86th Congress
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COMMITTEE PRINT

CUSTOMS MARKING REQUIREMENTS

STATEMENTS SUBMITTED TO THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ON

H.R. 5054

TO AMEND THE TARIFF ACT OF 1930 WITH RESPECT TO THE MARKING OF IMPORTED ARTICLES AND CONTAINERS

JUNE 20, 1960

Printed for the use of the Committee on Finance

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CUSTOMS MARKING REQUIREMENTS

H.R. 5054—To amend the Tariff Act of 1930 with respect to the marking of imported articles and containers

The hearing on this bill scheduled by the committee on Monday, June 20, 1960, was necessarily canceled because the Senate was called in session early that day for the consideration of a Finance Committee bill. However, the following written statements were accepted in lieu of oral presentation. Also a copy of the bill and departmental reports are shown below:

[H.R. 5054, 86th Cong., 2d sess.]

AN ACT To amend the Tariff Act of 1930 with respect to the marking of imported articles and containers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of subsection (a) of section 304 of the Tariff Act of 1930, as amended, is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b) or (c)".

(b) Section 304 of such Act is further amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) When any imported article the container of which is required to be marked under the provisions of subsection (b) is removed from such container by the importer, or by a jobber, distributor, dealer, retailer, or other person, repackaged, and offered for sale in the new package, such new package shall be marked in such manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of such article. Any article offered for sale in violation of the provisions of this subsection shall be subject to seizure and forfeiture. When any article passes out of the custody and control of the importer, he shall be absolved from all responsibility with respect to subsequent repackaging unless performed by or for his account."

(c) Subsection (e) (as redesignated by subsection (b) of this section) of such section 304 is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)".

SEC. 2. The amendments made by the first section of this Act shall apply only with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after the ixtieth day following the date of the enactment of this Act.

Passed the House of Representatives February 2, 1960.

Attest:

RALPH R. ROBERTS, *Clerk.*

STATEMENT BY A. GILMORE FLUES, ASSISTANT SECRETARY OF THE TREASURY, BEFORE THE SENATE COMMITTEE ON FINANCE, MONDAY, JUNE 20, 1960

My name is A. Gilmore Flues, and my title is Assistant Secretary of the Treasury. I am happy to appear before this committee to give the views of the Treasury Department on H.R. 5054, which was passed by the House of Representatives on February 2, 1960. S. 1978, introduced by Senator Smathers, is a similar bill, but lacks certain amendments recommended by the Ways and Means Committee and

adopted by the House, which we feel would be desirable if the bill were to be enacted.

In its reports to the Ways and Means Committee of the House of Representatives and to this committee, the Treasury Department has recommended against enactment of this bill. We also appeared in opposition to the bill before the Ways and Means Committee in executive session.

This bill deals with identification of imported articles so as to show their origin. Ordinarily, the articles themselves must be marked. However, this is not always practicable; where it is not, the law requires that the container, instead of the article, is to be marked. This is the case where the article (1) is incapable of being marked; (2) cannot be marked prior to shipment to the United States without injury or at an expense economically prohibitive of its importation; (3) is a crude substance; (4) was produced more than 20 years prior to its importation into the United States; or (5) is on the so-called J list (19 U.S.C. 1304(a), (3), (J)).

The bill provides that if any such article is removed from the container by the importer, or by a jobber, distributor, dealer, or other person, repackaged and offered for sale in the new package, the new package must be marked with the country of origin of the article.

Thus, activity which the bill seeks to control is repacking in the United States in containers which do not disclose the foreign country of origin of imported articles which were legally imported in properly marked containers. This activity would not take place until after the imported article had been released by the Customs Service in the normal course of business and all physical control by customs had ceased. It would be an intolerable burden on the existing staff if customs were to attempt to follow articles imported in properly marked containers into domestic consumption to detect violations of the type contemplated by the bill, even on a spot-check basis. The identification of a repackaged article as an imported article, bearing in mind that marking of the container upon importation complied with the law and the article itself did not have to be marked, would appear to involve extremely difficult investigative problems in cases where an alleged violation is reported to customs.

