in classifying these shipments, determine whether in the trade and commerce of the United States certain types of molding are known and dealt with and used as architectural and—let me get the language of the statute here.

Senator ANDERSON. "Furniture decoration."

Mr. HIGMAN. Furniture decoration.

Senator ANDERSON. Do you know of any other purpose for mahogany molding in furniture work except for decoration?

Senator BENNETT. Senator, mahogany molding can be used of the same type and for the same purpose as the pine molding is used.

Senator ANDERSON. It can be, yes.

You can use a Rools Royce car to deliver garbage, but you do not do it.

Senator BENNETT. A man finishes a room—I can give you a specific example.

Senator ANDERSON. All right.

Senator BENNETT. The company I was connected with distributed a thin veneer of woods of all types mounted on canvas, and many buildings have been finished with that particular material. That is a wallpaper. It hangs up to the ceiling with an irregular edge.

If you were to purchase that material in mahogany you would want to buy a solid mahogany molding to cover the edge of that product in the joint between the wall and the ceiling.

Senator ANDERSON. Yes. Would that be for architectural decoration or to make a solid wall?

Senator BENNETT. I think it would be for the same purpose as the pine molding, which might be used to be put in that place.

Senator ANDERSON. Exactly, and it is all used for decoration; and anything that is used for furniture decoration should have a tariff on it, as provided for it.

Senator BENNETT. There is not furniture decoration here; this is an architectural use.

Senator ANDERSON. An architectural decoration takes the same rate as furniture decoration; there is no difference between them.

Mr. WEITZEL. An example has occurred to me, Senator Anderson. In the making of some pieces of furniture, for instance a dresser table, you may have very thin pieces of wood coming together, as do the sides.

Now, when they come together with the top, the joint might not be secure enough, so they would need some additional support.

Now, the simplest kind of thing would be to use some quarter round—you could have something more decorative, but certainly the use of that molding would not be entirely decorative; it would be for structural reasons, too.

Senator ANDERSON. Well then, the manufacturer ought to specify that particular section of his shipment that is going to be used for that purpose and not cover the whole top with mahogany and say that that is molding, too. Is that your problem? It is an extremely limited use that you have indicated, but all of it now comes in free, all of it.

Mr. WEITZEL. That may be.

Senator ANDERSON. It not only may be, but it is, and the people who are in the business will let you know that it is, and they have tried to correct it. That is the great difficulty.

As the chairman knows, we have been wrestling with the situation over the provision that gives us some rights to take defense installations and depreciate them. We pass one bill, and the Treasury says that was not any good, so we took the Treasury's own language the next time and passed it, and then the Justice Department says that is no good either.

You are always determined to see to it that the will of Congress is set aside.

Here is the will of Congress: Wood molding that is used either in architectural or furniture decoration, that would have a certain duty on it. When you put a little strip of molding around the floor, it is for decoration and not to strengthen the floor that is underneath it. But you put it in free if it comes from a certain country.

Mr. WEITZEL. A considerable amount of it, sir, has come in free.

The CHAIRMAN. Any further questions?

Senator DOUGLAS. May I shift the subject to a more artistic field?

In the final paragraph of your statement you mention some administrative difficulties which you fear would be occasioned if the Javits amendment in it spresent form were passed. Just what are those difficulties?

Mr. WEITZEL. I think Senator Javits amendment—wait a minute, Senator, I want to have it before me.

Do you have a copy of the bill, Senator?

Senator DOUGLAS. Yes.

Mr. WEITZEL. On page 3 there is a new paragraph 1807(b). There is language in there that concerns us greatly, mentioning "unprecedented or unforeseen kinds or media not apparently included under subparagraph (a)."

Now, the theory behind this subsection we are in agreement with. We would like to see something where our people may feel certain that they cannot accord free entry to something under the main provisions and have, you might say, a basket clause which would help them admit works of art which are on the borderline area, and they would in such a case want to call on representatives of accredited museums for certification.

Senator DOUGLAS. That is the purpose of the Javits amendment. Do you have an objection to that?

Mr. WEITZEL. Only the wording of the amendment.

Senator Douglas, I would like to make it clear—it may not have been clear enough in my statement—that we are very sincere in that we would like to see a bill of this nature enacted, and we sincerely believe that we could work out amendments with the proponents of the bill which would be agreeable to them and to us.

Senator DOUGLAS. That is fine. But I do not see what the ground of your objection is, and I still do not see what any administrative difficulty would be.

What I take it Senator Javits is trying to do is to get the Treasury Department out of the business of deciding what is art.

Mr. WEITZEL. And the Treasury Department would like to get out of that business as much as it can.

Senator DOUGLAS. I must say I have rather conventional tastes in art. I do not go personally beyond the postimpressionism, but I know there are others who think collages and other things are art, and I am not one to deny them, and I do not think the Treasury is competent to say whether something is a work of art or not.

I would prefer to let the curators of nonprofitmaking museums pass on the question.

Mr. WEITZEL. I could not agree with you more all the way down the line, Senator, and there are just a few wording changes in here, that is all they are, that bother us. It is nothing serious.

The next thing that concerns us is on page 5 in the amendment to what would be the new paragraph 1809(c), and that relates to transfer of articles from institution to institution.

We feel that the provision for transfer is a very good idea, but that the transfer should be limited to the same types of institutions which can bring in the article originally.

In other words, you are entitled to bring in an article free to exhibit at certain kinds of institutions. Subparagraph (c) as so written here is not written so that it is limited to such types of institutions as we would like to see it so written.

Senator DOUGLAS. It is limited to commercial galleries.

Mr. WEITZEL. That is one of them, and also we would like to see an application made to our collector of customs for the transfer so that he can be sure that it is a qualified type of institution.

This again is a very small problem, and I would assume we could work out a solution in agreement with the proponents of the bill.

Those are the principal objections we have.

We have a number of questions, you might say, as to things that we want to make sure that the committee realizes.

On page 6, the amendment to paragraph 1811(c) having to do with ethnographic or artistic objects, quite frankly we do not know exactly what is intended to be covered there, because we are not experts in art, particularly in the field of aboriginal art either.

As it is written it seems to us that we could administer it, but we would like to know a little more about it.

Then we feel that we should call to the attention of the committee paragraph 1812, the amendment as to tapestries. We are in no way against this, but we just point out it would cover all kinds of imported tapestries to be used for wall hanging. It now covers only Gobelins.

The last two things I have mentioned are not objections, they are just things we felt we ought to call to the attention of the committee.

Senator DOUGLAS. I am very glad the Treasury wants to get out of the business of deciding what is art.

Mr. WEITZEL. I think we should get out of it if we can, because we are not supposed to be art experts.

Senator DOUGLAS. That is all, Mr. Chairman.

The CHAIRMAN. Any further questions?

Thank you very much, Mr. Weitzel.

Mr. WEITZEL. Thank you, Mr. Chairman.

The CHAIRMAN. The next witness is the Honorable Don Magnuson who desires to speak in support of the bill. You may proceed, sir.

STATEMENT OF HON. DON MAGNUSON, A REPRESENTATIVE IN THE CONGRESS FROM THE STATE OF WASHINGTON

Mr. MAGNUSON. Mr. Chairman, I have a brief prepared statement here.

I first want to express my appreciation for the opportunity to comment on this bill, H.R. 2411, of which I am the author, and which would provide for the duty-free importation of certain kinds of tourist literature.

I should point out that in past years this legislation also has been sponsored by Senator Magnuson, and I know he still retains a deep personal interest in its enactment.

The purpose of the bill is to place on the free list tourist literature containing historical, geographic, timetable, travel, hotel, or similar information with respect to places outside the continental limits of the United States, which is published by foreign governments, their departments or political subdivisions, or by boards of the trade, chambers of commerce, automobile associations, or similar organizations.

This legislation has been urged for many years by the Pacific Northwest Trade Association, an organization composed of chambers of commerce from the Pacific Northwest in the United States and Canadian Provinces.

Since 1936 the Canadians have permitted the literature of this type published in the United States to enter Canada duty free.

This regulation was promulgated following conferences with representatives of the United States at which it was agreed that both countries would afford this privilege to the other.

Well, the Canadian Government has complied; the United States never has, and this discrimination understandably has been a source of irritation, although a minor one, to many of our Canadian friends.

I have a letter in support of the legislation from the Seattle Chamber of Commerce that I would like permission, Mr. Chairman, to place in the record.

The CHAIRMAN. Without objection.

(The letter from the Seattle Chamber of Commerce follows:)

WASHINGTON OFFICE,
SEATTLE CHAMBER OF COMMERCE,
Washington, D.C., July 7, 1959.

Hon. DON MAGNUSON,
House of Representatives, Washington, D.C.

DEAR MR. MAGNUSON: The Seattle Chamber of Commerce is keenly interested in your bill, H.R. 2411, which would amend the Tariff Act of 1930 so as to provide for the free importation of tourist literature.

We understand the Committee on Finance of the U.S. Senate will hold hearings on this bill and we would appreciate it very much if you would make our views on this measure a matter of record when you appear before the Senate committee.

The situation is basically one involving the free interchange of tourist literature and information. Seattle's interest is primarily in this free exchange with Canada.

Under the existing conditions, Canada permits the duty-free admission of tourist literature issued by National or State Governments, boards of trade, chambers of commerce, municipal and automobile associations, and similar organizations. Canada has not charged duty on such material since 1939, but does not receive equal treatment under the Trade Agreements Act from the United States.

There seems to be no particular objection on the part of the United States to such a reciprocal arrangement, but the fact is that the United States has not been free to transfer items of this nature from the dutiable to the free list under the Trade Agreements Act. In fact, the United States has, on two occasions, reduced by one-half the duties on tourist literature irrespective of source—first in the 1939 Canadian agreement, and subsequently in the General Agreement on Tariffs and Trade of 1947—but could not transfer any part of the item to the free list. The U.S. duties on such literature are now as low as the President has the authority to make them.

Thousands of American tourists visiting the Pacific Northwest include in their plans visits to the British Columbia cities of Vancouver and Victoria. Similar numbers of Canadians include Seattle and the Puget Sound country in their itineraries. The availability of tourist literature and information, both to the United States and Canadian tourists, is an important factor in the development of this traffic.

We respectfully urge the Senate Finance Committee to give prompt and early approval to your bill correcting this situation.

Yours sincerely,

GEORGE E. THOMAS,
Assistant General Manager.

Mr. MAGNUSON. While Senator Magnuson and I are particularly interested in Canadian tourist literature, the bill applies, as you know, to other countries as well.

The measure has received favorable reports from the Departments of State, Treasury, and Commerce, and the Bureau of the Budget.

I thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much, Congressman.

At this point the Chair would like to insert in the record a letter from Senator Magnuson together with attachments.

(The letter from Senator Magnuson together with letter from Pacific Northwest Trade Association and their Resolution No. 2, follows:)

U.S. SENATE,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
July 16, 1959.

Re H.R. 2411, to permit free entry into the United States of foreign tourist literature.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate.

DEAR SENATOR: You have before your committee, H.R. 2411, which is a bill which contains the provision, previously introduced on the subject of duties on tourist literature coming from Canada into the United States. Unfortunately, I cannot be with you this morning to discuss the subject because I am chairing hearings on the first supplemental appropriations bill for fiscal 1960.

I want you to know that there is widespread interest in this bill and ask that there be included in the record the attached letter and resolution from the Pacific Northwest Trade Association. This association is comprised of chambers of commerce, boards of trade, and leading industrialists from western Canada and the Pacific Northwest area of the United States. It represents a good cross section of the business community and, hence, the views expressed by the PNTA are a reliable indicator of the interest in the subject and provisions of H.R. 2411.

I will appreciate your committee's favorable consideration of the measure.

Thank you for your many courtesies and best regards.

Sincerely,

Warren,
WARREN G. MAGNUSON,
U.S. Senator.

PACIFIC NORTHWEST TRADE ASSOCIATION,
Seattle, July 7, 1959.

Senator WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR: Your information to the effect that hearings will be held July 16 on H.R. 2411 and that you will be willing to present a formal statement to the committee on our behalf is deeply appreciated. Will you please do just that?

The situation is, I think, covered rather fully by our resolution of which I enclose another copy. As I understand the matter, the action in Canada, 'way back in 1935 was taken on the understanding that similar action would be taken in this country but the U.S. law was written so as to apply only to tourist literature produced by governmental agencies whereas that in Canada, as was the initial agreement, covers all tourist literature including that put out by chambers of commerce, boards of trade, tourist associations, etc. Thus the effect of H.R. 2411 is merely to give equal treatment to tourist literature produced in Canada with the treatment they are giving to tourist literature produced here.

While this is in some respects a small thing, I am sure that favorable action will be regarded as tangible evidence of the U.S. appreciation of an obvious inequity.

I am communicating with several others of our members and hope that they will also inform you of their feeling. We shall be counting on you to present our case forcefully.

Looking forward to seeing you in Fairbanks in September, I am,

Cordially,

D. C. KNAPP,
Executive Vice President.

RESOLUTION NO. 2—ADOPTED AT 33D GENERAL CONFERENCE PACIFIC NORTHWEST TRADE ASSOCIATION, VANCOUVER, BRITISH COLUMBIA, MAY 9–10, 1955

CONCERNING DUTY-FREE TOURIST LITERATURE

(This is a reaffirmation of this resolution adpoted at our Wenatchee meeting in October 1954:)

"Whereas the Canadian Government since 1935 has permitted tourist literature printed and issued in the United States by Federal or State Governments or

departments thereof, boards of trade, chambers of commerce, municipal and automobile associations, and similar organizations or associations to enter Canada duty free; and

"Whereas similar organizations in Canada are required to pay duty or customs charges when sending tourist literature into the United States: Therefore be it

"*Resolved*, That the Pacific Northwest Trade Association requests that the U.S. Government reciprocate by allowing such literature to enter the United States duty free."

The CHAIRMAN. Senator Jacob Javits regrets that he is unable to appear today in behalf of his amendment, but a change of schedule requires his presence in New York City today.

His prepared statement and a letter transmitting a draft of his amendment modified so as not to change the definition of "antiques" in the existing law will be inserted in the record at this point.

(The documents referred to: Senator Javits' prepared statement and his modified amendment (48–59–A) to H.R 2411, follow:)

STATEMENT OF HON. JACOB K. JAVITS, U.S. SENATOR FROM THE STATE OF NEW YORK

Mr. Chairman, I had hoped to have been able to appear personally at this hearing in behalf of my amendment 4–8–59–A to H.R. 2411 but unfortunately due to the change in schedule I found myself with an engagement in New York City this morning which could not be altered although I will be in the Senate this afternoon. This statement is therefore submitted.

On February 5 I introduced, for myself and Senator Douglas, S. 948 "to liberalize the tariff laws for works of art and other exhibition material, and for other purposes," which was referred to this committee. This bill had the endorsement of the various Government departments concerned. Technical changes suggested by the departments were incorporated in S. 948 and the bill, as revised, was introduced as an amendment to H.R. 2411. This amendment is now under consideration by your committee.

My proposal would amend the Tariff Act of 1930 liberalizing the definition of "works of art" which may be imported duty free so as to include modern art forms and would ease restrictions on the importation of articles of educational or artistic value when they are meant for exhibition purposes and not for sale.

For the world's most modern society, the United States retains some of the most antiquated tariff regulations which tend sharply to reduce the number of abstracts, collages, lithographs, and primitive carvings imported for the enjoyment of the general public. The existing laws impede the cultural development of our Nation and tend to expose us to ridicule in other advanced countries.

For example, in 1912, Pablo Picasso and Georges Braque developed the collage, now a recognized fine arts medium which is frequently composed out of materials including paper, cloth, and even manufactured objects like nails. However, today, 47 years later, the Customs Bureau guided by the tariff act, still rules that because a collage is not made from traditional materials, it does not qualify as an original work of art and so must be subject to duty at 20 percent of its declared value.

To highlight the absurdity of this situation, an original Picasso or Matisse painting could be imported duty free but a collage by the same world famous artist on precisely the same subject valued by art experts as high as $20,000, as some are, is subject to a customs levy of $4,000.

Other outmoded restrictions limit the importation of nondutiable sculpture to imitations of natural objects, chiefly the human form in their true proportion of length, breadth, and thickness. The strict interpretation of this definition automatically bans the levy-free importation of many abstract sculptures considered classics.

If we do not take steps to grant official art standing to such sculptures, along with collages, lithographs, and even primitive carvings, then we are living in a cultural desert even though some of the most creative and productive talents in the art world were born, raised, and trained in the United States.

The amendments to the tariff law Senator Douglas and I are proposing would greatly increase the number and kind of original art objects imported into this country by U.S. art museums and dealers as well as art patrons who donate sizable collections to art institutions; in addition, they would encourage a much

freer interchange of works of art between the United States and other countries. The loss of tariff revenues to the United States due to a more liberal interpretation of the tariff laws, deemed insignificant by authorities, would be more than compensated for by the increased cultural opportunities accruing to the United States.

The key amendment proposed would enlarge the definition in paragraph 1807 of the Tariff Act of 1930 to admit duty free original works of art done in oil, pen and ink, water colors and other traditional media and also that "in any other media including applied paper and other materials, manufactured or otherwise, such as are used on collages," and original sculpture and statuary "constructed from any material or made in any form," not limited to conventional materials and representative forms.

Other amendments would remove import restrictions on certain printing processes such as lithographs under 20 years old, hand-woven tapestries by modern artists, art objects from primitive societies made 50 years prior to the date of their entry, and "models of inventions and other improvements in the arts" used by architectural groups and others. Free entry would be granted for the sculptor's model and 10 replicas much in demand by museums and collectors.

Finally, payment of customs duties and the posting of bonds normally required could be waived on condition that the works of art were being imported not for sale but for exhibition purposes in the United States. These objects could also be transferred, temporarily to a "commercial gallery or other premises for education, scientific, agricultural, or cultural purposes or for the benefit of charitable organizations, and not for sale."

On page 6 of my amendment, it was proposed to amend paragraph 1811 of the Tariff Act of 1930 so as to change the definition of antiques to objects 100 years or older. There has been substantial opposition to such a change expressed by antique dealers, and in recognition of such opposition and in view of the fact that I do not consider it fundamental to the purpose of the bill, I should like to modify my amendment insofar as this particular section is concerned so as not to change present law. Appended herewith as part of my statement is my amendment as so modified. I understand that those who had previously expressed this opposition now support the bill, as modified, and are so informing the committee by wire.

Mr. Chairman, substantial support has been evidenced for this bill throughout the country, and I know that many of those favoring the proposal have already evidenced their support to the committee. I would ask that the committee record be held open for several days for receipt of such statements as due to exigencies of the committee schedule only one witness in support of the bill has been requested to appear.

I urge upon the committee favorable consideration of this amendment for the reasons aforestated.

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
July 16, 1959.

HON. HARRY FLOOD BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: Reference is made to the amendment which I offered to H.R. 2411, designated as amendment 4-8-59-A. On page 6 of this amendment, as offered, it was proposed to amend paragraph 1811 of the Tariff Act of 1930 so as to change the definition of antiques to objects 100 years or older. There has been substantial opposition to such a change expressed by antique dealers and in recognition of such opposition and in view of the fact that I do not consider it fundamental to the purpose of the bill, I should like to modify my amendment insofar as this particular section is concerned so as not to change present law. Attached is a copy of my amendment as so modified.

Sincerely,

JACOB K. JAVITS.

MODIFIED DRAFT

[H.R. 2411, 86th Cong., 1st sess.]

AMENDMENTS

Intended to be proposed by Mr. JAVITS to the bill (H.R. 2411) to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature, viz:

Page 2, line 3, strike out "Act" and insert "section".

Page 2, after line 6, insert the following new section:

"SEC. 2. (a) Paragraph 1720 of the Tariff Act of 1930, as amended (19 U.S.C., sec. 1201, par. 1720), is amended to read as follows:

" 'PAR. 1720. Models of inventions and of other improvements in the arts, to be used exclusively as models, and as exhibits in exhibitions at any college, academy, school, or seminary of learning, any society or institution established for the encouragement of the arts, science, or education, or any association of such organizations, and incapable of any other use.'