The identification problem is perhaps the most acute of the foreseeable administrative difficulties. The bill deals with articles which do not have to be individually marked. Some examples of the types of articles involved are grains, fruits, vegetables, nuts, screws, bolts, nails, washers, playing cards, artificial flowers, fishhooks, chemicals, toy marbles, sewing needles, and buttons. Quantities of such articles may be imported in properly marked containers and sold to the ultimate purchaser after having passed through many hands after leaving the control of Customs and the importer. They could be repackaged in other containers at any stage of the process before reaching the ultimate consumer. If the repackaged articles are similar in all material respects to articles produced in the United States, it would be most difficult, if not impossible, to distinguish the imported articles from domestic by physical examination. Indeed if the imported article were easily distinguishable from its domestic counterpart, it seems clear there would be no occasion for the proposed legislation. Yet it would be necessary to identify imported articles as such in order to bring the provisions of the bill into operation.

This Department is convinced that there is no way that the customs service could enforce effectively the repackaging feature of the bill.

We cannot predict the effect that enactment of the bill would have on Customs manpower because it is impossible to know how many cases will arise. As stated above, customs could not follow into domestic consumption all articles imported in properly marked containers in order to detect violations. If the bill were enacted, upon receipt of an allegation, specific as to the type of merchandise and the details of the violation, customs would undertake an investigation to see if there were sufficient evidence that a violation had taken place. If such evidence were uncovered, appropriate steps would be taken. If many such investigations were required, it would be necessary to increase the Customs staff.

It has been suggested that adequate enforcement would be obtained as a result of the furnishing of evidence of violations by representatives of domestic industries which compete with such imports. While it is always helpful to have the public supply evidence of violations of U.S. laws, we do not believe that it is good policy to depend on the public as the primary source of evidence of violations. Among other things, such a practice would lead to uneven and inequitable enforcement of laws.

It may be noted that penalties sporadically imposed under the bill if enacted might well fall on persons who themselves had no knowledge of or control over the situation. The following situation could arise: On the basis of evidence supplied to us by domestic producers, we might make a substantial seizure from an important wholesaler or retailer of imported merchandise which had not been properly marked as to country of origin when repackaged. The foreign producer and the person in whose hands the merchandise was found when seized might be completely innocent of any failure to comply with the marking requirements. Nevertheless, the goods would be subject to forfeiture. I draw your attention, without comment on my part, to the possible desirability of considering this aspect of the bill from the standpoint of international trade relations. I also suggest consideration of the question whether a bill which cannot be adequately enforced, and whose provisions therefore would often be violated, will not do more harm than good if enacted into law.

My own expression of opinion has here been primarily directed toward the administrative features of the bill. I have tried to show that these would be onerous and largely ineffective from the standpoint of the Treasury Department, and I hope I have thus made clear why the Treasury Department opposes its enactment. If the committee has questions I shall be happy to try, with the assistance of my technical advisers, to answer them.

TREASURY DEPARTMENT,
Washington, April 15, 1960.

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

MY DEAR MR. CHAIRMAN: Mrs. Springer of your committee inquired by telephone about the possible effect on importations of nuts, cocoa, and coffee should H.R. 5054 become law, which is a bill

to amend the Tariff Act of 1930, with respect to the marking of imported articles and containers.

The enclosed memorandum of the Commissioner of Customs discusses the items mentioned in their relation to H.R. 5054.

Sincerely yours,

A. GILMORE FLUES,
Acting Secretary of the Treasury.

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
OFFICE OF THE COMMISSIONER,
Washington, April 11, 1960.

To: Assistant Secretary of the Treasury.
From: Commissioner of Customs.
Subject: Telephone inquiry of the Committee on Finance of which Senator Harry F. Byrd is chairman about the possible effect on importations of nuts, cocoa, and coffee should H.R. 5054 become law which is a bill to amend the Tariff Act of 1930, with respect to the marking of imported articles and containers.

H.R. 5054 would apply only to containers (of imported articles) which are required at the time of importation to be marked with the name of the country of origin. If the contents of these containers are repackaged for sale after importation, the bill would require the new packages to be marked with the name of the country of origin of the imported article to apprise the "ultimate" purchaser of such fact.