"(b) Paragraph 1807 of such Act, as amended (19 U.S.C., sec. 1201, par. 1807), is amended to read as follows:

" 'PAR. 1807. (a) Original paintings in oil, mineral, water, vitreous enamel, or other colors, pastels, original mosaics, original drawings and sketches in pen, ink, pencil, or watercolors, or works of the free fine arts in any other media including applied paper and other materials, manufactured or otherwise, such as are used on collages, artists' proof etchings unbound, and engravings and woodcuts unbound, lithographs not over twenty years old or prints made by other hand transfer processes unbound, original sculptures or statuary; but the terms "sculpture" and "statuary" as used in this paragraph shall be understood to include professional productions of sculptors only, whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, metal, or other materials, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, alabaster, or from metal, or other material, or cast in bronze or other metal or substance, or from wax or plaster, or constructed from any material or made in any form as the professional productions of sculptors only, and the term "original", as used in this paragraph to modify the words "sculptures" and "statuary", shall be understood to include the original work or model and not more than ten castings, replicas, or reproductions made from the sculptor's original work or model, with or without a change in scale and regardless of whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed. The terms "painting", "drawing", "sketch", "sculpture", and "statuary", as used in this paragraph, shall not be understood to include any articles of utility or for industrial use, nor such as are made wholly or in part by stenciling or any other mechanical process; and the terms "etchings", "engravings", and "woodcuts", "lithographs not over twenty years old", or "prints made by other hand transfer processes", as used in this paragraph shall be understood to include only such as are printed by hand from plates, stones, or blocks etched, drawn, or engraved with hand tools and not such as are printed from plates, stones, or blocks etched, drawn, or engraved by photochemical or other mechanical processes.

" '(b) The Secretary of the Treasury or his delegate may at his discretion admit free of duty works of the free fine arts of unprecedented or unforeseen kinds or media not apparently included under subparagraph (a) of this paragraph, but in this case he may require an affidavit from a curator or other official of a noncommercial museum or art gallery that the kind of object in question represents some school, kind or medium of art within the meaning of the "free fine arts" as used herein.'

"(c) Paragraph 1809 of such Act, as amended (19 U.S.C., sec. 1201, par. 1809), is amended to read as follows:

" 'PAR. 1809. (a) Works of art, collections in illustration of the progress of the arts, sciences, agriculture, or manufacturers, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities, and artistic copies thereof in metal or other material, imported in good faith for exhibition purposes within the territorial limits of the United States by any State or by any society or institu-

tion established for the encouragement of the arts, science, agriculture, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation, for the purpose of erecting a public monument, and not intended for sale nor for any other purpose than herein expressed; but bond shall be given, under such rules and regulations as the Secretary of the Treasury may prescribe, for the payment of lawful duties which may accrue should any of the articles aforesaid be sold, transferred, or used contrary to this paragraph within five years after the date of entry hereunder and such articles shall be subject at any time within such five-year period to examination and inspection by the proper officers of the customs: *Provided*, That the privileges of this subparagraph (a) shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character.

"'(b) In connection with the entry of works of art and other articles claimed to be free of duty under this paragraph, surety on bonds may be waived in the discretion of the Secretary of the Treasury or his delegate.

"'(c) Articles entered under this paragraph may be transferred from one institution to another, subject to a requirement that proof as to the location of such articles be furnished to the collector at any time, and such articles may be transferred temporarily to a commercial gallery or other premises for educational, scientific, agricultural, or cultural purposes or for the benefit of charitable organizations, and not for sale, upon an application in writing in the case of each transfer describing the articles and stating the name and location of the commercial gallery or premises to which transfer is to be made, and provided in the case of any transfer under this paragraph the sureties, if any, on the bond assent in writing under seal or a new bond is filed. No entry or withdrawal shall be required for a transfer under this subparagraph.'

"(d) Paragraph 1811 of such Act, as amended (19 U.S.C., sec. 1201, par. 1811), is amended to read as follows:

"'PAR. 1811. (a) Works of art (except rugs and carpets made after the year 1700), collections in illustration of the progress of the arts, works in bronze, marble, terra cotta, parian, pottery, or porcelain artistic antiquities, and objects of art of ornamental character or educational value, which shall have been produced prior to the year 1830, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of the Treasury may prescribe. Picture frames produced prior to the year 1830 may be entered at any port of entry.

"'(b) Violins, violas, violoncellos, and double basses, of all sizes, made in the year 1800 or prior year.

"'(c) Ethnographic or artistic objects made in traditional aboriginal styles and made at least fifty years prior to their date of entry, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of the Treasury shall prescribe.'

"(e) Paragraph 1812 of such Act, as amended (19 U.S.C., sec. 1201, par. 1812), is amended to read as follows:

"'PAR. 1812. Gobelin and other hand-woven tapestries used as wall hangings.'

"(f) This section shall become effective with respect to merchandise entered, or withdrawn from warehouse, for consumption on or after the thirtieth day after the date of enactment of this Act."

Amend the title so as to read: "An Act to amend paragraph 1629 of the Tariff Act of 1930 so as to provide for the free importation of tourist literature, to liberalize the tariff laws for works of art and other exhibition material, and for oher purposes."

The CHAIRMAN. Our next witness is Miss Dorothy Dudley, National Committee to Liberalize the Tariff Laws for Art, who desires to speak in favor of the Javits amendment 4–8–59–A.

Miss Dudley, you may proceed.

STATEMENT OF DOROTHY H. DUDLEY, REGISTRAR, THE MUSEUM OF MODERN ART, AND CHAIRMAN, AMERICAN ASSOCIATION OF MUSEUMS, COMMITTEE ON CUSTOMS

Miss DUDLEY. Mr. Chairman and gentlemen, my name is Dorothy H. Dudley. I live in New York City. I have worked as registrar

for the Museum of Modern Art since 1936, and have imported many works of art.

I have been chairman of the American Association of Museums, committee on customs, for the past 10 years.

This committee was appointed to investigate possibilities of liberalizing the tariff laws for works of art.

Recently I have been on the executive committee of the National Committee to Liberalize Tariff Laws for Art.

I have with me Miss Dolores Lamanna, who has assisted the committee in its work.

I appreciate this privilege of being able to speak in support of Senator Javits' amendment. I have submitted a written statement and will read excerpts from it, as I comment on the amendment.

The amendments to H.R. 2411 to liberalize the tariff laws for works of art and other exhibition material represent a revised version of the bill S. 3900 introduced by Senator Javits on May 27, 1958, and the almost identical S. 948, introduced by Senators Javits and Douglas on February 5, 1959. The text of these bills has been revised to conform with suggestions received from the Treasury Department.

The proposed legislation has the support of national organizations such as the American Federation of Arts, the American Association of Museums, American Institute of Architects, U.S. Committee of the International Association of Plastic Arts, the International Council at the Museum of Modern Art, College Art Association of America, and the National Art Education Association. It is supported by museums throughout the country and by many artists, dealers, and private collectors.

The National Committee To Liberalize the Tariff Laws for Art, under the chairmanship of Mr. R. Sturgis Ingersoll, president of the Philadelphia Museum of Art, reports that 24 major museums and art associations have sent out literature in support of this legislation and that the committee has received copies of scores of favorable letters sent to Congressmen by their constituents. The press has shown its support in editorials and articles in leading art magazines and in newspapers across the country, including the St. Louis Post-Dispatch, New York Times, New York Herald Tribune, Philadelphia Bulletin, Philadelphia Inquirer, Cleveland Plain Dealer, and Winston-Salem (N.C.) Journal.

No figures are available to show the exact loss of revenue which might result from the enactment of these proposals. However, a survey of dealers and other experts undertaken by the Committee to Liberalize the Tariff Laws for Art suggests that the amount is negligible. The consensus is that it would be about $10,000 annually.

The wide support for this legislation comes from professional groups, dealers, and private collectors and from the trustees, members, and staffs of American museums, all of whom have long been distressed by serious inconsistencies in the tariff laws for works of art. The present language has led to such confusion that free entry for sculpture depends almost entirely upon its subject matter as shown by the title, but it can be made of almost anything; painting may represent anything or nothing, but must be made of certain materials; signed etchings come in free, but lithographs, signed or otherwise, do not; and modern tapestries are free only if woven in a certain French factory.

The present series of amendments are the result of some 10 years' work by a committee on customs of the American Association of Museums. They are an attempt, by means of the most careful possible rewording of tariff paragraphs 1720, 1807, 1809, 1811, and 1812, to make the law clear enough to eliminate all obstacles to the free importation of original works of art and flexible enough to cope with inevitable innovations in style and material. If this is accomplished, administrative practice will be greatly simplified and will conform for the first time with the simple intention of Congress to admit works of art free of duty.

My comments on these revisions will treat the tariff paragraphs affected in numerical order.

Paragraph 1720 provides for the free entry of models. At present the words "to be used exclusively as models and incapable of any other use" prevent the free entry of architectural and other models for use in exhibitions.

It is proposed that the paragraph read—

to be used exclusively as models and as exhibits in exhibitions at any college, academy, school, or seminary of learning, and society established for the encouragement of the arts, science, or education, or any association of such organizations, and incapable of any other use.

This would permit musuems, schools, and societies such as the Architectural League to import such models free of duty for exhibition—museums may now enter them under permanent exhibition bond, but this method entails useless restrictions and formalities, and many potential exhibitors may not use it.

Paragraph 1807 contains all the principal provisions for importing works of the "free fine arts." Its obvious intent is to provide free entry for all bona fide original works of fine art, as opposed to useful designs, patterns, replicas, copies, et cetera, all of which are dutiable under paragraph 1547. This privilege is a tremendous help not only to American art museums but to dealers and private collectors. Public collections benefit twice, through their own imports and through the growth of American private collections from which they receive loans, donations, and bequests.

However, the language of the paragraph, which has not been revised since 1930, has encouraged the growth of regulations through which part of the benefits have been lost. Many works of fine art, recognized as such by everyone, including the customs examiners, must be denied free entry, because no specific provision for them can be found in the language of the paragraph.

Such works must then be entered under paragraph 1547 as "works of art not especially provided for" or even—frequently—under paragraphs which were not intended to cover original works of art and which work considerable hardship when applied to very valuable objects. Two paragraphs often used in this way are 1023—20 percent ad valorem—and 1413—17½ percent ad valorem—for "manufactures not especially provided for" of hemp and paper respectively. When these paragraphs are used, the duty is invariably based upon the value as a work of art which is often in excess of $10,000—when as "manufactures of hemp and paper" this value might be 15 cents. These regulations vastly increase paperwork for importers and the customs service. They cause needless delay and have sometimes

forced importers to take court action against the Government. Above all, they frustrate the intent of Congress.

Paragraph 1807 includes a list of traditional artists' materials, which was apparently meant to include all those used in bona fide works of art. But artists are constantly using new materials, many of which are not manufactured as "art supplies;" and works incorporating such materials are excluded by implication.

For example, more and more artists in this country and abroad are making "collages," that is, pictures made of paper, cloth, small objects—manufactured or not—et cetera, pasted, glued, sewn, pinned, or nailed together, and often combined with drawing or painting in traditional mediums. Collage as a fine arts medium was invented by Picasso and Braque about 1912. The best collages of these artists are now valued as high as $20,000. Collages by Picasso, Gris, Braque, Matisse, Schwitters, Burri, and other important 20th century artists are in the collections of most of the great art museums of the United States, including:

(*a*) The Metropolitan Museum of Art, New York.
(*b*) The Art Institute of Chicago.
(*c*) The Philadelphia Museum of Art.
(*d*) The Baltimore Museum of Art.
(*e*) The Museum of Modern Art, New York.
(*f*) The San Francisco Museum of Art.
(*g*) The Columbus Gallery of Fine Art.
(*h*) Yale University Art Gallery, New Haven, and many others. I do not have time to name them all. Many colleges are illustrated in important art publications.

Neither the esthetic nor the commercial value of modern works of art depends in any way on the materials of which they are made. This is generally recognized by artists, dealers, scholars, collectors, and museum officials.

Paragraph 1807 is therefore modified to include some of the materials typical of collages and the words "in any other media" added to allow free entry to these and works in any new mediums that may come into use by professional artists.

In the same way original prints in limited editions printed by hand can be made in other ways than those listed in the paragraph, especially by lithography, and the purpose of the paragraph is defeated by the implied limitation to specified techniques. The paragraph has therefore been changed to include prints made by other hand-transfer processes.

Subsection (b) has been added to the bill at the suggestion of the Treasury Department so that an affidavit may be required by the collector from a curator or other museum expert to establish the status of unprecedented works of kinds or mediums that are not listed in the paragraph, and I would like to say here I would be very glad to work with the staff of the committee on any further departmental suggestions.

Sculpture is customarily cast from molds in strictly limited editions of usually no more than 10 replicas. Each unit is finished by hand, and the first is not more valuable or more original than the last. In exceptional cases an edition is completed by associates after the death or incapacity of the sculptor. In addition to the edition one sculptor's

model made by hand in less permanent material is often preserved. This, too, is considered an original work of art. Such editions are a normal feature of professional production in sculpture and do not constitute mass-produced commercial reproductions. The practice is traditional and not a recent innovation. It is recognized in the present wording of the paragraph; but the limitation to three replicas, the customs regulation that they must be the first three made or cast, Nos. 1, 2, and 3, and failure to mention the sculptor's model raise obstacles to the importation of certain works identical with those admitted free.

In view of the large number of American museums and private collectors interested in casts of the same work, the wording is changed to admit the sculptor's model and not more than 10 replicas.

Although the present language of the paragraph would seem to allow free entry to all bona fide sculpture without regard to its form or title, a Treasury ruling of 1916—T.D. 36309—requires sculpture to consist of "imitations of natural objects, chiefly the human form * * * in their true proportion of length, breadth, and thickness. * * *." As a result of the famous Brancusi Bird in Space decision of 1928—T.D. 43063—sculpture, though still required to represent a natural form, need no longer render it in its exact proportions.

Although in his decision in the Brancusi case Judge Waite recognized that "There has been developing a so-called new school of art, whose exponents attempt to portray abstract ideas rather than to imitate natural objects," customs officials are still required to follow the 1916 ruling and deny free entry to all frankly abstract sculpture, which makes no claim to derivation from any natural form—at the same time paintings and drawings are admitted whether abstract or not if made from traditional materials.

Thus, it happens at times that free entry for sculpture hinges entirely upon its title. Recently a piece of sculpture—not purely abstract—with the French title "Masque" was first denied free entry on the grounds that a mask is not a "natural" object, but later admitted when it was shown that "Masque" may also be translated "masker" or "masquerader" and that this was the correct rendering in the particular case in hand.

Abstract sculpture is being produced here and abroad by many artists who have forsaken the idea of duplicating or distorting the human or animal form. Their works are included in many museum and private collections and are commonly illustrated in publications on the art of our time.

Since the 1916 ruling bars a large and increasing proportion of all the sculpture being made from duty-free entry, the words "made in any form" have been inserted in this bill.

Paragraph 1809 grants museums and educational institutions the privilege of entering otherwise dutiable exhibition material under bond. Things entered in this way must be kept on the premises of the importing institution and produced for periodic inspection by customs officials. They may be transferred to other eligible institutions with the permission of the collector of customs, but under no circumstances to a commercial gallery.

Since all institutions privileged to use this paragraph must first establish their noncommercial character, there is no risk that objects freely transferred from one to another might be put to illegitimate use.

Thus, the permission required for each move imposes a useless burden on the institutions and the Government.

It is proposed that these transfers will be permitted without first obtaining permission, provided the importing institution can always show the collector where the item under bond is located.

Benefit and other nonprofit exhibitions must often be held on the premises of commercial organizations. It would be useful if material entered under exhibition bond might be shown in such exhibitions with permission—that is only if permission were granted by the collector of customs.

The changes in this paragraph have therefore been made to simplify the work of the customs service as well as that of institutions privileged to use the paragraph and to increase the availability of such material for educational and cultural use.

Paragraph 1811 provides for the free entry of antique articles.

Here my written statement will have to be corrected because since we prepared it we have made a change.

There has been opposition expressed to changing the date for antiques from "prior to 1830," as now stated in the law.

The measure proposed by Senator Javits provided a definition of a hundred years or older.

In recognition of this opposition, Senator Javits has withdrawn that provision and has, I understand, submitted a letter to the committee to this effect.

The proponents of the Javits amendment are not firmly wedded to this proposition and offer no objection to the retention of the 1830 date as presently prescribed by law, and as now requested by Senator Javits.

It is our hope, however, that the other changes recommended will be retained. One of these amends the paragraph to allow the entry of antique frames at any port of entry so that they will not be restricted as they now are to ports of entry specified for antique furniture.

This is important so that a valuable painting in an antique frame can be sent directly to the importing museum for unpacking and examination by customs and not have to stop at some port specified for antique furniture.

Senator DOUGLAS. Mr. Chairman, may I ask the witness a question?

The CHAIRMAN. Senator Douglas.

Senator DOUGLAS. Am I correct in this understanding that this original date of 1830 was put into effect by the Tariff Act of 1930?

Miss DUDLEY. Yes.

Senator DOUGLAS. So that the intent in 1830 was to say that was something over a hundred years old.

Miss DUDLEY. That would seem to be the intent, but I understand there were other reasons for choosing that date.

I do not deal in antiques and I do not know exactly what those other reasons were, but possibly what they had in mind were objects after the industrial revolution, and possibly machine-made objects.

Senator DOUGLAS. The coincidence of the two dates, 1930 and 1830, would seem to lead to a presumption that the test then applied was that of a century prior, and to conform to the spirit of the 1930 law

seemed to meet the original Javits' provision on that point. But you say he has withdrawn it?

Miss DUDLEY. He has withdrawn it because of opposition by the antique dealers.

Senator DOUGLAS. You mean dealers in domestic antiques?

Miss DUDLEY. Pardon?

Senator DOUGLAS. Dealers in domestic antiques?

Miss DUDLEY. I believe there are two antique dealers associations; one is the New York Antique Dealers, and the other is the American Association of Antique Dealers—is that correct—who have objected, representing antique dealers in this country. They want to retain the date prior to 1830.

Senator DOUGLAS. Thank you.

Miss DUDLEY. Another change recommended for this paragraph is in subparagraph (c).

This is proposed so that objects representing the material culture of primitive peoples may be considered antique at an earlier age than is customary for other artistic antiquities. Some reasons for this are:

1. Within the past 50 years many of the cultures represented by such objects have disappeared, diminished, or changed radically.

2. In the absence of records it is often impossible to be certain of the age of such material.

3. The very preservation of such material frequently depends upon its possession by a museum, especially when it is no longer valued by its makers.

4. In many culture areas objects more than 50 years old are almost nonexistent because of the perishable materials used and the corrosive effect of climate and vermin in the local environment.

These objects are seldom if ever capable of any use other than study and display, and they do not compete with any American products. An age of 50 years is more than enough to bar all modern commercial products and imitations made for the tourist trade.

There is now a museum of primitive art in New York that displays these objects and, of course, they may be seen in most of the science museums in the country.

Paragraph 1812 is the final change proposed.

This allows for the reentry of Gobelin tapestries made by hand for use exclusively as wall hangings. The word "Gobelin" has been applied to all fine tapestries.

However, in the text of paragraph 1812 it is written with a capital G and has been taken to mean only those tapestries actually made at one of the two Gobelin factories in France and accompanied by a certificate from the manager of one of these plants.

It would be a great convenience to American museums and private collectors if the many modern tapestries not made at the Gobelin factory could be imported as duty-free works of art. At present many tapestries designed by Picasso, Maillol, Miro, and Leger, and other modern artists are denied free entry because they are not Gobelin tapestries, or tapestries made in those two factories.

In this bill the paragraph is amended to allow free entry for other handwoven tapestries made for use as wall hangings.

I hope we can make it clear they are exclusively for use as wall hangings so they would not compete with any fabric to be used for upholstery material.

On behalf of the American Association of Museums and the National Committee to Liberalize the Tariff Laws for Art, I urge your support of the changes proposed in the amendment to H.R. 2411 so that free entry will be provided for all bona fide works of art.

Thank you very much for this opportunity to testify.

The CHAIRMAN. Thank you very much, Miss Dudley. You made a very interesting statement.

Miss DUDLEY. Thank you.

The CHAIRMAN. Our next witness is the Honorable Marguerite Stitt Church of Illinois.

STATEMENT OF HON. MARGUERITE STITT CHURCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Representative CHURCH. I greatly appreciate this proffered opportunity to offer this statement in support of a certain important amendment proposed by Senator Javits.

It is my understanding that Senator Javits has proposed an amendment to H.R. 2411—now pending before your committee—which would amend the Tarif. Act of 1930 so to liberalize the definition of "works of art" which may be imported free of duty as to include modern art forms.

I have myself introduced in the House H.R. 5969 for this same purpose, and would most certainly ask that Senator Javits' amendment to H.R. 2411 be accepted.

Some modern art forms today are ruled by the Customs Bureau as not qualifying as an original work of art merely because they are composed of materials such as cloth and paper, and thus are subject to duty. Many abstract sculptures which are considered genuine works of art are barred from entry into this country free of duty because of the strict interpretation of the Tariff Act limiting nondutiable sculpture to forms of natural objects. However, abstract paintings are permitted free entry.

The wording of the present law excludes these art forms and thus discourages and limits the free interchange of all works of art between the United States and other countries.

I understand that Senator Javits' amendment will restrict such nondutiable imports to art objects brought in for exhibition purposes only, as does my own bill.

The proposed amendment would increase the cultural opportunities in the United States and merits the support of this committee and of the Congress.

The CHAIRMAN. Thank you, Mrs. Church.

Our next witness is the Honorable John V. Lindsay of New York.

STATEMENT OF HON. JOHN V. LINDSAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Representative LINDSAY. Mr. Chairman, I deeply appreciate the opportunity to make this appearance on behalf of the amendment to H.R. 2411 proposed by Senator Jacob K. Javits. His amendment would add to this bill provisions liberalizing the duty-free importation of art and the duty-free exchange of art exhibits. I have been supporting equivalent legislation in the House of Representatives.

The district which I am privileged to represent has a particular interest in this legislation. My district includes the great art centers of the country. Its museums include the Metropolitan Museum of New York, the Museum of Modern Art, the Frick Museum, Frank Lloyd Wright's new Guggenheim Museum, to name a few. The great galleries of New York are concentrated in this district—Parke-Bernet, Wildenstein, Duveen, and many others. The district includes much of Greenwich Village and Chelsea, which are among America's most famous art communities. Also in the district are the well-known antique shops of Second and Third Avenues. The centers of fashion and theater—close cousins to the creative arts—are concentrated along Fifth Avenue and Broadway in this district.

I can assure this distinguished committee that the desire among all these groups for the adoption and passage of this legislation and their distress over the possible continuance of the present archaic restrictions on the importation of certain works of art are intense and widespread.

I have seen the report of the Treasury Department on bills of similar import introduced in the House of Representatives. The Department stated that it "concurs with the general objectives of this program," but listed several technical or administrative objections to particular provisions of those bills. The amendment before you today has, I understand, been revised to accommodate those reservations. The amendment thus has the wholehearted approval of Treasury.

Nor would any significant loss of revenue be involved. Recently, I asked the National Committee To Liberalize the Tariff Laws for Art to provide me with an estimate of the revenue for art tariffs involved. This organization, by the way, sponsored by outstanding museums across the Nation, is comprised of a distinguished group of artists and art patrons. The very existence of such an organization is, I think, striking evidence of the wide support of this measure.

The national committee has replied that—

> no one was able to give us any accurate figures on possible loss of revenue. After talking with several New York galleries, our educated guess is that the total amount of duties collected does not exceed $10,000 a year.

But, I submit, even if a greater loss of revenue were potentially involved, surely it would be outweighed by the immeasurable value of the stimulus this bill would give to the growth of American culture. It is an absurdity that our present laws hold dutiable some art forms only because they are the creations of 20th century thought. Equally difficult to explain are the arbitrary limits applicable to the importation of reproductions of art treasures and the arbitrary selection of 1830 as the cutoff date for antiques. These are just a few of the defects which this legislation would cure.

In my opinion this is legislation which certainly ought to be given high priority. Not only would its passage greatly aid the development of our museums and educational centers, but it would effectively accelerate the free exchange of art ideas and cultural thought from which our Nation as a whole stands greatly to benefit.

The CHAIRMAN. Thank you, Mr. Lindsay.

The next witness, Mr. Robert Samuels, Jr., secretary of the New York Antiquê & Art Dealers Association, Inc., desires his statement inserted in the record in lieu of appearing personally.

Senator Javits has agreed to amend his amendment as recommended by Mr. Samuels.

(The prepared statement of Mr. Samuels and a subsequent letter withdrawing objections to the amendment as modified by Senator Javits, follow:)

STATEMENT OF ROBERT SAMUELS, JR., SECRETARY OF THE NEW YORK ANTIQUE & ART DEALERS ASSOCIATION, INC.

My name is Robert Samuels, Jr. I reside at 22 Lindbergh Place, Crestwood, N.Y. I am a vice president of French & Co., Inc., 978 Madison Avenue, New York, N.Y., a dealer in antique works of art, including furniture, rugs, tapestries, paintings, and bibelot.

I appear before this committee in my capacity as secretary of the New York Antique & Art Dealers Association, Inc., 59 East 57th Street, New York, N.Y., a nonprofit organization of New York City dealers mutually pledged to safeguard the interests of those who buy, sell, or collect antiques and works of art.

A list of the officers of the association is appended to this statement.

Mr. Alastair A. Stair, president of the association, and Mr. Edward Munves, its vice president, are presently abroad on business. But for that fact, either one or both of them would have appeared before this committee to register the views of the association which I am about to present.

The association respectfully wishes to record with this committee its strong opposition to that portion of S. 948, introduced by Senator Javits as an amendment to the House-passed tariff bill, H.R. 2411, which seeks to amend paragraph 1811 of the Tariff Act of 1930.

Paragraph 1811 of the Tariff Act of 1930, as it presently stands, provides for the duty-free importation of objects of art produced prior to the year 1830, subject to such regulations as to proof of antiquity as the Secretary of the Treasury may prescribe. Ever since the Tariff Act of 1930, and principally because of paragraph 1811, the test of antiquity of objects of art, including antique furniture, antique silver, etc., both in the trade and in the mind of the art buying public, has been whether or not the particular object was produced prior or subsequent to 1830.

Under section 4 of S. 948, this now traditional test of antiquity would be materially changed. Subdivision (a) of the new paragraph 1811 proposed by S. 948 would qualify for duty-free importation as antiques all art objects "which shall have been produced prior to 100 years before their date of entry, * * *" In addition, subdivision (c) of the proposed new paragraph 1811 would qualify for duty-free importation "Ethnographic or artistic objects made in traditional aboriginal styles and made at least 50 years prior to their data of entry." The association opposes these changes as unnecessary and as being contrary to the public interest.

The proposed amendments to paragraph 1811 have been reviewed and carefully considered by a committee of the association and by its membership at large. That committee, the board of directors of the association and its members at large are unanimous in their opposition. The reasons for that opposition are, briefly, these:

1. Dealers in and collectors of antique works of art have come to regard the year 1830 as determinative of antiquity and have invested substantial sums in antique objects of art on that premise. Under the proposed new law, so-called works of art, produced between 1830 and 1859, whether by hand or by machine, would immediately qualify for duty-free importation as antiques. And under the proposed new statute, each year, another year's production, not theretofore duty free, would qualify for duty-free importation and for sale to the public as antiques.

2. In the field of furniture, the year 1840 ushered in the machine era. Many furniture pieces made by machine in the middle of the 19th century were copies of furniture pieces made in the 18th century. At the present time, the 19th century productions are dutiable because they are considered merely as copies. Under the proposed new statute, the 19th century pieces could be sold in this country as antiques and thus there would be two different classifications of antiques—those produced prior to 1830 and copies thereof produced after 1830 but more than 100 years before importation. This would be most confusing, to say the least, for the general public. Regrettably, the association thinks that this

confusion would afford opportunity for misrepresentation by unscrupulous dealers.

3. The same situation prevails in the silver field. Since about 1845, silver-plated ware made by machine has been produced in England in great quantity. These silver pieces are not hallmarked, as in the case of antique silver produced in England prior to 1830, to designate the name of the maker and the date of production. Collectors of antique silver who, from time to time for estate liquidation or other reasons, put up their collections at auction may well, if the new statute is adopted, suffer substantial losses in view of the confusion which would be generated by the new statute as to what is and what is not antique.

4. I believe I am in a position to know that the customs officials have done an excellent and expert job of enforcing the provisions of present paragraph 1811, particularly in the determination of whether or not a work of art presented for duty-free importation was or was not produced before 1830. Under the proposed new paragaph 1811, however, we are convinced that proper enforcement will be virtually impossible. It would be extremely difficult for customs to define a duty-free work of art under the proposed change. If the proposed new statute is passed, and as the years go by, the customs officials will be confronted with the recurrent problem of determining whether unmarked machine made articles produced during the age of industrialization are more or less than 100 years old. We submit that the difficulties of enforcement are self-evident.

5. The sale in this country as antiques of articles produced subsequent to 1830 would naturally tend to depreciate the value of pre-1830 antiques owned by collectors throughout the Nation.

6. The proposed new paragraph 1811 will permit the duty-free importation of thousands of so-called works of art whose importation is presently dutiable. We submit that there is no basis for this unnecessary loss of revenue.

7. I should like to quote the following from a letter recently written by Mr. Alastair A. Stair, the president of our association:

"In my opinion this law, if passed, would cheapen the whole of the art business throughout the United States and art in this great country would be the laughing stock of the world. Of course the European dealers are in favor of such legislation as they could ship to this country all the junk that they were unable to sell in their own lands."

In conclusion, we submit that the proposed amendments to paragraph 1811 of the Tariff Act of 1930 are not in the public interest and should be defeated.

Permission is respectfully requested to file, with this statement, a copy of the bylaws and code of ethics of the New York Antique & Art Dealers Association, Inc. together with the roster of its members which contains a statement of its aims and purposes.[1]

Dated July 16, 1959.

NEW YORK, *July 16, 1959.*

Re Javits amendment (S. 948) to H.R. 2411.

Hon. HARRY F. BYRD,
Chairman, U.S. Senate Committee on Finance,
New Senate Office Building, Washington, D.C.

DEAR SENATE BYRD: As Mrs. Springer has undoubtedly advised you, I appeared this morning with Mr. Robert Samuels, Jr., New York Antique & Art Dealers Association, Inc., in connection with the public hearings on the above matter.

In view of Senator Javits' letter to you withdrawing his proposed amendment of paragraph 1811 of the Tariff Act of 1930, it became unnecessary for Mr. Samuels, Jr. to testify. However, copies of Mr. Samuels' statement were filed with your committee.

Please be advised that the New York Antique & Art Dealers Association, Inc., which opposed only the proposed amendment of said paragraph 1811, has no objection to the balance of the amendment proposed by Senator Javits.

With my thanks to you and your committee and to Mrs. Springer for the courtesy and cooperation shown to me and to Mr. Samuels, I am,

Very sincerely yours,

BERNARD A. SASLOW,
(For Lynton & Saslow, Attorneys at Law).

The CHAIRMAN. Also, the Chair wishes to insert in the record at this point a statement by Mr. John P. Conklin, Jr., President of Art & Antique Dealers League of America, Inc., and a subsequent

[1] This material made a part of the committee files.

letter, in which he states he withdraws his objection to the amendment if no change is made in paragraph 1811 of the tariff Act.

(The statement and subsequent letter follow:)

ART AND ANTIQUE DEALERS LEAGUE OF AMERICA, INC.,
New York, N.Y., July 16, 1959.

In re H.R. 2411.

Miss ELIZABETH B. SPRINGER,
Chief Clerk, Senate Finance Committee,
New Senate Office Building, Washington, D.C.

DEAR MISS SPRINGER: Please be assured of our very sincere appreciation for your kind cooperation in connection with the amendments intended to be proposed by Senator Javits to the bill as per caption, copy of which reached us this morning.

After the writer's telephone conversation with Mr. Millenson, of Senator Javit's office, and in agreement with his suggestion, we dispatched the following telegram to Senator Byrd, chairman of the Senate Finance Committee, at the address shown above, reading as follows:

"In re H.R. 2411. Having been notified that Senator Javits is withdrawing his request for changes in paragraph 1811 of Tariff Act, thereby automatically amending bill S. 948 sponsored by him and Senator Douglas, please be advised that our organization will not appear in opposition as had been requested inasmuch as paragraph 1811 was only portion we were vitally concerned with for good of all Americans interested in the appreciation and preservation of the finer examples of arts and crafts of the past."

I am now pleased to hand you the enclosed brief, which I would otherwise have delivered to you in person, for the committee's record and reference should you deem it necessary. At any rate, as you will notice, it states the position of this organization in connection with the importation of art and antiques in general.

Thank you again for your kindness.

Sincerely yours,

JAMES P. MONTLLOR,
Executive Secretary.

NEW YORK, N.Y., *July 15, 1959.*

In re H.R. 2411.

The CHAIRMAN,
Senate Finance Committee,
New Senate Building, Washington, D.C.

SIR: The undersigned, the Art & Antique Dealers League of America, Inc., a nonprofit membership corporation organized in 1926 under the laws of the State of New York, with offices at 237 East 60th Street, New York, N.Y., devoted exclusively to the best interests of dealers and buyers of antiques and works of art, and to the encouragement of educational and cultural activities in the arts generally, respectfully petition your honorable committee as follows:

"PETITION

"To retain paragraph 1811 of the existing tariff act exactly as is, without change in text or interpretation, thus continuing to safeguard the best interests of the Government and of all parties concerned and devoted to the study and preservation of the better examples of the arts and crafts produced prior to the year 1830."

In support of our petition, we respectfully submit that in the view of the executive committee of this organization, representing over 130 members dealing in the better grades of antiques and objects of art, and covering a good cross section of the country, any change in the provisions of paragraph 1811 would be very detrimental to the best interests of the Government, the American collectors, and the American dealers who have specialized mostly in genuine articles.

Further, that to lower the requirements of age in antiques entitled to duty-free entry would greatly jeopardize the standards of quality to which public institutions as well as the American collectors and interior designers have come to appreciate and to respect, reasons to which we attribute in good measure the advancement in interest and understanding of the arts in general and of antiques in particular in every section of the United States.

In addition to the reasons stated above, we fear that it would tend to stimulate the importation of machine-made reproductions which though they might have

some age are nevertheless copies of originals, and such a situation would defeat the very purposes of the tariff act in protecting the American buyer and the American mechanic. It has been our policy to favor original creations in both design and craftsmanship, and these we continue to favor because through them the best examples of the past can be preserved for the benefit of generations yet unborn, while serving the present generation in the American way of life.

It is our considered opinion, based on long experience in the trade, that the customs authorities have administered the imports under paragraph 1811 fairly and impartially, and, in the main, with great tact and intelligence. Therefore, for these and many more convincing reasons we could expound, we respectfully petition that the provisions of paragraph 1811 of the tariff act be retained as is.

Respectfully submitted.

JOHN P. CONKLIN, Jr., *President.*

Attest:

HENRY JORDAN, *Secretary.*

The CHAIRMAN. We shall now hear the witnesses who desire to speak specifically on the Anderson amendment, first witness being Senator Anderson.

STATEMENT OF HON. CLINTON P. ANDERSON, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator ANDERSON. Mr. Chairman and my colleagues on the Finance Committee, I am happy to have this opportunity to present some of my reasons for urging adoption of my amendment relating to the dutiable status of wood moldings which I have offered to H.R. 2411. This hearing signals what I hope will be a successful climax to the efforts of many who are genuinely interested in the well-being of a small but important industry, the American wood molding industry. It is due to the sense of fairness and concern of the chairman and members of the Finance Committee that this opportunity is available to present the facts relating to the introduction of this amendment, and I am indeed grateful.

There is involved in the issue before us more than the possible injury or threat of injury to producers and workers in our domestic wood molding industry, although of course this is of basic importance, and I will discuss it further along in my statement.

However, there is also an important question relating to the attitude of those charged with the responsibility to administer the laws as passed by Congress. I know that many times when the Congress has passed a law and awaited its execution by the appropriate agency or department, when the final administrative regulations are published it is sometimes difficult for the original author of the law to recognize his own handiwork after the hatchetwork has been done. I do not subscribe to the attempts of administrators to thwart the intent of Congress time after time to meet the immediate expediencies of other policy considerations, both domestic and foreign. This is an abuse of that very necessary administrative discretion wisely recognized and allowed by Congress when laws are enacted. It would indeed be expensive and time consuming if Congress has to spell out in every detail the procedures to be followed by the administering agencies in order to gain compliance with its legislative intent. To seek out such loopholes in the law to prevent its intended application is dishonest enforcement and is not conducive to the desired harmony and cooperation between the executive and legislative branches of our Government.

I firmly believe that a substantial distortion of the intention of Congress has occurred with respect to the tariff classification of the subject before us now. My specific interest in this matter was aroused early last fall when the matter of Mexican molding imports became of concern to me. I learned then that the Bureau of Customs allowed wood molding products to come into this country at the same rate of duty applied to plain lumber. To regard these two commodities as the same came as quite a surprise to me as it will to anyone who has ever built a home and had to pay the bill for these items. I believe molding sells for something like twice as much as lumber or even more, but I will let the experts testify on this point.

But aside from this, what really amazed me was the interpretation of the tariff laws which could possibly give justification for classifying molding as plain lumber. Wood moldings are specifically designated as a wholly separate item under title 19, section 1001, paragraph 412. I will quote the pertinent language: "wood moldings and carvings to be used in architectural and furniture decoration, 40 percent ad valorem."

By various trade agreements over the years this amount has been lowered to 17 percent. With this discrepancy in mind, last October 6 I wrote to the Secretary of the Treasury and inquired upon what basis was molding classified as ordinary lumber. Also an additional problem had arisen pertaining to glued-up and finger-joined molding. This is a process whereby two or more short pieces of molding have been joined together to make a single piece. The answer I received from the Treasury Department stated that various wood moldings not advanced beyond sawing and planing and used primarily for utilitarian purposes were classified under the lumber provisions of the tariff act in accord with a decision of the Board of U.S. General Appraisers (now the U.S. Customs Court) in 1915.

Right away I can mention three aspects in that answer which are wrong. First, molding by any definition is a good deal more advanced than sawing and planing. The extra skill, time, and machinery that goes into the manufacture of molding are factors which run the cost of this product higher than common mill-run lumber.

Secondly, as I look at the trim and other molding around this room, I fail to see any real "utilitarian" value to it. On the contrary, I believe most molding is more decorative than useful. This is true from the simplest quarter round to the most fancy trim. Yet practically all molding is imported at lumber rates. The third point I have in mind is one of the principles underlying this whole controversy, and to which I have already alluded. That is, if the reason for the lumber classification of molding was based upon a custom decision of 1915, what about the decision rendered by Congress in 1930 which placed molding in a separate category? I think proper weight should have been accorded that decision.

This explanation from the Treasury Department was written on October 29, 1958. In the letter I was told that further consideration was being given to the proper classification of joined and glued moldings. At that time this material was also classified as lumber. On December 23 I received a letter from the Acting Commissioner of Customs advising me that by administrative action this type of molding was placed in a higher bracket under paragraph 412 at a rate of 16⅔ percent ad valorem. I fail to see a real distinction for

tax purposes between a solid piece of molding and a single piece made by joining two smaller pieces together after a knot has been cut out of it or for other reasons of the trade. I think that the Customs Bureau took a step in the right direction with respect to joined moldings, but failed to correct the long standing inequity remaining in its classification of solid moldings. The only justification for this that I can determine from contacting the Bureau is that they assume their action has congressional sanction due to the fact it has gone without serious challenge. I believe that assumption is wrong. However, in order to clear up the situation and remove any doubt about where and how Congress wants molding classified in our tariff laws, I have introduced my amendment to this present bill.

Briefly, my proposal would tax all moldings at the same rate now applied to wood moldings used in architectural and furniture decoration. As I indicated earlier, I think this describes practically all moldings, but it has not been so held. Under the present trade agreements applicable, the rate will be 17 percent ad valorem. I think this action is justified for purposes of clarifying procedure and taking a realistic appraisal of what could develop into a serious problem.

I have not discussed the economic impact caused by the importation of molding at token rates applied to lumber. I believe the people who are best qualified to testify on this are the representatives from the industry, and they are here ready and willing to be heard. I am sure they will be able to provide the facts involved which will emphasize the threat or potential threat of injury to the domestic industry.

I would like to comment on this aspect briefly, however. There is not involved here a question of "protection" in the usual sense of trying to provide American producers an advantage over foreign exporters to this country. On the contrary, this action if taken will eliminate an unfair advantage now enjoyed by exporters. I feel that it is the duty of Congress to see that the game is played fairly. I am confident that our producers can reasonably meet the competition of low cost labor and materials. If they cannot, then the proper business adjustment necessary will be their problem. But it is clearly incumbent upon us as the representatives of our industry to see that no unjust factor is forced into the market situation in the form of a discriminatory tariff classification. Our producers and organized labor are willing to accept the challenge of foreign products at the marketplace under conditions of fair and equal competition. However, I have had the present unfairness vigorously brought to my attention by both elements of our industry who stand united.

One final point I would like to make concerns the recommendation that our industry invoke escape clause action as a procedural remedy to obtain relief. I have already pointed out that under its present classification the lumber rate applies to molding. Escape clause action is based upon the statutory rate whereby an increase of 50 percent may be added. Since there is only a token rate applied to molding, a 50 percent increase would be meaningless.

Another aspect of this is familiar to those of us who have wrestled with similar problems. To find injury that is sufficient to satisfy the requirements of the escape clause, the industry has to be practically on the verge of ruin or collapse. I challenge that concept and doubt

such stringency was ever intended. But it is clear that this avenue offers no help to our people.

I want to emphasize my appreciation for this opportunity to appear before you as a witness. I know that my remarks, as well as those that follow, will receive your courteous and kind consideration. I am convinced this amendment is a good one and is in the broad public interest, and I hope you will agree with me.

The CHAIRMAN. The Chair desires to insert in the record a statement made by Senator Muskie in support of Senator Anderson's amendment; a statement by Senator Engle in support of the Anderson amendment; and by Congressman Montoya in support of the Anderson amendment.