Expressed broadly an ultimate purchaser for marking purposse is the last person in the United States who will receive the article in the form in which it was imported. If an imported article is to be substantially processed or is to be used in manufacture, the processor or manufacturer is the ultimate purchaser, in which case, of course, the marking law, including the proposed bill, has or would have no application to the resultant product or its packaging.

In relation to the proposed law, the commodity per se would not appear to be significant. What apparently would be significant is the condition in which the article is imported and the treatment it receives after release from customs.

The following may be helpful in appraising the provisions of H.R. 5054:

1. If the merchandise is imported in bulk, or in containers which are not required to be marked, the proposed law would have no application. (Some exceptions from individual marking of the imported article carry also an exception from the marking of its usual container.)

2. If the imported article undergoes a processing in the United States which results in a substantial transformation or a new or different article, the containers of the resultant product would not be subject to the proposed law.

Nuts or other items imported otherwise than in containers or packages would fall within numbered 1 situation.

Coffee beans or cocoa beans which are ground or otherwise processed substantially would come within the numbered 2 situation. Whole nuts which are shelled after release from customs would also be within that situation.

To more or less recapitulate with respect to the particular items mentioned, we understand that cocoa is usually imported in bean form in bags which are delivered to a grinder and processor. The grinder and processor would be the ultimate purchaser for marking purposes.

Nuts (walnuts, filberts, cashews, and other varieties) are usually imported unshelled in containers. These unshelled nuts are repackaged in small packages for sale to the ultimate purchasers. The new packages would have to be marked under the provisions of H.R. 5054.

Manufacturers of confectionery, baking establishments, and other processors who receive importations of shelled nuts for use as ingredients in their products would be the ultimate purchaser of the imported nuts.

We understand that Brazil nuts are usually imported in the shell in bulk. These shipments would not be subject to the proposed law.

Green coffee beans are imported in bags destined to a roaster and grinder who will produce ground coffee which will be sold to consumers. The manufacturer who produces the ground coffee is the ultimate purchaser.

RALPH KELLY.

TREASURY DEPARTMENT,
Washington, June 10, 1960.

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

MY DEAR MR. CHAIRMAN: In response to the telephone inquiry from Mrs. Springer of your committee there is enclosed a supplemental memorandum from the Commissioner of Customs dealing specifically with importations of tea in relation to H.R. 5054, a bill to amend the Tariff Act of 1930, with respect to the marking of imported articles and containers.

Very truly yours,

A. GILMORE FLUES,
Acting Secretary of the Treasury.

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
OFFICE OF THE COMMISSIONER,
Washington, June 9, 1960.

To: Secretary of the Treasury.
From: Commissioner of Customs.
Subject: Telephone inquiry of the Committee on Finance, of which Senator Harry F. Byrd is chairman, about the possible effect on importations of tea should H.R. 5054 become law, which is a bill to amend the Tariff Act of 1930, with respect to the marking of imported articles and containers.

Our memorandum of April 11, 1960, explained the general objective of H.R. 5054, that is, a requirement of the remarking of imported merchandise repackaged in the United States which was imported in containers which were required to be marked with the name of the country of origin.

We also explained that the "ultimate" purchaser for marking purposes is the last person in the United States who will receive an imported article in the form in which it was imported.

Tea imported in containers ready for the retail trade would have to be marked at the time of importation with the name of the country of origin. Since there would be no repackaging operation such imports would not be subject to the proposed law.

Tea imported in "bulk," that is, in tin-lined containers in sizable wooden tea chests, may be imported by tea companies or by tea brokers. The containers must and are marked with the name of the country of origin.

If tea imported in this manner is prepared for the retail trade by nothing more than a repackaging operation, including tea bags, the new packages, including the tea bags, would have to be marked under H.R. 5054 with the name of the country of origin of the contents.

If, however, imported teas are blended (mixed) in the United States and repackaged for the retail trade, the new packages would not be required to be marked under H.R. 5054 since the person who blends (mixes) the tea in the United States would be considered the "ultimate" purchaser for marking purposes.

RALPH KELLY.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 14, 1960.

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

MY DEAR MR. CHAIRMAN: This is in reply to your request of February 3, 1960, for a report on H.R. 5054, a bill to amend the Tariff Act of 1930 with respect to the marking of imported articles and containers.