(The statements referred to follow:)

STATEMENT BY HON. EDMUND S. MUSKIE, U.S. SENATOR FROM THE STATE OF MAINE

I would like to be associated with those supporting S. 913, introduced by Senator Clinton Anderson of New Mexico. S. 913 is of importance to at least one manufacturer of wood molding in the State of Maine. I believe that the problems faced by this one company in Maine are typical of those facing the domestic industry. It is an industry in which all of the production units are small. The company in my State employs between 45 and 50 people. This is characteristic of the molding industry in the United States. Rarely, if ever, would a plant employ more than 100 men. It is a specialty industry run by individuals or small corporations. This industry has been struggling against imports from Mexico, imports which come into this country at prices which are approximately 25 percent under the market price of domestic products. This inequitable relationship with the imports from Mexico is directly related to the fact that Mexico laborers are paid daily wages which are fantastically below the minimum American wage in the industry. As a matter of fact, the average American lumber industry wage earner earns about as much in half an hour as the average Mexico lumber industry wage earner earns in a day. I shall support S. 913, because by assessing all molding imports at 17 percent ad valorem, our American domestic industry will have a better chance to survive in a highly competitive environment.

STATEMENT BY HON. CLAIR ENGLE, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Mr. Chairman, I wish to express to the Senate Finance Committee my strong support of the Anderson amendment to H.R. 2411 to clarify the dutiable status of wood moldings. I share with my distinguished colleague from New Mexico the belief that action should be taken to remedy the unfair competition from Mexican wood moldings that is now injuring the American industry.

The lumbermen in the United States who sell their products to producers of ponderosa pine moldings and the manufacturers of the moldings themselves have been damaged by the increasing imports from Mexico which now amount to approximately 17½ percent of the total domestic production. Because of the sizable wage differential, Mexican imports can be priced approximately 25 percent below the American market price and thus undermine the American competitive position. It is to create fair competitive conditions that we ask for congressional action.

This amendment would modify section 412 of the Tariff Act of 1930 by removing wood moldings from the ordinary lumber tariff rate and placing such products under a higher ad valorem rate. If this proposal should become law, all molding imports would be assessed at 17 percent ad valorem—which would still enable the Mexicans to compete with the domestic product.

While Congress apparently intended to put wood moldings on an ad valorem rate in the 1930 amendments to the Tariff Act, the Bureau of Customs did not interpret the legislation accordingly. Thus wood moldings continued to enjoy the same import rate applied to ordinary lumber. No problems arose until Mexican molding imports began to increase after 1956. Gradually American small businessmen in this field began to feel the pinch. While they did not ask

protection from fair competition, they called on the Congress to grant relief based on the need to compensate for the different wage scales.

The molding industry in this country is basically a small business. It is my understanding that no plant in the western area employs more than 100 men. While it has no industry trade association of its own, such organizations as the Western Pine Association, the Southwest Pine Association, and the Lumber & Sawmill Workers Union, affiliated with the United Brotherhood of Carpenters and Joiners of America, AFL–CIO, are supporting this legislation. The principal molding manufacturers in Texas, New Mexico, Arizona, and California are urging its adoption.

I do not believe this proposal affects the American basic commitment to promote international trade—Mexico is not a reciprocal trade treaty country and imposes a prohibitive tariff on molding products from the United States. Thus all we ask is that conditions of fair competition be established within our own country. I would appreciate the committee giving Mr. Anderson's amendment its close study and favorable consideration.

STATEMENT OF HON. JOSEPH M. MONTOYA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Mr. Chairman, you now have before this committee a bill, H.R. 2411, which would amend paragraph 1629 of the Tariff Act of 1930. I am here to testify in behalf of an amendment proposed by Senator Anderson which would add a new section to H.R. 2411 and which would clarify and make uniform the present dutiable status of wood moldings imported into this country.

I have introduced H.R. 4036 which would accomplish the same objective. However, the executive departments concerned have raised objection to the language used in S. 913, a similar bill introduced in the Senate. The present amendment attempts to meet the objections.

This legislation is proposed in order to remedy an inequitable relationship with imports from foreign countries which are in direct competition with the domestic molding products of this country. It is not intended to affect, nor so far as can be ascertained, will it substantially affect producers of lumber products from other countries.

Historically, nearly all wood molding products have been imported under the ordinary lumber rate. In 1930 Congress amended the Tariff Act, apparently intending to put wood moldings on an ad valorem rate. The Customs Bureau, however, has not so interpreted this legislation, allowing wood moldings to enjoy the same import rate applied to ordinary lumber. This was of little importance to domestic molding producers until recently because the importations of foreign-made moldings to this country were not of substantial quantities until approximately 1956. For example, it is reported that in recent years Mexico placed restrictions upon exports of lumber from Mexico, which induced molding manufacturers to construct molding mills in Mexico. Since then, molding products from Mexico have been introduced into this country at an everexpanding rate.

The molding industry in this country is basically a small business. No plant in the western area employs more than 100 men. It is a specialty industry engaged in by individuals or small corporations. This legislation is not advocated in an effort to prohibit competition from foreign sources. Basically the problem is that under present tariff regulations, foreign imports have been introduced into this country at prices which are considerably lower than the market price of domestic products. I feel that this competition is unfair with respect to imports from Mexico.

The unfair competition from foreign moldings is not against large producers or manufacturers. It attacks small American industry. The proposed legislation is reasonable and basically a corrective measure. It will not destroy foreign business enterprises. It will serve only to keep the American wage standard and the entire molding industry on a parity with the standard in the rest of the lumber industry.

I want to thank you for the opportunity of appearing before the committee today.

The CHAIRMAN. We have in the audience a very distinguished Senator, Senator Morse, who desires to introduce some of the witnesses.

STATEMENT OF HON. WAYNE MORSE, U.S. SENATOR FROM THE STATE OF OREGON

Senator MORSE. Mr. Chairman, and members of the committee, I intend to take only a minute for a very, very brief statement on the subject matter before the committee.

But I first want to vouch for two Oregonians in the committee room this morning, Mr. John S. Hanson, and Mr. G. D. Whittier, both of whom are in the lumber business in my State.

Mr. Hanson will testify later this morning.

As the committee knows, they will testify on the Anderson amendment which seeks to impose a 17-percent ad valorem duty on manufactured moldings, moldings which, at the present time, in my judgment, are discriminated against in the sense that they are brought in under the general lumber ad valorem tax of $1 a thousand.

I want to make two points very quickly, may I say, Mr. Chairman, to you and the members of the committee.

We are not asking to discriminate against Mexican moldings. We are asking to eliminate the discrimination against American moldings, and I think this committee knows of my interest in Latin American affairs, as chairman of the Latin American Subcommittee of the Foreign Relations Committee.

I have two of my Foreign Relations Committee colleagues on this committee. I want to say, Mr. Chairman, that in my judgment we are not fair to the American molding industry by this discriminatory policy we are following against our own industry.

I speak also as a member of the Small Business Committee of the Senate, and these molding establishments in our State are small businesses, and in my judgment the determining question here is if we adopt the Anderson amendment and put on the 17-percent ad valorem tax, will we be acting fairly to our own business and, at the same time, not doing anything that unfairly discriminates against Mexican industry.

It is the old problem that we have before us in a good many matters. The Senator from Virginia knows my position on this matter in regard to other products, Oregon cherries being one; I have battled that problem over the years, too.

All I am asking for, as a member of the Foreign Relations Committee and as a member of the Small Business Committee, is a nondiscriminatory policy against our own industry.

I thank the committee very much for their courtesy.

The CHAIRMAN. Thank you very much, Senator Morse. We are glad to have had you before the committee.

The next witness is Mr. P. C. Gaffney, of the Southwest Lumber Mills.

STATEMENT OF PETER C. GAFFNEY, VICE PRESIDENT, SOUTHWEST LUMBER MILLS, INC.

Mr. GAFFNEY. Mr. Chairman and members of the committee, there are four representatives of the American molding industry here this morning, each with a prepared statement, and the required reading time for all four statements will be between 15 and 18 minutes.

Would it conserve the time of the committee to have all four read those statements consecutively and then submit to questioning as a group?

The CHAIRMAN. Have them inserted in the record, did you say?

Mr. GAFFNEY. No, sir; with the chairman's permission we would like to read all our statements consecutively and then submit to questions from the committee as a group.

The CHAIRMAN. Without objection.

Mr. GAFFNEY. Thank you.

Mr. Chairman and members of the committee, my name is Peter C. Gaffney. I am vice president of Southwest Lumber Mills, Inc., of Phoenix, Ariz., with sawmills at Flagstaff and McNary, Ariz., and Corrigan, Tex., and with a molding plant at McNary. I am speaking for my own company and as one of a group of producers of the American molding industry requesting relief from the unfair competition offered by Mexican molding producers.

There are present today these representatives of the American molding industry from Oregon, California, Arizona, New Mexico, Texas and Maine:

Enoch Israelson, Dorris Lumber & Moulding Co., Sacramento, Calif.

Les O. Cody, Red Bluff Molding Co., Red Bluff, Calif.

John S. Hanson, Ponderosa Mouldings, Inc., Redmond, Oreg.

George Bradford, McDonald Lumber Co., Portland, Maine.

R. W. Crozier, Forest Products Co., Albuquerque, N. Mex.

Duncan Boggs, Duke City Lumber Co., Albuquerque, N. Mex.

Steve Marlow, Best Moulding Co., Albuquerque, N. Mex.

Nelson Edens, Southwest Lumber Mills, Phoenix, Ariz.

Gordon Whittier, Whittier Moulding Co., Redmond, Oreg.

Jack Wilson, Wilson Builders Supply, Clifton, Tex.

Harold McNabb, William Cameron & Co., (wholesale), Waco, Tex.

James Cox, Southwest Pine Association, Phoenix, Ariz.

The Western Pine Association, a trade association composed of lumber manufacturers in 11 Western States, supports our position. Some of the members of this association have molding factories of their own, while others sell lumber to molding plants. I would like to have the permission of the committee to file for the record a letter from the Western Pine Association.

Senator ANDERSON (presiding). Without objection.

(The document referred to follows:)

WESTERN PINE ASSOCIATION,
Portland, Oreg., July 7, 1959.

Senator HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: In connection with the Senate Finance Committee's hearings July 16, 1959, on the bill relating to tariff classification of wood moldings, please accept this statement of the position of the Western Pine Association, whose members produce a major part of the wood moldings manufactured in the United States. Such production is predominantly from ponderosa pine.

After thorough study and discussion, the Western Pine Association has endorsed efforts now being made in the Congress to change the tariff classification of wood moldings as a means of remedying the present inequitable relationship with imports from Mexico. Our group decision represents the thinking of approximately 300 producer-members located throughout the 12-State region where ponderosa

pine is the principal species manufactured. Some of these members, we are informed, hope to submit their viewpoints in further detail, on an individual basis, drawing from accumulated experience under the present situation.

The association respectfully urges favorable action by your committee and by the Congress on legislation proposed to correct inequities under which U.S. wood molding manufacturers are seriously affected.

Very truly yours,

S. V. FULLAWAY, Jr., *Secretary-Manager.*

Mr. GAFFNEY. In addition, the Lumber & Sawmill Workers Union, a division of the United Brotherhood of Carpenters & Joiners of America, has also endorsed the legislation we seek. I believe that the secretary of that organization, which represents approximately 50,000 workers mainly in the Western States, has already stated the position of his organization in a letter to the chairman of the Senate Finance Committee.

We would like to say first of all that we are not here to advocate a prohibitive protectionist tariff. We welcome fair and reasonable competition from any source, domestic or foreign. We are here to present a case for relief from an unfair competitive relationship caused by molding products from Mexico. Primarily we are interested in the manufacture of ponderosa pine moldings, although this Mexican competition affects all domestic molding mills.

Moldings generally are the decorative or architectural trim seen in many shapes and forms in homes and other buildings and in furniture. Molding products are manufactured from the higher grade portions of the tree, and may be distinguished from lumber in general by their higher degree of processing or shaping.

Molding in this country costs somewhat more than three times ordinary lumber.

Molding mills in the United States are small plants. Some molding factories are operated in conjunction with sawmills, functioning largely as salvage operations and as small departments. However, the larger portion of the ponderosa pine moldings made come from independently owned and operated small enterprises which purchase from sawmills the lumber from which to make moldings. A negligible amount of moldings is produced by planing mills located in the market areas, confining their production to a few patterns.

Senator Anderson's amendment to H.R. 2411 is not intended to affect any foreign molding producers outside of Mexico. So far as we know, molding products in substantial quantities are not imported into this country except from Mexico. Further, it is a recent development which brings us to advocate this legislation at this time. Until a few years ago, Mexican importations of molding products were insignificant. Also, the present tariff has been the same for many years. Its effect was unimportant because there were no imports. We are advised that Mexico placed restrictions on the exporting of lumber into this country in the early fifties, which resulted in the establishment of the Mexican molding plants. Until this had taken place, molding tariff legislation was of no real importance.

Mexican molding competition is unfair for two basic reasons:

(1) Mexican timber costs are much lower than our domestic costs. There are no reliable statistics available from either the United States or Mexican Governments, as to the going price for timber in Mexico, but if we may believe the offers to sell Mexican timber that we have

received in the past few years, ponderosa pine timber may be bought for approximately $5 per thousand feet and in some cases for as little as little as $1.50. These prices, of course, are only a fraction of what American lumber manufacturers must pay for timber in this country. The accuracy of this statement can be verified by a review of the timber sales made by the U.S. Forest Service, which is the primary supplier of ponderosa pine.

(2) The second disparity lies in wages. Again, we are handicapped by the absence of accurate, reliable, and up-to-the-minute data on wages in Mexican molding plants. However, some idea of Mexican wage levels may be obtained from the U.S. Department of Commerce publication "Investment in Mexico," which describes wages in selected Mexican industries (pp. 175–176). This discussion indicates that laborers receive from 11 to 19 pesos a day, while mechanics get 19 to 25 pesos a day. At the official rate of exchange, the Mexican laborer is receiving between 88 cents and $1.52 per day and the skilled Mexican mechanic is paid between $1.52 and $2 per day. These wages compare with an average in our company's molding plant of more than $2 per hour. The American workman receives for an hour's work as much as the Mexican worker gets for 1 to 2 days of labor.

The tremendous advantage in labor cost enjoyed by the Mexican molding producer makes it extremely difficult for the American producer to compete. Statistics compiled by our company indicate that 22 man-hours are required to produce 1,000 board feet of moldings from lumber. It is obvious that if such a large number of man-hours are required and the American molding producer is paying 15 to 20 times the Mexican wage rate, the lower labor cost enjoyed by the Mexican producer enables him to name his own terms in entering the American market.

We respectfully urge the committee to approve the Anderson amendment to H.R. 2411.

Thank you.

Senator ANDERSON. Mr. Gaffney, just go ahead and have the others speak in whatever order you wish.

Mr. GAFFNEY. Thank you.

Senator CARLSON. Could I have one question of Mr. Gaffney? Just this one statement. You say: "Senator Anderson's amendment to H.R. 2411 is not intended to affect any foreign molding producers outside of Mexico." Is that correct? Is that your understanding of it?

Mr. GAFFNEY. Yes, sir. It is not our intent to attempt to exclude or interfere with the entry of Philippine mahogany about which, I think, you commented earlier, mentioning that the Frank Paxton Lumber Co. has written to you expressing concern.

We are concerned with ponderosa pine and Mexican imports solely.

Senator ANDERSON. I was going to ask that question, and I am glad the Senator from Kansas brought it out, because I knew it was not your purpose to interfere with that practice.

Senator CARLSON. Thank you.

Senator ANDERSON. I want to say to the Senator from Kansas, if he will permit us, we will work out some language to make sure that is not the purpose of it.

STATEMENT OF ENOCH ISRAELSON, PRESIDENT, DORRIS LUMBER & MOULDING CO.

Mr. ISRAELSON. I am Enoch Israelson, and I am president of the Dorris Lumber & Moulding Co. of Dorris, Calif. I am also chairman of the Western Pine Association Moulding Committee.

My company has manufactured and distributed ponderosa pine molding for over 35 years to practically every section of the country. During the past several years the competition from Mexican ponderosa moldings has increased substantially and they have become a depressing influence on our markets.

Complete sales or production figures for the industry are not available but based on what information we have the Mexican imports run from 5 percent to 20 percent depending on the number of homes being built. It is readily evident from these percentages that our industry does not claim that the Mexican product is saturating the domestic market but is still sufficient to undermine the price structure of our business.

As I understand, the 1930 Congress amended the tariff to put wood molding on an ad valorem rate. This act stated that all moldings used "in architectural and furniture" decoration would be duitable at the ad valorem rate. We in the industry feel that this should include all molding products. However, the Customs Bureau has not so interpreted the legislation. They have allowed solid wood moldings to enjoy the same import rate as applied to ordinary lumber.

We have indicated this was of little importance to the domestic manufacturers until the recent influx of Mexican ponderosa moldings. We feel that the legislation now before you is simply an effort to reestablish the intent of Congress. It will give us the benefit of a reasonable tariff and we do not believe the 17 percent ad valorem rate will materially affect moldings imports from Mexico.

In brief summary, I respectfully submit that—

(1) The domestic producer cannot make a profit at Mexican prices;

(2) The duty proposed by Senator Anderson would help stabilize our domestic markets; and,

(3) This duty will not stop Mexican imports.

Thank you, gentlemen.

STATEMENT OF JOHN S. HANSON, PONDEROSA MOLDING, INC.

Mr. HANSON. Mr. Chairman and gentlemen, my name is John Hanson representing Ponderosa Molding, Inc., of Redmond, Oreg. My company is typical of the average molding manufacturer operating throughout the United States. Molding producers are characteristically small business enterprises, generally located in small rural communities. My concern employs approximately 60 men in a community of less than 4,000 population. We attempt, for our own business success and the stability of the community, to operate on a year-around basis. Although our product is not entirely seasonal, we do have peaks and lows in demand which create a fluctuation in the selling price of our products. Our minimum wage is now $2.05 per hour with an average wage scale in excess of $2.50 per hour.

Being strictly a remanufacturer we purchase our lumber from sawmills on the open market in direct competition with other molding manufacturers. We are not members of any established molding group or organization as none exist. We therefore are on our own completely as individuals to rise or fall with our own ability in the national economy.

I am well acquainted with the problem presented to American producers by Mexican molding. It has been may experience in the past several years, wherever we ran into competition with Mexican moldings, that it was impossible for us to compete in the same market. As a result, my company has had to withdraw from territories supplied by the Mexican producers and seek markets elsewhere where their competition was not direct. This is so because their prices were so low it was impossible for us to sell and stay in business. This has caused an inevitable depression for American producers resulting in cutthroat competition for Americans competing in these markets.

From my standpoint, as a small molding manufacturer, and as a representative of this group, I respectfully urge that the committee give favorable consideration to the Anderson molding amendment.

Thank you.

STATEMENT OF HAROLD McNABB, SALES MANAGER, WILLIAM CAMERON & CO.

Mr. McNABB. Gentlemen, my name is Harold McNabb. I am sales manager for William Cameron & Co., wholesale, with general offices in Waco, Tex., who operates 18 wholesale warehouses in Texas and 1 in Oklahoma engaged in the distribution of building materials to dealers. One of these products is ponderosa pine molding, which is of major significance to us. We have distributed moldings since we were founded in 1868 and now carry inventories of 63 different patterns. These are purchased in carload quantities and are sold in smaller units ranging normally from 500 feet to 20,000 lineal feet to dealers who usually sell in still smaller quantities and in specified lengths to a homebuilder or other consumer.

Molding is a finished wood product used for decorative purposes or for architectural uses and is applied by cutting and nailing or gluing. Molding is popular for window and door trim, base, crown and bed moldings, coves, stops, and so forth.

We consider that a proper percentage of gross profit on sales should be adequate to cover our expense of handling, plus a reasonable profit. We must carry molding inventories to last 3 to 4 months on the average. Moldings are more expensive to handle than most building products.

I am not going to duplicate the statements already made before me with which I am generally in accord, but I would like to point out some facts which I, as sales manager of William Cameron & Co., wholesale, have personal knowledge.

Mexican molding imports have made it increasingly difficult for us to make a proper return on the investment. In August 1957, prices were published to dealers on ponderosa pine moldings from Mexico, f.o.b. warehouse, which were on the average 25 percent below our published prices, which we consider as representative of the market price level. These comparative prices are based on quantities of less

than 4,000 lineal feet. Beyond this our customers were offered these Mexican moldings on orders amounting to $6,000 and over (roughly 200,000 lineal feet or a truckload) at prices which were on the average 4 percent below our cost on the same moldings purchased from domestic sources in carload quantities. In other words, if we had sold our moldings at these prices we would have lost money without any regard to overhead expense.

We can see no economic reason for a reduction in the level of our molding prices. The value of moldings used in an average house is estimated by us at less than $200 at the consumer level. We consider that any increase in this value of moldings by reason of using American moldings would be negligible as it relates to the total cost of a house. This again is based on the assumption that retail dealers have passed on all costs savings from the purchase of foreign molding to the home-builders, which does not always happen. We doubt further that Mexican competition has paid, or can pay, a fair share of taxes in this country commensurate with their revenue from this country. We fail to understand why we are penalized by this wide divergence in cost which seems to benefit only a comparative few. We, as Texas jobbers of moldings, would appreciate your favorable consideration of the Anderson molding amendment to H.R. 2411.

Thank you.

Senator ANDERSON. Mr. Gaffney, did you hear the statement made by Treasury that if you were in some difficulty about this there might be an escape clause remedy for you?

Mr. GAFFNEY. Yes, Senator; I did.

Senator ANDERSON. In view of the fact that the tariff is only $1 a thousand, and if you applied the escape clause you can only add 50 percent to that which would give you $1.50, would that give you any protection?

Mr. GAFFNEY. Obviously $1 a thousand is an insignificant amount, and $1.50 would only be a very little more significant. It would be of very little real value to us.

In addition to that, Senator, as we understand it, to obtain relief under the escape clause it is necessary to prove through comprehensive statistics that the industry has been damaged or is threatened with imminent injury.

In a small business industry such as moldings, with the extreme difficulty of getting any kind of statistics, the escape clause provision is no practical remedy to us at all.

We do know of some people in other branches of the lumber industry who have attempted to use the escape clause, and have spent thousands and thousands of dollars and several years of time with no relief yet. That is a forbidding prospect to us.

Senator ANDERSON. There was a flooring manufacturer, as I remember it, from Illinois who tried to do it, and did not get very far.

I have here handed me a pamphlet of western pine series, "Western Molding Patterns."

When molding comes into this country in carload lots from Mexico does the inspector go into the car and see whether any of these patterns are entered or not? Or does he just say "That is molding," and let it come in at the $1 rate or the other rate?

Mr. GAFFNEY. It is my understanding that he makes a casual examination and determines that they are moldings right at that point.

I believe the procedure also is to take a sample of each of the patterns in the car, a small 1-foot sample, or something of that sort.

Senator ANDERSON. Do you think most of it comes in under section 412, which gives 17 percent ad valorem duty as architectural and furniture decoration or does most of it come in at the other rate?

Mr. GAFFNEY. Most of it, our understanding is, comes in as lumber at the $1 rate. The multipieced molding is supposed to come in at the 17 percent rate; however I am not familiar with the customs handling of it.

Senator ANDERSON. Most of it comes in at the lumber rate.

Mr. GAFFNEY. Yes, Senator, by far the majority of it does.

Senator ANDERSON. Does the Treasury Department supply you with any statistics which show how much comes in at the lumber rate and how much at the other rate?

Mr. GAFFNEY. There are some statistics on the total value of wood products that have come into this country, however there is no segregation as to what is molding, what is one-piece or multipiece molding or what is lumber. It is all lumped in a "manufactures of wood" category.

Senator ANDERSON. I tried to get some information, and I could not get it, and I am not surprised that you could not get it either.

Are any of the other members of your group desirous of making additional statements other than these four statements which have been filed, or do they pretty well take care of your group?

Mr. GAFFNEY. I do not think there are any more statements, Senator.

I think the group agreed to let the four of us speak for them, and what we have said, I believe, represents pretty much the opinions of our entire group.

Senator LONG (presiding). Let me just ask you a question. What would you say your cost would be, based on whatever unit is standard in your business; that is, do you use a carload or a thousand feet or how do you usually sell it? What is your cost based on your standard unit?

Mr. GAFFNEY. Our company tries to convert the molding footage back to board footage, and our unit of measurement is a thousand board feet.

In the case of my particular company, our costs over the past 3 years have been running between $300 and $320 to manufacture a thousand feet.

Senator LONG. I see.

Now, what do you estimate the cost of this Mexican product which is competitive with yours to be?

Senator ANDERSON. In Mexico?

Senator LONG. Yes, the cost of it when it reaches our border. What do you estimate it to be?

Mr. GAFFNEY. Senator, it is just about impossible to say what it costs the Mexican producers. We have no knowledge of their cost of timber, or their wage rates, or their transportation costs.

We can only infer that their costs must be considerably less because they have offered their moldings at approximately 25 percent less than ours, and they have stayed in business over the years, and apparently have prospered, so apparently their costs are considerably under ours.

Senator LONG. You do not know whether their costs are 25 percent lower or a lot less? You testified here as to a great differential in their wage scales as compared to yours, and also a differential in the price they are paying for the raw material, if I understand it.

Mr. GAFFNEY. Yes, sir.

Senator LONG. It would seem to me that for us to arrive at a proper and fair solution to your problems we need to know within some degree of accuracy what their costs may be.

Of course, we talk about their labor being much less expensive on an hourly basis, but we have to keep in mind that yours is probably much more productive than theirs. You probably get more out of yours than they do theirs. I should imagine that would be the case, wouldn't you? You probably have better machinery and better management methods.

Mr. GAFFNEY. No, sir.

The chances are they have better machinery than ours because theirs is a newer industry and they have, in recent years, bought new machinery, whereas we have been limping along with ours for decades.

Now, there might be a point for debate as to efficiency of labor. I cannot answer you as to whether they use one and a quarter or one and a half men to our one man.

Senator LONG. Well, yes.

You give certain figures which would indicate that their costs could be less than half of your costs, and yet I cannot see that you are in a position to give us any reliable estimate as to what their actual cost is.

What is the tariff on that 1 board foot? How do you estimate the tariff when it comes across the border?

Mr. GAFFNEY. The Collector of Customs assesses the duty and it comes in at $1 per thousand board feet. That is about one-third of 1 percent of the value, compared to the 17 percent of value that we are seeking.

Senator LONG. I see.

Mr. GAFFNEY. Now, the 17 percent of value is what is applied to the two-piece molding that Senator Anderson held up this morning.

Senator LONG. That is 17 percent ad valorem?

Mr. GAFFNEY. Yes, sir.

Senator LONG. You think that would put you on a competitive basis with them? How much of your market do you think they have managed to acquire by this time?

Mr. GAFFNEY. We estimate——

Senator LONG. That is, the market for your type of product?

Mr. GAFFNEY. We estimate that between 5 and 20 percent of the American market has been taken over by the Mexican producers.

Senator LONG. Of course, at the way it is going there is no reason why they would not take it all over a period of a few years if they keep going that way, I assume that is your feeling?

Mr. GAFFNEY. That is a possibility.

Senator LONG. There is no reason why they should not expand production unless there is some additional protection given the American producer?

Mr. GAFFNEY. Yes, sir; that is correct.

Our wage scales have been ascending for years, and there is apparently no stopping the wage spiral, for wages apparently will continue to go up.

Our timber prices have been rising, and if that continues, and if there is no change in the Mexican cost of production it would be logical to suppose that their industry will grow and ours will shrink.

Senator LONG. Yes.

That is all. Those are all the questions I have.

Senator Carlson, did you wish to ask any questions?

Senator CARLSON. I just wish to state this: I sympathize with you and others who have appeared in behalf of this problem, and I think you have emphasized correctly the difficulty of getting relief from the escape clause.

Mr. GAFFNEY. Thank you, Senator.

Senator LONG. Senator McCarthy?

Senator MCCARTHY. No questions.

Senator LONG. Our next witness is the Honorable Harold T. "Bizz" Johnson of California.

STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Representative JOHNSON. Mr. Chairman, I appreciate this opportunity to express my support of the amendment to H.R. 2411, offered by Senator Anderson, which would increase the rates of duty on imported wood moldings from Mexico.

As you know, historically all wood molding products have been imported under the regular lumber rates. In 1930 the Congress amended the tariff act, apparently intending to put wood moldings on an ad valorem rate. The Customs Bureau, however, has not interpreted this legislation in this manner. Wood moldings still are subject only to the same import rate as applied to ordinary lumber.

For many years imported molding products were not of importance to domestic producers, but along about 1956 importations of Mexican moldings became serious. While official figures are not available, it is estimated that 35 carloads of molding a month are being imported from the El Paso point of entry.

I have joined with Senator Anderson and Representative Montoya, of New Mexico, in introducing legislation to remedy this situation. The bills propose to amend section 412 of the Tariff Act of 1930 by removing wood moldings from the ordinary tariff rate and placing such products under a higher ad valorem rate. Under the present situation nearly all solid wood moldings may be imported into this country for $1 per thousand board feet. As the result of a recent Customs Bureau ruling, finger-joined molding stock now carries a duty of 16⅔ percent ad valorem. If the legislation we are offering becomes law, all molding imports will be assessed at 17 percent ad valorem.

The proposed legislation will remedy an inequitable relationship with imports from Mexico which are in direct competition with the ponderosa pine molding products of this country. It will not substantially affect producers of lumber products from other countries.

The legislation has the support of the Western Pine Association, Southwest Pine Association, the principal molding manufacturers in California, Texas, New Mexico, and Arizona; the Lumber & Sawmill

Workers Union, affiliated with the United Brotherhood of Carpenters & Joiners of the AFL–CIO.

It should be pointed out that Mexico is not a reciprocal trade treaty country. Mexico imposes a heavy tariff on molding products from this country—1.75 pesos per thousand board feet or 14 cents for each 2.10 pounds, whichever is higher, plus 70 percent ad valorem. As the Mexican producers can come into the domestic market at 25 percent under the existing domestic prices, a 17 percent ad valorem duty would not prohibit their competing in our market. They still would have an 8 percent advantage. It just puts the American producers on a more fair competitive basis.

The legislation is basically a corrective measure and reasonable. As pointed out by others, it will not destroy foreign business enterprises but it will help keep the American molding industry going.

I hope the committee will see fit to take favorable action on this proposal. I thank you.

Senator LONG. Thank you, Mr. Johnson.

There is a group of witnesses testifying in opposition, and I believe that Mr. James Boren, of Senator Yarborough's office is here representing Senator Yarborough.

Is Mr. Boren here?

Mr. WILLIAMS. I am James D. Williams, Jr., counsel for these people, and Mr. Boren has had to go back to his office, and he excused himself.

Senator LONG. I understand he was over here from Senator Yarborough's office to indicate Senator Yarborough's interest in this matter. His views are more in line with the witnesses you are to present here. You go right ahead and present your witnesses.

Do you care to present them altogether or do you want to have each witness examined as he makes his statement?

Mr. WILLIAMS. If the Chair please, whatever suits the pleasure of the committee. They have prepared statements. They will read them and they will then be open to examination.

Senator LONG. All right. Suppose you go ahead and present your first prepared statement.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. Leyba will testify.

STATEMENT OF JOSEPH M. LEYBA, STATE LUMBER CO.; ACCOMPANIED BY JAMES D. WILLIAMS, JR., ATTORNEY, AND HADLEY S. KING, ATTORNEY

Mr. LEYBA. Mr. Chairman and members of the committee, my name is Joseph M. Leyba, and I am associated with State Lumber Co. of El Paso, Tex. My company is sales representative in the United States for Molduras de Pino of Juarez, Mexico, and I appear here in opposition to the amendment to H.R. 2411 which increases the duty on wood molding to 17 percent ad valorem.

We are presently paying on such molding a duty of 25 cents per thousand board measure plus an internal revenue tax of 75 cents, or a total of $1 per thousand. The proposed rate of 17 percent ad valorem will amount to about $46 per thousand board measure, or an increase of more than 4,000 percent over the existing duty and tax of $1 per thousand.

There is no need at this time for any increase whatsoever over the present customs duty rate, as the imports from Mexico represent only a minute portion of the molding produced in the United States.

Total imports of wood molding from Mexico came to $4,600,000 in the year 1958, and will certainly go no higher than $4,900,000 in 1959. Yet this $4,900,000 figure will be less than 3 percent of the total value of wood molding shipments in the United States for 1959. I refer the committee to the Department of Commerce 1957 Annual Survey of Manufactures, series MAS–57–2, released February 18, 1959. On page 8 are set forth these shipments for the years 1954 through 1957. In another Department of Commerce publication, Construction Review for June 1959, are set forth the new nonfarm dwelling units started for these same years. A comparison of these figures shows a 4-year average shipment of $130 per nonfarm dwelling. Page 20 of Construction Review tells us that we are building at a seasonally adjusted annual rate of 1,390,000 dwelling units for 1959. Multipying this by the conservative $130 gives a probable total shipment figure of $180,700,000 for 1959, of which the Mexican shipments of $4,900,000 will be only 2.7 percent.

The value of all imports of wood molding from Mexico for the year 1957 was approximately $4,300,000 and for the year 1958 $4,600,000. The 1959 imports are estimated at $4,900,000. We believe that this is a definite peak because the available amount of rough lumber controls the amount of production of molding. This year's production of molding is from cutting permits granted by the Mexican Government in 1958. The 1959 cutting permits have already been substantially reduced over what they were in 1958, so that the production of molding in 1960 will of necessity be less than it has been in 1959.

The new Government of Mexico has adopted a definite policy of forestry conservation and the restriction and limiting of cutting permits. The permits for the coming year will represent a drastic reduction of those issued in the past.

There is no market of any consequences for the sale of wood moldings in Mexico.

The sale of wood moldings for export to the United States has not proven attractive to all producers. In 1956 there were 14 manufacturers of wood moldings and in 1959 there are only 4 of them operating full time and 4 working only on a part-time basis.

At the present time the demand for moldings in the United States exceeds the available supply and there are submitted herewith several letters from American suppliers confirming this situation. I should like to read one or several of them to you.

This is addressed from Clear Pine Products, Inc., Nubieber, Calif., dated July 7, 1959, and it says:

DEAR SIRS: Sorry, but we are unable to quote either of these. Our order file is full through the month of August, and we do not have production capacity or lumber available to take on any additional business. Thanks for sending to our attention.

When they talk about a list, they refer to a list sent by a customer. This is signed by Neal Masoth, manager.

There are several of these letters and, of course, more could be obtained.

Senator ANDERSON. What was that intended to prove?

Mr. LEYBA. That at present, sir, the available supply of moldings is not adequate to meet demand.

Senator ANDERSON. That is one firm. You mean that the situation in the United States is the same?

Mr. LEYBA. I believe, sir, that this situation is generally true, that most molding producers have an order file as heavy as they would like to carry at this time.

Senator ANDERSON. It did not sound that way from these four previous witnesses.

Mr. LEYBA. No, sir; it did not, and I would like to point that fact out.

Senator ANDERSON. You introduced this letter as evidence to the contrary?

Mr. LEYBA. Yes, sir. I have introduced four letters.

(The documents referred to follow:)

SUNSET MOULDING CO.,
Yuba City, Calif., September 30, 1958.

LUMBERMANS SASH A DOOR CO.,
Dallas, Tex.
(Attention: Mr. Joe Fojtasek).

DEAR MR. FOJTASEK: In regards to your letter of September 24, inquiring about our present prices. We are booked solid trhough the end of November: and at the present time do not wish to book any additional business.

After the first of the year we will no doubt find our order file whittled down a bit.

It was good to her from you and trust we might have the same privilege after the first of the year.

Yours very truly,

GAYLE V. MORRISON.

CLAREMONT WOOD PRODUCTS CO.,
Chico, Calif., July 6, 1959.

DEALERS WHOLESALE SUPPLY, INC.,
Detroit, Mich.
(Attention: Nick Martin, Jr.).

GENTLEMEN: Thank you for your inquiry of July 2. We regret that we cannot quote at this time as we are oversold and temporarily off the market.

We hope we shall be able to help you in the future.

Sincerely yours,

MORGAN GARDNER.

DEALERS WHOLESALE SUPPLY, INC.,
Detroit, Mich., July 2, 1959.

GENTLEMEN: Please quote for 30 days or sooner, the following cars. An immediate reply is requested.

CAR No. 1

100,000	7/16 x 1 1/16	LWP127	Shoe.
100,000	7/16 x 2	LWP713	Casing.
50,000	7/16 x 3	LWP713	Base.
40,000	7/16 x 3 1/4	LWP713	Do.
75,000	7/16 x 1 1/8	WP848	Stop.
40,000	7/16 x 1 3/8	WP848	Do.
25,000	7/16 x 1 3/4	WP846	Do.
30,000	1 1/16 x 1 3/8	WP177	Brick.
40,000	1 1/16 x 1 1/4	LWP166	Bed.
20,000	1/2 x 3/4	WP254	Porting stop.
15,000	1 1/16 x 2 3/4	WP1103	Stool.
50,000	3/4 x 3/4	WP105	Quarter round.
50,000	1 1/16 x 2 1/4	WP321	Casing.
1,000 sets	7/16 x 1 1/8	WP848	Stop.
5,000 sets	7/16 x 2		Casing.

CAR No. 2

25,000	¾ x ¾	WP105	Quarter round.
25,000	1 1/16 x 1¼	LWP166	Bed.
25,000	1 1/16 x 1⅜	WP177	Brick.
5,000	1 3/16 x 1 5/16	WP237	Balister.
15,000	1 1/16 x 2¾	WP52	Crown 10-foot and larger.
15,000	1 1/16 x 1⅜	WP74	Bed.
8,000	1 1/16 x 1⅜	WP85	Cove.
10,000	7/16 x 1 1/16	LWP127	Base shoe.
10,000	5/16 x 1		Neck molding.
25,000	7/16 x 1¼	WP937	Stop.
20,000	7/16 x 1¼	WP847	Do.
15,000	7/16 x 1¾	WP844	Do.
7,000	7/16 x 1¾	WP934	Do.
7,000	7/16 x 2¼	WP843	Do.
7,000	7/16 x 2¼	WP933	Do.
20,000	½ x 3¼	WP723	Base.
20,000	1 1/16 x 2¾		Casing (5/4 stock).

Sincerely,

DEALERS WHOLESALE SUPPLY, INC.,
NICK MARTIN, Jr.

CLEAR PINE PRODUCTS, INC.,
Nubieber, Calif., July 7, 1959.

DEAR SIRS: Sorry, but we are unable to quote either of these. Our order file is full through the month of August, and we do not have production capacity or lumber available to take on any additional business. Thanks for sending to our attention.

Very truly yours,

NEAL MASOTTI, *Manager.*

DANT & WARNOCK, INC.,
Menlo Park, Calif., March 12, 1959.

LUMBERMANS SASH & DOOR CO.
Post Office Box 10025, Dallas, Tex.

(Attention: Mr. Joe Fojtasek).

GENTLEMEN: Reference your letter of March 3 regarding ponderosa pine moldings, solid and finger joint, we are sorry but at the present time we are in a heavily oversold position on moldings and would be unable to quote on your requirements. Many thanks for your interest.

Yours very truly,

JACK V. HILL.

MR. LEYBA. In fact, we cannot fully supply the demands of our customers and not because our prices are lower than those of American producers. Our prices are substantially the same. And there is submitted for your consideration a price comparison of two of our customers with accompanying invoices demonstrating that our prices for the same items have in some instances been a few cents higher than the American prices and in others a few pennies lower.

(The documents referred to follow:)

PRICE COMPARISON

American producer: Temple Products, Inc., Temple, Tex.
Mexican producer: Molduras de Pino, S.A., Juarez, Mexico.
Customer: Lumbermans Sash & Door Co. and Dallas Prefabricators, Inc., Dallas, Tex.

Reference				Catalog number, description, and size	Prices		Discounts		Adjusted net prices	
Order No.		Item No.								
United States	Mexico	United States	Mexico		United States	Mexico	United States	Mexico	United States	Mexico
							Percent	*Percent*		
565	1276	1	4	No. 15 casing, 5/8 x 2 1/8, finger joint	$3.33	$3.33	2	2	$3.26	$3.26
565	1278	2	3	Wedge casing, 5/8 x 2 1/8, finger joint	3.33	3.33	2	2	3.26	3.26
565	1249	3	6	No. 15 base, 1/2 x 3 1/4, finger joint	4.42	4.50	2	2	4.33	4.41
565	1253	4	1	8541 stop, 7/16 x 1 3/8, finger joint	1.65	1.76	2	2	1.62	1.72
565	1253	6	5	8614 S/4/, 1 1/16 x 1 3/4, finger joint	3.12	3.21	2	2	3.06	3.15
565	1249	7	1	8016 bed, 1 1/16 x 1 5/8, finger joint	2.70	2.80	2	2	2.65	2.74

American producer: Lausmann Lumber & Moulding Co., Loomis, Calif.

Reference				Catalog number, description, and size	Prices		Discounts		Adjusted net prices	
Order No.		Item No.								
United States	Mexico	United States	Mexico		United States	Mexico	United States	Mexico	United States	Mexico
							Percent	*Percent*		
6809	1278	1-2-3	5	No. 15 casing, 5/8 x 2 1/8, solid sets	$4.10	$4.07	2	2	$4.02	$3.99

PRICE COMPARISON—Continued

American producer: The Martin Bros. Container & Timber, Oakland, Oreg.
Mexican producer: Molduras de Pino, S.A.
Customer: The Evans Lumber Co., Birmingham, Ala.

Reference				Catalog No., description, and size	Prices		Discounts		Adjusted net prices	
Order No.		Item No.								
United States	Mexico	United States	Mexico		United States	Mexico	United States	Mexico	United States	Mexico
							Percent	*Percent*		
2649R	1280	1	10	142 S. Bead, ¼ x ¾	$0.79	$0.90	5-2	5-2	$0.74	$0.84
2649R	1187	5	1	816 stop, 7/16 x 1⅜	2.28	2.31	5-2	5-2	2.13	2.15
2814	1280	9	19	105 quarter round, 1 1/16 x 1 1/16	1.48	1.68	5-2	5-2	1.38	1.57
2814	1280	1	13	856 stop, ⅜ x 1⅜	1.76	2.15	5-2	5-2	1.64	2.00
2814	1280	3	15	855 stop, ⅜ x 1⅝	2.04	2.54	5-2	5-2	1.90	2.36
2814	1216	5	3	Sp. casing, ⅝ x 2 3/16	3.80	4.00	5-2	5-2	3.54	3.72
2814	1216	6	6	Sp. casing, ⅝ x 2 3/16 sets	.67	.73	5-2	5-2	.63	.68
2814	1216	8	1	713 base, ½ x 3¼	4.86	5.46	5-2	5-2	4.53	5.09
2796	1187	1	28	126 shoe, ½ x ¾	1.28	1.34	5-2	5-2	1.20	1.24

Mr. LEYBA. Mr. Chairman and members of this committee, I respectfully suggest that the American molding manufacturers cannot demonstrate any injury from the almost insignificant imports. To cut off completely all imports, as the proposed 17-percent duty would do, might result in increasing the inflationary pressure of an item shown to be in short supply.

I therefore urge you not to adopt the Anderson amendment to H.R. 2411.

Thank you, Mr. Chairman, for the opportunity of being heard.

Senator LONG. Thank you very much.

I will call the next witness at this time.

If you would like to volunteer some information with respect to the testimony of succeeding witnesses, you might just pull up a chair here and stay by the witness table as the other witnesses testify.

Mr. WILLIAMS. Mr. Stewart will testify.

STATEMENT OF GROVER C. STEWART, JR., PRESIDENT, SOUTHWEST MOLDING CO.

Mr. STEWART. Mr. Chairman and members of the committee, I am Grover C. Stewart, Jr., president of Southwest Molding Co., of Dallas, Tex.

I import wood moldings from Maderas Selectas of Juarez, Mexico, and am familiar with the principal suppliers of such moldings in that country. At the present time Maderas Selectas, Molduras de Pino, and Maderera de Casas Grandes produce and export an estimated 90 percent of the total amount of molding shipped to the United States. The remaining 10 percent is sold by small marginal producers.

The selling price of the three principal Mexican manufacturers is on the average no lower than the prices of American manufacturers and for a product that is not superior to the domestic molding.

Speaking for myself, I am willing to have a Government representative examine my invoices in total for the past year and compare them with invoices of any representative U.S. manufacturer. I believe he will find no substantial difference, or, if anything, I believe he will find our prices to be higher.

Mention has been made of finger-joined moldings. There is no need for legislation on this item as the U.S. customs are classifying such molding as a manufacture of wood at 16¾ percent under paragraph 412 of the Tariff Act.

Senator LONG. If I might interrupt you there, I am told that when a load of molding comes in the inspectors do not inspect it to see whether it is finger-type or joint molding or whether it is ordinary molding but that they just look at it and say, "That is molding," and then let it go in at that.

Do you have any comment on that, or would you know?

Mr. STEWART. Well, No. 1, sir, I am a purchaser from Maderas Selectas, and at no time have I ever had any dealings with American customs, and it would be the duty of American customs to determine what transpires or what crossings take place at the border.

Does that answer your question?

Senator LONG. Do you know of your own knowledge whether this 16¾ percent has ever been collected on finger-type moldings?

Mr. STEWART. Are you asking, sir, that there is a chance that finger-jointed moldings are coming into this country without the duty being declared by the producers in Mexico?

Senator LONG. I am not asking how it gets in. I am just asking you if you have had any experience with whether on orders of finger-jointed moldings, whether you know the 16⅔ is being collected or whether some of that might be coming through on the ordinary $1 tariff.

Mr. STEWART. Mr. Chairman, my molding plant, the plant that I represent, Maderas Selectas, has been in the production of finger-jointed moldings for a very short while.

I believe the month of October 1958 was the date when our machinery was finally installed and made available for us. I do not have a dollars-and-cents record of the amount of finger-jointed moldings which we have introduced to the United States since that time, but I believe I can safely say that it would not exceed, perhaps, $3,000 to $4,000 in value, and on all of the finger-jointed moldings which Maderas Selectas has imported to the United States I am certain that the duty of 16⅔ percent has been paid.

Senator ANDERSON. Did I understand you to say that the Maderas Selectas is your firm?

Mr. STEWART. No, sir; it is the firm I represent.

Senator ANDERSON. Then this finger-jointed molding, you say, only a small amount of it has come in?

Mr. STEWART. Only from the plant I represent.

Senator ANDERSON. The previous witness said that if you put this 16⅔ percent against molding it would cut off completely all imports, and it is your testimony that it has not cut it off; is that right?

Mr. STEWART. Well, Senator——

Senator ANDERSON. Well, either it has or it hasn't. You just testified that it came in, and it did not cut it off.

Mr. STEWART. May I be permitted to answer your question, Senator?

Senator ANDERSON. Yes, you may.

Mr. STEWART. When you go into the production of an item such as finger-jointed moldings, which requires a rather excessive amount of money expenditure to buy the machinery, and since October of 1958 a given plant estimates its importations to be between three and four thousand dollars, I would say that the answer is negative, that it has cut off for practical purposes production of finger-joint moldings from Maderas Selectas.

Senator ANDERSON. Did you now say this was a new plant?

Mr. STEWART. I said the finger-joint portion of the plant is new.

Senator ANDERSON. Yes.

Now, they built that knowing that the duty would be that much, didn't they, 17 percent?

Mr. STEWART. No, sir; that is not correct. The duty was removed for a short period, according to the way in which I understand the laws, for a short period of, perhaps, 60 to 90 days, and my counsel had better tell me——

Senator ANDERSON. But at the time they started building that plant, the duty was 17 percent, was it not?

Mr. STEWART. That is not right, sir.

Senator ANDERSON. What was it?

Mr. STEWART. The duty is the same as it is on solid wood moldings.
Senator ANDERSON. $1?
Mr. STEWART. That is correct, sir.
Senator ANDERSON. So that only for a period of 60 days, you say it was down to $1, and the rest of the time it was 17 percent?
Mr. STEWART. Senator, I did not qualify the exact period. That was my estimate. The duty was removed for a brief period of some weeks, and was reestablished; is that correct, counsel?
Mr. KING. The duty was never actually or officially reduced to $1 a thousand.
Mr. Stewart, after conferring with the Treasury Department, and following a decision of the customs court which was rendered in 1957, was hopeful that the duty on finger-jointed molding would be only $1 a thousand and I believe based on that hope, which did not materialize, they installed this machinery in Juarez, Mexico.
Senator ANDERSON. Yes, but it was done when the duty was 17 percent?
Mr. KING. The duty on finger-jointed molding of this type, Senator, has never been 17 percent.
Senator ANDERSON. It has been 16⅔?
Mr. KING. 16⅔.
Senator ANDERSON. I just thought maybe we could take 17 percent which was the figure which had been used. If you want to make it 16⅔——
Mr. KING. The rate is not important, but the classification is.
Senator ANDERSON. Yes.
Mr. KING. Because the 17 percent applies to the type of molding that has been under discussion here this morning.
Senator ANDERSON. What is the 16⅔ percent?
Mr. KING. The 16⅔ percent is applied under the basket clause of 412, which is for the manufactures of wood generally not otherwise provided for.
Senator LONG. Let me ask you something about that machinery now. You say in Juarez, Mexico; I assume that is American machinery you are using to manufacture your product.
Mr. STEWART. That is correct, sir.
Senator LONG. That is this particular Maderas Selectas is using. Can that machinery be brought back to the United States without paying a duty on it or does it have to pay duty to come back in?
Mr. STEWART. That is a question which I am not qualified to answer, sir.
Senator LONG. So, if I were making that investment I would want to know that. If I owned stock in Maderas Selectas I would certainly like to know if I set up that type of an operation in Juarez, Mexico, at 16⅔ duty whether I could get my machinery back in and install it in the United States.
Mr. KING. If that machinery is of American manufacture, it can be returned to the United States without the payment of duty.
Senator ANDERSON. Is the Maderas Selectas plant owned by Americans?
Mr. STEWART. The controlling stock is, yes.
Senator ANDERSON. Are you one of the stockholders?
Mr. STEWART. I am not.
Senator ANDERSON. Is your firm one of the stockholders?

Mr. STEWART. It is not, sir. I have no interest in the plant.

Senator ANDERSON. You refer to "our plant," "our plant."

Mr. STEWART. Well, sir, when you deal with a concern, for instance, I purchased the entire production of Maderas Selectas. It is an easy term of speech to use. I don't deal with any other plant.

Senator LONG. Mr. Stewart, so far as I am concerned, I do not know if we have anybody in Louisiana who competes with you and I can kind of try to be a referee here as between the two contending forces between New Mexico and Texas on this, but can you give me some information as to how your costs for doing this operation compare in Mexico with what you believe it would be in the United States?

Mr. STEWART. Sir, I am not qualified to speak on that subject. In other words——

Senator LONG. Frankly, my general feeling about it is that it would be a desirable tariff policy on the products of this sort if the competitors were on more or less an equal footing to where—just the same as they would be if both were located in the United States.

Mr. STEWART. Yes, sir.

Senator LONG. I do not want you to be in a position of not being able to sell your product you manufacture in Juarez, but I also dislike to see a situation created where it is a good business decision to move right across the Rio Grande River and where you have lower costs and where an American on the other side of the river has to lose business while you expand your operation.

You do not have that information. You told me—would you have any objection if someone asked to examine your costs to make available the figures on your operation in Juarez to see what it costs to make that product?

Mr. STEWART. Senator Long, it is my impression that the main issue here is the selling price of our moldings which my company, Southwest Molding Co., of Dallas, sells its product at, and it is my contention that we sell our product on an equal or perhaps a higher basis than the production of American moldings in this country.

Senator LONG. You can leave it on that basis if you want to, but I have had some experience with these problems sitting around on this committee over a number of years and I can tell you that American concerns are not satisfied with that answer because, well, for example, you take oil, that is a big industry where I come from. If they see that foreign oil can be produced at half their costs, they know, and they see there is an unlimited supply, they know foreign oil is going to keep coming in until it takes the entire market unless something is done to put the American producer on a competitive basis with the foreign costs.

In other words, a foreign fellow sells his oil at the same price as the domestic man, but he just keeps bringing it on in and he is going to keep expanding unless and until something stops him.

Now, he either meets the price as he expands or he cuts the price one way or the other, but in either event, he is in position to keep expanding because his costs are half the costs of the American producers.

If you were situated in a position of the people who testified just before us, as American producers, asking to be put in a competitive position, you would not find it a satisfactory answer at all that the other fellow might just be meeting your price if you knew he could cut the price any time he wanted to and still make a profit.

You are telling me so far as you are concerned that it is irrelevant. I, myself, say to you, as one not wedded to one side or the other, it is very important. But you do not feel like making available any costs of your product to see how it compares with these other producers. They told us; they couldn't tell us your costs. You do not feel like making it available if I can understand your position correctly.

Mr. STEWART. Sir, I do not have the costs of the plant to make available. I am sales agent for the plant, and I do not believe it is too common a practice for a plant to make available to a sales agent the costs of production.

Senator LONG. Let me ask you this: Is Maderas Selectas going to be represented at this hearing? They are affected by what happens on this bill. Are they going to be represented?

Mr. STEWART. No, sir.

Senator LONG. You are speaking for them or on behalf of them; have they authorized you to urge their case for them?

Mr. STEWART. Yes; that would be correct.

Senator LONG. Would you inquire of them if they would have any objection making available such information as they had to arrive at what their costs are compared to American producers?

Mr. STEWART. That would be, it seems like to me, a question for the company.

Senator LONG. Then go right ahead, sir.

Mr. STEWART. I would like to point out at this point that we definitely do not have an unlimited supply of moldings which is brought about by a limited supply of materials. That would be pointed out in just a moment in my statement.

Senator LONG. Mr. Stewart, my feeling about this matter is so far as those of you who speak about foreign producers are concerned, I like to see them in a position to compete. I do not like to see them being put in a position by decisions we make in Washington, they can impose a death sentence on American industries because I think Americans have a right to compete with them, too, especially in the American market.

Mr. STEWART. That is right, sir.

Senator LONG. And it just seems to me as though if we get the facts, we might be better able to do justice to both sides.

Mr. STEWART. Senator Long, may I say, sir, that our contention is that we are less than 3 percent, that is, all of the Mexican moldings introduced into the United States is less than 3 percent of the total sales volumes of moldings in the United States.

Senator LONG. How about ponderosa pine moldings? What percentage of those are you?

Mr. STEWART. Sir, I would not know that answer.

Senator LONG. That is what we are talking about here this morning, if I understand it. I have only been in this hearing room for less than an hour, that is what I thought we were talking about, ponderosa pine moldings, a particular type of product. These fellows say they are not interested in the mahogany that comes in from somewhere else. But it is the product they are competing with.

Mr. STEWART. The witnesses proposing this bill have made a statement that not only did ponderosa pine moldings compete with ponderosa pine in the United States but that also we were competing

with other moldings produced in the United States from other species of lumber, sir.

Senator LONG. I have had this experience of somebody coming in and saying, "Now, you can talk all you want to about the Japanese having only a certain percentage of the American market, but I am producing velveteen and gingham and they have got it all in my line," that is what these people are talking about. In the line they are producing they contend they are in bad shape and it is going to get worse unless they get some protection, and I was hoping if you would testify right directly to the presentation that they made to see just whether they were in bad shape. Suppose you go right ahead.

Senator ANDERSON. Could I go back a moment ago to this question I heard about this firm. I asked you if you were interested and you said you were not. I asked you if your firm was interested, and you said they were not.

Is your father interested in it?

Mr. STEWART. Yes.

Senator ANDERSON. Is your father the major stockholder?

Mr. STEWART. Yes.

Senator ANDERSON. Is he a stockholder in the Southwest Building Co.?

Mr. STEWART. He is not, sir.

Senator ANDERSON. It would not have taken very much to volunteer the fact when I asked you whether any of your group was in it, that your father was a separate person interested in it.

Mr. STEWART. No, sir. There have been quite a few questions asked.

Senator ANDERSON. I asked you about the firm. I was trying to find out why you were the sole distributor for that firm and so forth. Perhaps I did not ask the question exactly correctly. But I was trying to find out why you were speaking for this group and what your knowledge of it was, and I find your father is connected with it.

I realize it is possible for a father and son not to know each other and not to have business with each other, but it was a little unusual in your answer.

Mr. STEWART. I do not feel so, sir, or I would not have given it, in deference to you, Senator.

Senator ANDERSON. Very well.

Mr. STEWART. Shall I continue, Mr. Chairman?

Now the proposed change in the law will apply to the one-piece molding used primarily in house construction which for over 40 years has been classified as lumber and taxed as such. The proposed amendment will not clarify but will result in a direct change in tariff classification which has prevailed since 1915.

The U.S. Customs Court (then the Board of General Appraisers) held molding in 1915 to be lumber. (See abstract 38652.)

The question was raised again in 1930 before the Commissioner of Customs and he again ruled in Treasury Decision 44382 that wood molding should be classified as lumber. The classification by the customs authorities has continued to this date.

The imports of moldings from Mexico can never become a threat to the American industry because of the available supply of comparable types of soft woods. The U.S. Department of Commerce Statistics, section 907, reports a domestic production in 1958 of ponderosa pine, sugar pine and white pine of 5,127 million board feet.

For the same year, 1958, the production in Mexico as reported by the Union de Madereras de Chihuahua & Durango was 170 million board feet, or only slightly more than 3 percent of the supply available in the United States.

Now speaking personally, we cannot afford to pay a duty of 17 percent on imports of wood moldings from Mexico.

Senator LONG. You say you cannot. You just got through disqualifying yourself as a witness to make that statement. You started out by saying you could not tell us what your costs were and you did not feel qualified to speak for the firm you are speaking for to say that you could make available records on your cost of production.

Mr. STEWART. The term "we" here is descriptive for myself, Southwest Molding Co. I cannot afford to pay the 17-percent proposed duty and add it on top of my normal purchase price from Maderas Selectas.

Senator LONG. What percentage of the stock in that company does your father own?

Mr. STEWART. I do not know, sir. It is partially controlled by Mexicans, Mexican nationals.

Senator LONG. Your father has not disinherited you or anything like that?

Mr. STEWART. No, sir; we are on very fine terms. He is a great guy. I wish you could meet him.

Senator LONG. Yes, I would like to meet him. If he were here I could find out some of the things I want to know about the blank spots in your testimony.

Go right ahead, sir.

Mr. STEWART. The few factories in Mexico producing this item will have to close down if the amendment is granted.

Senator LONG. How can you make that statement? You just got through disqualifying yourself to make it.

Mr. Stewart. Well, sir, I am not qualified——

Senator LONG. You are assuming that they are selling at their cost. How are you in position to know they are not selling at one-quarter or one-third of their cost?

Mr. WILLIAMS. Do you mean that or do you mean selling at four times their cost?

Senator LONG. Yes; that is right. I meant it that way.

Let us proceed. Mr. Stewart, your statement assumes that this factory is selling this product at no more than a reasonable profit based on the investment. Of course, you are in no position to tell us whether that is true or not.

Mr. STEWART. I therefor respectfully urge this committee not to adopt the amendment to H.R. 2411.

Senator LONG. Thank you very much, Mr. Stewart, so far as I am concerned you have given us a considerable amount of information as to the volume of these sales and prices that are being asked in the United States. I am sorry that you have not been able to give the other information I wanted because so far as I am concerned I would like to know all the facts on it, just as one Senator trying to pass on the merits of the situation.

Mr. STEWART. I appreciate your position, Senator. Thank you very much.

Mr. WILLIAMS. Mr. Kolliner will now testify.

STATEMENT OF ROBERT KOLLINER, KOLLINER LUMBER CO., EL PASO, TEX.

Mr. KOLLINER. Mr. Chairman and members of the committee, my name is Robert E. Kolliner, president of the Kolliner Lumber Co., El Paso, Tex.

I might say here that I am probably the most disinterested witness here today from the standpoint of personal profit. But I am certainly a most interested witness in the defeat of the Anderson amendment from the standpoint of international policy.

My company imports lumber, not including wood moldings, from Mexico for sale in the United States. I suppose it could be argued that the Anderson amendment would benefit me momentarily, since it would have the effect of eliminating Mexican molding producers, and thus reduce the cost of the lumber I purchase. However, this consideration is secondary in my mind to the further economic development of a healthy, self-sufficient neighbor to the south; namely, Mexico.

I moved to El Paso after World War II. I had been born and raised in Minnesota where my family was in the lumber business, and upon leaving the service I was employed in the lumber business in California before coming to Texas.

Of course, my daily dealings with and in Mexico over the past 12 years have emphasized to me the basic wisdom of the foreign policy of the United States throughout his period and for many years previously: That the future well-being and safety of all of us depends on strong neighbors in the Western Hemisphere.

To my mind we can help make Mexico strong in two ways: Either by helping her help herself to grow strong economically and industrially or by cash handouts. Personally, I prefer the former, and I believe this reflects the sentiment of the U.S. Senate.

Therefore, the only question in my mind has been how we can best help this Mexican industrial and economic development. Certainly one way is to provide the markets for her products that will improve her balance of trade. Naturally, since I am an American citizen, I do not feel that this should be done when the effect would be the destruction of an American industry and the displacement and unemployment of American workers.

However, Mr. Chairman, we are not confronted with danger of such destruction here today. In fact, the evidence shows that the particular American industry involved is in a healthy condition. Thus there is no logical reason for injuring the Mexican economy in this regard in defense of an industry that doesn't need it.

In fact, as has been previously mentioned, destruction of this Mexican industry will actually have an injurious effect on the American economy through creating an artificial shortage which can have no other effect than to feed the inflationary spiral.

Let there be no mistake, Mr. Chairman, the Anderson amendment would be a severe blow to the Mexican economy; it would destroy an infant Mexican industry for no demonstrated useful purpose; and it would sabotage a Mexican governmental program aimed at development of at least part of the Mexican economy along industrial lines.

In passing and as an aside, as a part of this trip I had an opportunity to spend time in the gallery yesterday in the Senate, and I was very,

very pleased to hear the comments made by a number of Senators in the discussion regarding the Inter-American Development Bank. Those men said much better than what I am saying here today much the same sort of thing I am saying here today, this is what Mexico and what Latin American needs, grossly needs, our help to grow, not our abolition of their progress in industrial growth.

Senator LONG. Mr. Kolliner, if you would permit me, sir, I have read your entire statement. I read it all and I would like, if you have no objection, I would like to put it in the record and ask you a couple of questions about it, that is, incidentally, the procedure spelled out under the Reorganization Act, so we can hear the witness who comes behind you during this morning's session. He is testifying for the same position. I have read all of your statement and I want to ask you a question or two about it.

Mr. KOLLINER. Please do.

Senator LONG. Do you have any cost information on the cost of producing these products by the Mexican plants?

Mr. KOLLINER. I, sir, do not personally have. I have nothing more than the conversation of producers in Mexico who have indicated to me what their costs are. I could not document it at this time. But I think the information could be made available and if you would like me to answer what they have told me their costs are, I will be happy to do that.

Senator LONG. Well, if there is someone here who can testify more as a matter of personal knowledge, I think the attorneys for that group might make that available.

Do you have that available?

Mr. WILLIAMS. Mr. Leyba will come on after he finishes.

Senator LONG. Fine. I read your statement here and it is a statement saying that you do not think Mexico can stand a 17-percent rate on this infant industry and that the trade should be encouraged. If the facts are here to back up your case, that is a very good statement; if they are not, why, of course we would have to judge whether or not the costs really are such that there is some protection justified. Those are all the questions I have in mind to ask.

Did you care to ask any more questions of this witness?

Senator ANDERSON. You are very anxious to have this good relationship between countries. Do you think, then, that the Mexican Government ought to treat molding from the United States the same way it wants to be treated in this country? That is good neighborliness, isn't it?

Mr. KOLLINER. Yes; I think that is true, sir. I think if there were any moldings being used in Mexico there would be occasion for us to demand that. But there is virtually a zero market in Mexico.

Senator ANDERSON. Is that why Mexico imposes a duty on the 175 pesos for a thousand board feet or 14 cents for each 2.1 pounds.

Mr. KOLLINER. It could as easily have imposed 10 times that and it would not have meant anything because there is no market in there.

Senator ANDERSON. You mean there is no market because it cannot survive; isn't that right?

Mr. KOLLINER. They cannot even use what they make themselves, let alone import.

Senator ANDERSON. They are building new mills down there. Did they build those new mills on the supposition of friendliness, American capital going in there to do it?

Mr. KOLLINER. I am quite certain they were built on the supposition of friendliness; yes.

Senator ANDERSON. And so on that friendliness they keep out the American product.

Mr. KOLLINER. There is no market for it, sir.

Senator ANDERSON. Well, there was no market——

Senator LONG. Let me tell you this, what Senator Anderson is asking you about there is broader than this problem of molding. We entered into a reciprocal trade agreement with Mexico some years back, and the understanding under that was that we would cut certain tariffs and she would cut certain tariffs and then there would be a most-favored-nations arrangement where if she cut some tariffs to some other country we would cut the tariffs—we would have the same tariff reduction that the others received.

Mr. KOLLINER. Yes.

Senator LONG. Now Mexico subsequently withdrew the tariff concessions they had made to the United States and she is still enjoying the tariff reductions made with Venezuela for Mexican oil, and we even made an exception to her the other day to let her ship all the oil she could into the United States, notwithstanding this limitation of oil imports. But in all fairness we have been a lot better to Mexico than she has been to us, and anybody who tries to say we haven't just doesn't know the record on that.

Mr. KOLLINER. Senator Long, I certainly do not want to quarrel with you on that subject at all. I am sure you are better posted than I, and I do not want to pose here as an economist, but the fact here is Mexico has had for several years a negative balance of trade with us: she imports more from us than she sends to us. That is the basic problem.

We need to provide Mexico an opportunity to stand on her feet so she can have at least an even balance of trade, not a positive one. But Mexico cannot be placed in position of having punitive tariffs placed against her and still be one of our big customers for refrigerators and automobiles and what have you. That in the final analysis is the moot question here: Can we injure her economy and drive her out of our markets?

We might help a few molding manufacturers but we might injure Detroit and Bethlehem and so forth considerably more if we were to do that.

Senator ANDERSON. You think it is all right for her to have a punitive tariff, but it is wrong for us to have it?

Mr. KOLLINER. Sir, if the result is that we export more to them than they export to us, then I cannot get involved in the details of how that operates.

Senator ANDERSON. This punitive tariff is only a portion of it. You know a little bit about the cotton situation and the tomato situation and a great many other things. It is always all right for Mexico to bring it in, but don't ever send anything into Mexico. That is your idea of good neighborliness?

Mr. KOLLINER. No, sir; that could not possibly be true if we send them more than we get from them dollarwise.

Senator ANDERSON. How is the balance of trade when you take tourist dollars into consideration?

Mr. KOLLINER. I do not know that.

Senator ANDERSON. Isn't that an important part of it?

Mr. KOLLINER. I am certain that it is.

Senator ANDERSON. Do you not think you ought to know it before you make this speech?

Mr. WILLIAMS. Mr. Kolliner, would you be willing to testify before the Mexican Senate to reduce tariffs?

Mr. KOLLINER. I doubt very much whether I would be welcome before the Mexican Senate, but I am willing.

(The statement in full of Mr. Kolliner is as follows:)

STATEMENT OF ROBERT E. KOLLINER, KOLLINER LUMBER CO., JULY 16, 1959

Mr. Chairman and members of the committee, my name is Robert E. Kolliner, president of the Kolliner Lumber Co., of El Paso, Tex. I might say that I am probably the most disinterested witness here today from the standpoint of personal profit, but I am certainly most interested in the defeat of the Anderson amendment from the standpoint of international policy.

My company imports lumber—not including wood moldings—from Mexico for sale in the United States. I suppose it could be argued that the Anderson amendment would benefit me monetarily since it would have the effect of eliminating Mexican molding producers and thus reduce the cost of the lumber I purchase. However, this consideration is secondary in my mind to the further economic development of a healthy, self-sufficient neighbor to the south; namely, Mexico.

I moved to El Paso after World War II. I had been born and raised in Minnesota where my family was in the lumber business, and upon leaving the service I was employed in the lumber business in California before coming to Texas.

Of course my daily dealings with and in Mexico over the past 12 years have emphasized to me the basic wisdom of the foreign policy of the United States throughout this period and for many years previously: that the future well-being and safety of all of us depends on strong neighbors in the Western Hemisphere.

To my mind we can help make Mexico strong in two ways: either by helping her help herself to grow strong economically and industrially or by cash handouts. Personally, I prefer the former, and I believe this reflects the sentiment of the U.S. Senate.

Therefore, the only question in my mind has been how we can best help this Mexican industrial and economic development. Certainly one way is to provide the markets for her products that will improve her balance of trade. Naturally, since I am an American citizen, I do not feel that this should be done when the effect would be the destruction of an American industry and the displacement and unemployment of American workers.

However, Mr. Chairman, we are not confronted with danger of such destruction here today. In fact, the evidence shows that the particular American industry involved is in a healthy condition. Thus there is no logical reason for injuring the Mexican economy in this regard in defense of an industry that doesn't need it.

In fact, as has been previously mentioned, destruction of this Mexican industry will actually have an injurious effect on the American economy through creating an artificial shortage which can have no other effect than to feed the inflationary spiral.

Let there be no mistake, Mr. Chairman, the Anderson amendment would be a severe blow to the Mexican economy; it would destroy an infant Mexican industry for no demonstrated useful purpose; and it would sabotage a Mexican governmental program aimed at development of at least part of the Mexican economy along industrial lines.

The imposition without cause of a 17-percent duty on wood moldings will, as has been mentioned, force the U.S. importers out of business. Left without customers, the Mexican producers will be left to die on the vine.

The great impetus for enlargement of the Mexican pine lumber business came during World War II from our own War Production Board. Machinery, manpower, and technical know-how were sent to Mexico to implement a crash program for lumber production in Mexico in support of the American war effort. Immediately following the war, the home construction boom in the United States exerted continuing pressure to maintain this production. The Mexican lumber industry became an integral part of a national program to advance Mexico along industrial lines as well as agricultural in quest of a more balanced national economy. Yet the Anderson amendment would serve to destroy an important

part of this industrial development—a development that had its origins in our wartime need for lumber. Certainly our own self-interest is best served through a strong and well-developed Mexican economy, both in peace and war.

We have shown that imports of less than 3 percent have a negligible influence upon the U.S. economy. However, because of the great disparity in size of the two economies, this figure becomes of major proportion in the Mexican economy and is much more significant when applied to Mexico's balance of payments and dollar deficit.

The dollar deficit created by destruction of this market will have the immediate effect of reducing Mexican purchases in the United States. So although American molding producers are not being injured today, adoption of the Anderson amendment might very well cause injury to other American industry tomorrow.

Mr. Chairman, I cannot help having the idea in coming to this hearing that the individual firms who espouse this amendment have got the cart before the horse. Clearly there should be no increase in duty if injury to the domestic industry is not proved. Yet in this case the very agency entrusted by Congress with the duty of assessing injury has been bypassed. This is not conducive to orderly administrative or legislative procedure.

The Tariff Commission has available to it the facilities of its staff, lawyers and economists, to hold a thorough investigation into a complaint by an industry. It also holds a hearing, if necessary, as a part of its investigation. Afterward, it makes its report to the President. This is the method established by Congress itself to determine injury, or the absence thereof. It is to the Tariff Commission that the complainants here should take their case.

It has been said that in this instance the escape clause provisions of the Trade Agreements Act would not provide the possibility of effective relief even if injury would be found, due to the fact that the Tariff Commission would not have the power to recommend a 17-percent rate as here requested. A 17-percent rate, incidentally, Mr. Chairman, would in the case of Mexican moldings be an increase actually of some 4,000 percent.

Quite aside from actual increase in rate, the Tariff Commission has another avenue for its recommendation and that is a quota. This avenue has been used recently by the Commission with good results and is available to the complainants here.

Even if the recommendations of the Tariff Commission would not seem sufficiently stringent to the Congress in case of an injury determination, the case should still go to the Commission first in order for this injury finding to be made. Once the finding is made, then I believe that Congress could properly enact a tariff increase in excess of the Tariff Commission powers, if it wished. But the first fact that must be determined is whether injury exists. I submit that the complainants have not proved this today, and I urge that the committee, by rejecting this amendment, reaffirm the orderly procedures already established by Congress for a situation such as this.

Furthermore, bypassing the approved administrative procedure in this one case would merely open a Pandora's box of similar private tariff bills.

Therefore, Mr. Chairman, I respectfully urge that the committee reject this amendment.

Senator LONG. Let us proceed.

Mr. WILLIAMS. Mr. Chairman, may I say before, Mr. Mason testifies that there is one important part of Mr. Kolliner's testimony and I realize this will be incorporated in the record.

Senator LONG. The whole statement is in the record.

Mr. WILLIAMS. Yes. We must not lose sight of the fact that the burden of proof is of course on the proponents and unless there is some type of injury shown, it would seem to us that is no reason for this. Now as Mr. Kolliner says in his statement the proper determination of injury is made by an agency given the job by Congress to determine injury, and that is the U.S. Tariff Commission. I am well aware of the argument on the other side, you send it down there and all you can get is 150 percent of 1934 or whatever it may be. But the factual determination can still be made which is very difficult as we see here today to determine in a 1-day hearing before the Senate Finance Committee and once that injury determination is made then

of course the Senate in its good judgment can then decide whether it wants to on the basis of this injury, go forward and raise the tariff.

Mr. Mason will testify.

Senator ANDERSON. Wait just a moment. This is not a question of injury. This is a question of why section 412 is not carried out.

That provides that wood moldings used in architectural and furniture decoration shall pay a certain price.

Now since there was, as has been pointed out, very little Mexican molding coming in, the Government said, "Oh well, in the interests of friendliness and all this reciprocal trade, we will just say there isn't anything we need to worry about." Then they start building mills down there and bringing it in. Then it does become a matter of interest and we cannot get the Treasury Department to go back and correctly interpret, as we see it, the law that the Congress passed to try to stop what the former practice had been.

Mr. WILLIAMS. On that point, Senator Anderson, might I address myself to just two subtopics?

Senator ANDERSON. Yes.

Mr. WILLIAMS. No. 1, I am sure you are informed that there is available a new provision in the law that is relatively recent providing that an American manufacturer, when he feels there is a misinterpretation by the Bureau of Customs of the customs law, can enter what is known as an American manufacturer's protest and if he feels that the law has been misinterpreted, he will have his day in court, in the customs court. It will go right up to the Court of Customs and Patent Appeals and even possibly by certiorari up to the Supreme Court.

So there is an avenue, there is an avenue available, Senator.

Senator ANDERSON. I wish you had gone through the *Plywood* case, you would not be quite so free with that comment.

Mr. WILLIAMS. Was an American manufacturer's protest filed on that? This was a question of valuation, Senator, if the Senator please, this was a question of rate and valuation, and the American manufacturer's protest is not available on that point. It is available, however, to these folks with regard to a classification problem.

Forgive the colloquy, Mr. Chairman, Mr. Mason will testify.

Senator LONG. I think in representing your clients well, and I am sure you are representing them well, you ought to keep in mind that every citizen has a right to petition for regress for any grievance, real or imagined before this Congress, and that if a Senator on this committee thinks he ought to be heard, he will surely be heard, there is no question about it.

Mr. WILLIAMS. There is no question about his being heard.

Senator LONG. And if he has got a good enough case, he may well get the relief he is asking for.

Mr. WILLIAMS. The only thing that we mentioned was that the historic way, I was merely suggesting the historic way it has been done, that is all.

Naturally, Congress can enact law.

Senator ANDERSON. That is the historic way it has not been done, that is the historic way to stop it.

Mr. WILLIAMS. May I address myself—I said I had two subtopics, this is the second one. It goes to the intention of Congress, does it not, in the enactment of the Tariff Act of 1930. I was not here in 1930, I did spend 4 years up here, but it was considerably later than

that. The only thing I have to go on, if the Senator please, is this Treasury decision which was published in 1930, and which you and your staff are well acquainted with, which says that they studied the debate on the floor, they studied the committee report, they studied this and that they decided as a result of that these wood moldings were supposed to come in as lumber, that is the congressional intent.

That is all I have to go on. There it is, that is all I can say.

Senator ANDERSON. I wish you would read it a little more carefully. They got off on the subject of carving. They studied the legislative intent on carving. They did not study it very much on wood moldings.

Mr. WILLIAMS. Mr. Mason will testify.

Senator LONG. Yes.

STATEMENT OF STEPHEN M. MASON, VICE PRESIDENT, INSULAR LUMBER CO., PHILADELPHIA, PA.

Mr. MASON. Mr. Chairman and members of the committee, my name is Stephen M. Mason. I am vice president of Insular Lumber Co., with head office in Philadelphia, Pa., which has for 55 years operated a lumber manufacturing plant in the Philippines. Insular Lumber Co., is the oldest and largest manufacturer of lumber in the Philippines, specializing in manufacture for export to various world markets, including the United States, of rough and surfaced Philippine mahogany lumber and millwork, including moldings.

I appear here today to register our strong opposition and the opposition of the Philippine Mahogany Association, Inc., which represents 14 major U.S. importers and distributors of Philippine woods, to the Anderson amendments to H.R. 2411 which amendments would make ordinary wood moldings, now free of ad valorem duty, subject to a duty of 17 percent.

Insular Lumber Co. accounted for 38 percent of total lumber exports from the Philippines to all countries in the year 1958, including virtually all of the moldings imported into the United States from the Philippines.

These Philippine molding imports into the United States totaled slightly under 2,500,000 board feet, with a Philippine value of about $406,000. This quantity, while of importance to this individual company, is insignificant in comparison to the value of U.S. production of wood moldings—in fact it is less than one-third of 1 percent of the 1954 value of domestic molding production as reported by U.S. Bureau of Census. Diligent research in the limited time available since the introduction of the legislation under consideration has, however, elicited little evidence of any molding imports of significant volume from any source, Philippine or elsewhere. The best information available indicates that total molding imports into the United States from all foreign sources are less than 3 percent of domestic production.

It has been a matter of concern and surprise to us that this legislation should be given this committee's consideration. Our long experience in the import of lumber into the United States has impressed upon us the unusual extent to which lumber imports in general supplement rather than compete with domestic production. We emphasize

that we are here discussing the record on imported lumber. We do not include plywood and veneers, which have been subject to some controversy as to duties, but which are not involved in the present subject matter. It has been for many years general knowledge that domestic lumber production must be supplemented by foreign imports, both because of expanding demand as opposed to limited supply, and because in many cases foreign woods supply qualities and requirements which cannot be satisfied by domestic woods. This is, of course, particularly true of tropical hardwoods, which is our own business.

We believe it has been indicated that the Anderson amendment to H.R. 2411 is simply a clarification, not a basic change.

The technical and legal aspects of this matter have been handled by other witnesses familiar with this history and would state only from the practical viewpoint that there is absolutely no confusion in the trade insofar as the general classification of moldings as basically lumber.

A point frequently discussed in duty cases is the contention that lower wage rates of foreign producers may place the domestic U.S. producer at a substantial disadvantage. However, in the case of moldings, labor constitutes a definitely minor proportion of the final cost. The key elements are the cost of the rough lumber, the cost of physical plant, and the waste incurred in the planing process. Another fact may help to put this angle of labor cost into better perspective. Low-cost labor often means comparatively unskilled and unproductive labor. Philippine wage rates, for example, average about one-quarter of U.S. rates, but we know from our own case that our actual labor cost per thousand feet of production is actually higher than the labor cost of U.S. domestic producers because we find it necessary to employ more men, we have much greater wastage, we cannot maintain the same standards of quality and manufacture, and we do not get the levels of machine use and maintenance which are common in this country.

We have, in fact, in recent months learned that a U.S. molding manufacturer, who has been purchasing rough lumber from our own Philippine plant and importing it into the United States, is selling moldings manufactured from this lumber at lower prices than we. This fact was accomplished primarily by skill and experience in manufacture and utilization which permitted this concern to make their moldings with a waste factor of less than one-half our own average.

May we also stress that we are not discussing a one-way trade channel. Entry to the U.S. market is of major importance to us, but we are buyers as well as sellers. Over the past 6 years our average annual purchases from our Philippine plant of supplies and equipment manufactured in the United States have exceeded $400,000 per year—a total of about $2½ million for the 6-year period. In addition, through our exports to the United States we contribute very substantially to the dollar earnings of the Philippine Republic and thereby assist that faithful ally in strengthening its economy, reducing its requirements for U.S. aid, and adding directly to its ability to purchase U.S. goods.

We submit that the import of ordinary moldings is not a problem requiring the time and attention of the U.S. Senate nor is there substantial evidence proving the involvement of national interest or the

need for legislative action. We respectfully urge the committee to defeat the Anderson amendment to H.R. 2411.

Senator ANDERSON. You have one more witness, do you?

Mr. WILLIAMS. That concludes it, Senator. There is one point——

Senator ANDERSON. You spoke about the legislative history on the molding end of it. Now the staff of this committee tried to make a study, found no legislative history, therefore would you send me the legislative history that you found?

Mr. WILLIAMS. If the Senator please. And this is for the record.

Senator ANDERSON. You are quoting about carving. Would you cite me the legislative history on wood moldings? A quotation from some other person who thought he found a quotation in some other place is not what I am asking about. I am asking for a legislative history that is taken from the hearings and floor debate. Did you have any of that?

Mr. WILLIAMS. Do I have it in that form?

Senator ANDERSON. Yes.

Mr. WILLIAMS. I have hearsay. The hearsay is what the Treasury Department said in a decision in 1930 where they characterized the floor debate and the ways and means report. If the Senator would be interested, I would be very happy to try to track down beyond that, but I believe the Senator has that available to him.

Senator ANDERSON. I am very interested in trying to track further. We have had great difficulty in doing it. The committee put in wood molding, the Treasury proceeded to take it out. They claimed they took it out on the basis of legislative history, but weren't able to find any legislative history to support their actions.

Mr. WILLIAMS. I see.

Senator ANDERSON. I thought maybe you could find some.

Mr. WILLIAMS. I have not gone back to this, but if we turn it up, we will certainly provide it for the committee. I might say further, Senator, that on the matter of costs, it is my opinion from talking with my clients, that this would be oppressive and would force discontinuation of this business.

However, I have talked at least to some of them and they would be willing to provide such cost figures as are available to investigators of the committee, of course, on a confidential basis if they are required.

I believe I am not asking too much. After all, this is business and people like to keep their cost figures confidential as much as they can.

Senator ANDERSON. I do not think you are asking too much in asking that it be kept on a confidential basis to the members of the committee.

Mr. WILLIAMS. Yes.

Senator ANDERSON. We had a man coming in here who was a little bit worried because he submitted his complete financial statement. I think that man, who is a member of the Treasury staff, will admit nobody has ever mentioned anything that was in his financial statement in any way. The people who get on this committee will, we hope, keep the information.

Mr. WILLIAMS. We believe that the members of this committee are above reproach and we hope it will not be made a public record.

Senator ANDERSON. You are completely free to make that request and it is a proper request.

Thank you all for being here.

Mr. WILLIAMS. Thank you.

(The following letters on the Anderson amendment were subsequently submitted for the record:)

PHILIPPINE MAHOGANY ASSOCIATION, INC.,
South Pasadena, Calif., June 26, 1959.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Committee on Finance,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We understand that your committee has under consideration certain amendments termed the Anderson amendments to H.R. 2411, which amendments would make ordinary wood moldings, now free of ad valorem duties, subject to an ad valorem duty of 16⅔ percent. On behalf of the Philippine Mahogany Association we wish to record that association's strong opposition to the Anderson amendments above described insofar as they apply to wood moldings imported into the United States from the Philippine Republic.

The Philippine Mahogany Association is a trade association with membership made up of American companies who are interested in the import into the United States and the distribution therein of Philippine mahogany logs, lumber, and millwork. This association has been in existence since 1928.

The present free of duty classification of ordinary moldings, in the same category as rough and surfaced lumber, is logical, according to worldwide trade practices, and of long and unquestioned standing. To the best of our knowledge no figures or data on moldings imported from the Philippines have or can be presented which would justify the abrupt and unheralded imposition of so drastic a change in classification and duty rates.

We understand that your committee may in the near future have a hearing on the subject of the Anderson amendments to H.R. 2411. In such event, please be advised that Mr. Henry S. Thompson, president of Insular Lumber Co., Philadelphia, Pa., and a director of this association, who has already requested permission to testify before your committee, is authorized to speak on behalf of the Philippine Mahogany Association and would thus be prepared to present in greater details this association's views.

Respectfully yours,

GEORGE D. SCRIM, *Executive Secretary.*

INSULAR LUMBER CO.,
Philadelphia, Pa., March 26, 1959.

Hon. JOSEPH S. CLARK,
U.S. Senate, Washington, D.C.

MY DEAR MR. CLARK: I am writing you in connection with a bill, H.R. 4036, and its companion in the Senate, S. 913, which is of considerable concern to me and in which I believe you will also be interested. This bill would change the present nondutiable status of ordinary wood moldings to the same classification as that of certain special decorative moldings. This would make ordinary wood moldings subject to an ad valorem duty of 40 percent.

Since ordinary wood moldings are included in the same classification as lumber in general, there are no reliable statistics available on the comparative volume of imported moldings versus domestic manufacture. The best estimate appears to be that the value of domestic manufacture is somewhere in the $140 million to $150 million range, while the value of imports is believed to be in a $5 million to $10 million range. It is our understanding that, among others, the Philippine and the Mexican Governments are strongly opposed to this measure and that the Department of Commerce is likely to take the stand that in the absence of any figures proving any significant damage to domestic manufacturers, these measures should not be adopted.

We are an American company operating a lumber manufacturing plant in the Philippines from where we export lumber and moldings to the United States and to other world markets. It is worth mentioning that we employ approximately 2,000 people in the Philippines and that we have led the development of export markets for Philippine woods. Incidentally, we produce for the Philippine economy approximately four times as much in dollar exchange as we take out for expenses, profits, etc. If the present bill is passed, the immediate consequences, as far as we are concerned, will be a reduction in exports. The consequence for the Philippines will be a reduction in dollar exchange receipts, further weakening of their foreign exchange position and intensified need for American aid.

I want to solicit your investigation of this matter in the belief that your own convictions and beliefs will then lead you to oppose these measures. I should be very pleased to try to provide any further information I can should you or your staff so request.

I might add from the local point of view that during the year 1958 we have brought in through the port of Philadelphia approximately 8,200,000 board feet of lumber, etc., and feel, therefore, we have some title to maintain that we are a contributor of some importance to the economic well-being of Philadelphia.

There is no reason why you should recall it, but I did have the pleasure of meeting you some time ago at the home of Betty Zeidman, whose work on behalf of the Democratic Party in Montgomery County I have had some occasion to participate in.

Respectfully yours,

HENRY S. THOMPSON, *President.*

INSULAR LUMBER CO.,
Philadelphia, Pa., July 10, 1959.

Re Anderson amendment to H.R. 2411—Duty on wood moldings

Hon. JOSEPH S. CLARK,
Senate Office Building, Washington, D.C.

DEAR SENATOR CLARK: I want to call your attention to the Anderson amendment to H.R. 2411, which amendment seeks to impose an ad valorem duty of 17 percent on wood moldings, now duty free. The Senate Finance Committee has scheduled a hearing on this matter on July 16.

This is a modified form of Senator Anderson's earlier bill, S. 913, on which four major departments of the Government rendered adverse reports. The key reasons in brief for opposition to the Anderson amendment to H.R. 2411 are as follows:

(1) Imported moldings from all foreign sources represent no more than 3 percent of the value and volume of domestic production.

(2) Those favoring this legislation have made no attempt to seek relief through the escape clause provision of the Trade Agreements Extension Act of 1951.

(3) There is no national interest involved which would justify this unusual reversal of a foreign trade channel which is of value to the friendly foreign countries primarily concerned—the Philippine and Mexican Republics.

Your interest in this matter is, I believe, necessary and warranted.

Respectfully yours,

HENRY S. THOMPSON, *President.*

TULSA, OKLA., *July 8, 1959.*

Senator ROBERT S. KERR,
Committee on Finance, U.S. Senate,
Senate Building, Washington, D.C.:

On July 16 Senate Finance Committee will hear H.R. 2411. The Anderson amendment attached to this bill proposes an import duty of 17 percent to all wood moldings imported from foreign countries. Believe this duty grossly unfair to foreign producers. Will destroy them, in effect eliminate competition. Your help needed to protect one of our good suppliers.

R. A. SPENCER,
President, Plywood Tulsa, Inc.

WESTERN COUNCIL,
LUMBER AND SAWMILL WORKERS,
Portland, Oreg., July 8, 1959.

Hon. HARRY BYRD,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SIR: We are advised that H.R. 2411, together with amendment, S. 913, offered by Senator Anderson of New Mexico, is presently before your committee, with hearing scheduled for July 16. We strongly urge that your committee give approval to this amendment to H.R. 2411.

Our Western Council of Lumber and Sawmill Workers represents more than 50,000 members in the logging, lumber, and woodworking industry in the Western States and has contracts with major producers of lumber products. We are,

therefore, naturally concerned with any situation that may affect the employment and living standards of our members.

I am sure you are aware that the wages, working conditions, and standards of living of the workers in the Mexican operations producing pine molding are far inferior to those in the United States. We believe that the imports of pine molding from Mexico, estimated to be 15 percent of the total pine molding market, is, under present tariff, an unfair competition to U.S. producers who employ our members at a higher standard of wages and conditions.

We trust that you and the members of your committee will give this matter your sincere consideration and we urge your committee's approval of H.R. 2411, as amended by S. 913.

Respectfully yours,

EARL HARTLEY, *Executive Secretary.*

LAW OFFICES OF ARVEY, HODES & MANTYNBAND,
Chicago, July 14, 1959.

Re S. 948, which has been proposed as an amendmend to H.R. 2411.

Hon. HARRY F. BYRD,
Chairman, Finance Committee,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR: I have been deeply interested in S. 948, dealing with the liberalization of tariff laws relating to works of art and had planned to attend the public hearing on the measure to urge its passage.

It now appears that because of previous commitments, I will be out of the country at the time of the hearing. Accordingly, I have prepared and submit herewith a statement outlining my reasons for favoring enactment of this bill. Would you please arrange to have this statement filed and made a part of the record of the hearings on S. 948.

Sincerely yours,

BARNET HODES.

STATEMENT OF BARNET HODES RELATING TO S. 948

My name is Barnet Hodes. I am a resident of the city of Chicago and am engaged in the practice of law there. At times I have served the city of Chicago and the State of Illinois in elective and appointive offices.

I am also currently serving as president of the Adult Education Council of Greater Chicago, a nonprofit organization with a history of over 30 years in the area of programs and services for the public and the education and cultural fields, and as officer and director of the William and Noma Copley Foundation, an Illinois nonprofit corporation, for the encouragement of the creative arts. I also serve as an officer and director of the International Institute of Contemporary Arts, an Illinois nonprofit corporation. I am a member of the following organizations, among others, interested in the world of art:

The Arts Club of Chicago.
The Society for Contemporary Art.
The Renaissance Society of the University of Chicago.
The Art Institute of Chicago.

I speak today, however, in my own behalf and not as a representative of any of these groups, although I am confident that the views expressed here are shared by the majority of their members.

For a number of years I have been interested in the field of the visual contemporary arts and have worked to promote their development and greater public acceptance. This work has brought me into personal contact with many people, both at home and abroad, sharing a similar interest—the artists themselves, administrative personnel of art museums, and nonprofessionals who, like myself, find recreation and enjoyment in modern-day paintings and sculptures.

From these contacts has come a recognition of the importance of permitting the free interchange of art works among the various countries of the world. While we can be justly proud of the contributions made by many of our contemporary American artists, we claim no monopoly on artistic talent, and if any of our laws serve to discourage the admission to this country of works by foreign artists, we, in the long run, as a nation will be the poorer for it. As a matter of fact, it is hardly appropriate to speak in terms of monopoly in this context, because in the field or art there is little or no competition in a commercial sense.

Instead, the work of each artist serves only to complement universally that of others in their common effort to enrich our general cultural well-being. Consequently, it is neither necessary nor appropriate to erect trade barriers for the protection of American artists.

The tariff laws have consistently recognized this fact, as evidenced by the many exceptions from import duties now accorded to artistic works. But these laws were drafted many years ago and with the passage of time have become obsolete. To illustrate, paintings made from traditional materials are nondutiable while art works made from less conventional materials are subject to import tax; abstract paintings come in free; abstract sculptures do not. Such distinctions are not logical nor, I am satisfied, were they ever intended.

S. 948, now pending before the Congress, seeks to end such discrimination by amending the tariff laws to permit all bona fide works of art to enter this country free of duty, as well as to facilitate the movement by museums of art works entered under bond for exhibition. I fully favor these objectives and urge their enactment into law.

AUGUSTA, GA., *July 11, 1959.*

HON. HERMAN TALMADGE,
U.S. Senate, Washington, D.C.:

I wish to register my opposition to Senator Anderson's amendment to H.R. 2411 hearing for which to be held by Finance Committee July 16. This legislation is not in the interest of the building trade and is not consistent with our trade policy with the South American countries you may include this in the records of the hearings.

AUGUSTA SASH & DOOR CO.,
G. W. TAYLOR.

BEST MOULDING CORP.,
Albuquerque, N. Mex., July 13, 1959.

Hon. CLINTON P. ANDERSON,
Congress of the United States, Washington, D.C.

DEAR SENATOR ANDERSON: The following is our statement of the need for your amendment concerning the dutiable status of wood molding entering the United States from Mexico.

The American lumber industry is one of the Nation's oldest basic industries. By nature's dispersal of forests throughout the country, the lumber industry has developed in all areas that have these forests. In any forest area, a great many mills have been established for the production of their products. By this combination of nature's placement of timber and the development of many sawmill units in each location, the lumber industry could be considered an industry made up of small business units; a majority of these units consisting of companies with payrolls of less than 500 employees.

One of the most specialized segments of this lumber industry is the group of woodworking plants which produce architecturally used decorative moldings. These moldings are produced from the best grades of lumber which are produced by the lumber industry. It is quite probable that the top valued 10 percent of all pine lumber production is either manufactured by the original harvester of pine timber into moldings or sold by them to plants which produce decorative moldings as their major or sole product. It is also most probable that the sale of the top grades of lumber at top prices constitutes a good share of the profits realized by the sawmill producer, from his entire production. And, if his top grades of lumber are depressed in price by imported and lower priced substitutes, his operation may be seriously endangered.

The group of molding plants which specialize in the exclusive production of moldings as their total production, are typical American small business units. These plants range in size from the smallest company or shop that may have only 3 or 4 employees to companies that employ up to 150 or possibly 200 employees. Such a molding company would be considered by us as a large molding manufacturer.

Our company, Best Moulding Corp., employs 35 people. We purchase all of the lumber which is used in the manufacturing of our product. We purchase this lumber from several mills located in Arizona, New Mexico, Colorado, and some from California. We believe that we are important to their industrial well-being. We produce only lineal solid moldings in our plant, and ship these moldings to customers located in Kansas City, Chicago, Detroit, Cleveland, Buffalo, Rochester, Albany, Boston, and New York City. We then, are important to many that sell our product in these areas. It is most probable, that most other molding plants such as ours do the same.

In our manufacturing process, we are using $88.01 per thousand board feet of lumber to convert purchased lumber into moldings. Of this total manufacturing cost, $55.08 is payroll. In addition, we are sharing profits with our employees at the rate of $5.77 per thousand board feet of product. Therefore, we currently spend $66.85 for direct labor as compared to our total manufacturing cost of $88.01. Our labor cost amounts to 69.1 percent of our total manufacturing costs. These figures are for the 10 months of operation August 1, 1958 to May 31, 1959, and are taken directly from our cost sheets. Should they be of importance to you as a part of the record, they may be used. Otherwise please treat as confidential. Incidentally, when I wrote you January 3, 1959, on this same subject, I used our costs for our last fiscal year. If you will refer to this figure for similar costs, you will note that the percentage was then 67.5 percent. Therefore, due to increases in labor costs during the last year and/or added labor needed in our competitive industry, we have had an increase in overall labor costs.

Our average hourly rate of pay from January 1 through March 1959 was $1.96 on a straight-time basis. With insurance, payroll taxes and our profit sharing, our average hourly payroll cost was $2.47.

We are most seriously affected by any imports of pine moldings that are entered into our country from a source that has markedly lower basis labor costs such as Mexico. If we are of importance to our industry as a whole, such imports are rapidly reducing our ability to satisfy this importance.

We therefore, believe that it is necessary for a duty to be levied on the molding products that enter the United States from any country that has markedly lower labor costs. Only by such equalization aids to our production ability will we be able to hold our American market and be a profitable industry. We understand that we cannot ship any finished lumber product into Mexico duty free.

Cordially,

CARL H. RISE.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 17, 1959.

HON. HARRY F. BYRD,
Chairman, Senate Committee on Finance,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I am very pleased to note that your committee will soon consider the problems raised by the increased importation of wood moldings.

As you know, these last few years have witnessed a substantial expansion of wood molding manufacture in Mexico. While accurate figures are unavailable, it is reliably estimated that imports from Mexico now constitute 17½ percent of total domestic production. When one recalls that Mexican production was negligible prior to 1956, it is not difficult to access the problems inherent in this development.

These increased imports, coupled with a generally poor domestic market during the last few years, indicate the need for a thorough reexamination of the present tariff imposts on wood moldings. In particular, I believe Senator Anderson's proposal (S. 913) should be carefully considered. If imports continue to rise, remedial action assuredly will be needed to maintain a healthy domestic wood molding industry.

May I again express my appreciation for the scheduling of these important hearings. I would also appreciate having this letter made a part of the official record of the hearings.

Sincerely,

AL ULLMAN, *Member of Congress.*

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., July 16, 1959.

Senator HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: The American Merchant Marine Institute, Inc., a trade association representing the owners and operators of some 50 American-flag steamship lines serving the domestic and foreign trade of the United States, favors enactment of H.R. 2411 which is being considered by your committee.

The purpose and effect of the bill is to simplify the tariff treatment of tourist literature concerning places or travel facilities outside the continental United States, issued by foreign governments or departments, agencies, or political subdivisions thereof, boards of trade, chambers of commerce, automobile associations, or similar organizations or associations.

The basic statutory language in the tariff schedule of the Tariff Act of 1930 does not specifically mention tourist literature. However, under existing practice, the type of tourist literature that is principally covered by H.R. 2411 is dutiable at the rate of 3¾ percent ad valorem, if of bona fide foreign authorship, and at the rate of 6¼ percent if not of such authorship. Different rates of duty are imposed on other tourist literature in accordance with specific provisions of the tariff. The proposed bill would amend the Tariff Act of 1930 by specifying the type of tourist literature which is included in the free-list provision.

In our opinion, reducing the burden on the movement of tourist-free literature into the United States will have a favorable, even though indirect, effect on the volume of American travelers who may be encouraged thereby to go overseas. Such movements are entirely consistent with present national policy, and would of course have favorable effect on international transportation media. If by this device some small increase in international travel is forthcoming, we are keenly aware of the stimulation to the American economy which results and, of course, the significance of dollar revenues in foreign lands.

For the reasons stated herein, the Institute heartily endorses H.R. 2411 and urges that it be approved by your committee. We ask that this letter be made a part of the record of H.R. 2411.

Sincerely yours,

ALVIN SHAPIRO, *Vice President.*

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
July 16, 1959.

Hon. CLINTON P. ANDERSON,
U.S. Senator, Senate Finance Committee,
New Senate Office Building, Washington, D.C.

DEAR CLINT: I was conducting hearings of the Senate Subcommittee on Flood Control, Rivers, and Harbors this morning so it was impossible for me to attend the sessions of the Senate Finance Committee on amendments to paragraph 412 of the Tariff Act of 1930 dealing with wood molding products. However, I do want you to know of my interest in this matter, which affects a number of manufacturers in the State of Oregon.

I am certain that industry representatives will provide you and other members of the committee with adequate information about the effect of imports on the domestic market situation, so I will not attempt to add to that part of the record. I have been impressed by arguments presented by my own constituents for governmental action to assure fair competitive conditions in the industry. Customs Bureau interpretation of congressional intent on classification of wood molding in the tariff act is open to considerable question, in my opinion, and I trust that the committee will develop information which will serve as the basis for clarifying any inconsistency in the Bureau's decisions.

In view of my inability to take part in the hearings on S. 913 because of previously scheduled commitments, I hope that this letter can be made a part of the record.

With best wishes, I am,

Sincerely,

RICHARD L. NEUBERGER,
U.S. Senator.

Senator LONG. The Chair would like to put in the record a statement by Senator Engle in support of S. 1176, which he has proposed as amendment 7–14–59–A to H.R. 2411.

(The statement of Senator Engle follows:)

STATEMENT BY SENATOR CLAIR ENGLE (DEMOCRAT, OF CALIFORNIA) IN SUPPORT OF S. 1176 (AS AMENDMENT 7–14–59–A TO H.R. 2411) TO TRANSFER TO THE FREE LIST OF THE TARIFF ACT OF 1930 BOOKBINDINGS OR COVERS IMPORTED BY CERTAIN INSTITUTIONS

Mr. Chairman, I appreciate the opportunity to present to you the reasons why I think the provisions of S. 1176 should be considered as an amendment to H.R. 2411, now pending before the Senate Finance Committee. My bill, a companion bill to H.R. 4576, introduced in the House by Congressman Jefferey Cohelan (Democrat, of California), is designed to grant permanent tariff duty exemption for certain imported oriental book covers known as "chitsus." A temporary exemption has been in effect since 1954 to aid university libraries.

The University of California Library has had a program of purchasing book covers from Japan for the East Asiatic Library. Most of the books are purchased unbound with only a soft tissue covering. The traditional method for binding these volumes together in sets is to use a cardboard folder covered with Chinese blue cotton cloth and fastened with bone clips. It is this binding that is known as "chitsu" in Japanese.

When the books arrive already bound in chitsus, the provisions of paragraph 1631 of the Tariff Act of 1930 permit their entry duty free. Whenever the books arrive unbound, it is necessary to order the chitsus separately, in which case customs duty is required. In 1954, my predecessor, former Senator Knowland, succeeded in having H.R. 9248 of the 83d Congress, 2d session, amended to include a provision which exempted the chitsus from duty for a period of 2 years ending September 1, 1956. At that time Mr. Knowland pointed out that the relief was granted on a temporary basis because certain committee members felt that this provision might be open to abuse, and because there was not sufficient time remaining in that session to study the problem. It was decided, however, that if the provision was enacted and was shown to be workable the Congress could pass permanent legislation at a later date.

When the exemption was to run out, Senator Knowland acted to have H.R. 8636, 84th Congress, 2d session, amended to extend the earlier amendment to September 1, 1958. He indicated that he had been advised that this continuation of the exemption for several years would give the committee an opportunity to study the problem and make the exemption permanent at a later date. On February 17, 1958, Mr. Knowland introduced S. 3293, 85th Congress, 2d session, to have the chitsu exemption from tariff put on a permanent basis. The Congress adjourned before action could be taken.

In view of the past history of this legislation, I would hope that the Senate would act favorably on my request that S. 1176 be included as an amendment to H.R. 2411. Since H.R. 2411 has already passed the House, this would expedite the granting of permanent relief in an area already proven worthy of this relief. The Treasury Department has indicated that it has no objection to the passage of this bill.

Senator LONG. That concludes the list of scheduled witnesses. Thank you, gentlemen, for your testimony.

(Whereupon, at 12:55 p.m., the committee adjourned.)

×