The Departments of Commerce, State, and the Treasury, in reports they have made to your committee, have recommended against enactment of the bill.

The Bureau of the Budget concurs in the views contained in these reports and recommends that the bill not be enacted.

Sincerely yours,

———— ————,
Assistant Director for Legislative Reference.

THE SECRETARY OF COMMERCE,
Washington, D.C., March 1, 1960.

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 3, 1960, requesting the views of this Department respecting H.R. 5054, a bill to amend the Tariff Act of 1930 with respect to the marking of imported articles and containers.

This bill would require that imported articles, the containers of which are required to be marked with the identifying country of origin,

be marked as to country of origin when removed from said containers or when repackaged for distribution within the United States.

Our letter to you of May 14, 1959, with respect to H.R. 197 gave our comments on this bill and on other similar bills, including H.R. 5054. Our detailed comments were contained in an attachment in the form of a copy of a letter addressed to Chairman Mills dated May 14, 1959. The Department indicated that the objectives of these bills appeared desirable but that it was not clear how the proposal would be effective in achieving these objectives. In particular, we directed attention to the difficulties of enforcement which would be faced by the customs service, and suggested that the views of the Treasury Department would be most important in this connection.

We understand that the Treasury Department is opposed to enactment of H.R. 5054 because of the impossibility of achieving equitable enforcement. For this reason, and the concomitant result that wholesale and retail distributors in the United States having no knowledge of the origin of repackaged goods might innocently be placed in jeopardy, the Department is of the opinion that this bill would not satisfactorily achieve the intended purpose in a fair and reasonable way. In order for U.S. merchandisers to comply with the law, it would be necessary to obtain at all levels of distribution written assurances that goods being purchased for possible repackaging are exclusively of U.S. origin or precise information as to the country of origin of any imported goods. For many types of goods, such a procedure would place a heavy burden on U.S. business, increase costs of distribution, and place such firms in a less competitive position vis-a-vis other firms—and possibly without commensurate benefit for the ultimate purchaser.

Therefore, although the Department continues to favor the principle of full disclosure of the origin of imported goods for the benefit of the ultimate purchaser in the United States, we do not favor enactment of H.R. 5054.

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,

PHILIP A. RAY,
Under Secretary of Commerce.

DEPARTMENT OF STATE,
March 4, 1960.

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

DEAR MR. CHAIRMAN: The following report on H.R. 5054, a bill to amend the Tariff Act of 1930 with respect to the marking of imported articles and containers, is submitted in response to your letter of February 3, 1960. An interim acknowledgement was sent to you on February 5.

In essence, the bill provides that when any imported article—the container of which is required to be marked with the country of origin—is removed from its original container for purposes of repackag-

ing, the new package must be marked with the country of origin. This obligation is placed upon whoever does the repackaging, whether it be the importer, jobber, retailer or other handler of the merchandise. Any articles offered for sale in violation of this marking requirement would be subject to seizure and forfeiture.

The Department has carefully considered the provisions of H.R. 5054, and has come to the conclusion that it is not a measure this Department can endorse. We have no objections to the purpose of the bill, which is to disclose to the ultimate purchaser the origin of imported goods; however, it appears to us that the potential disadvantages inherent in the bill outweigh any advantages that might be gained by its enactment.

The effect of the bill would not be in accord with the foreign economic policy objectives of the United States to reduce barriers and hindrances to trade. Rigid or burdensome marking requirements are such a hindrance. The United States has taken a leading part in urging other countries to reduce such obstacles and, specifically, most free world countries—through such public and private organs as the GATT and the International Chamber of Commerce—have recognized the principle that the difficulties and inconveniences caused by marks-of-origin requirements should be reduced to a minimum (GATT, art. IX, par. 2).

During the last year in particular, we have pushed vigorously to reopen the markets of foreign countries to exports from the United States. The proposed bill, however, contains a provision which blunts the force of our arguments: it would subject imported goods in the United States to unjustifiably burdensome marking requirements. These would be enforced by forfeiture and seizure of the goods, whereas even deceptive practices in the labelling of domestic products are generally subject to much less stringent enforcement through cease and desist orders. Since the GATT recognizes the principle that no special penalty should be imposed for failure to comply with marking requirements unless corrective marking is unreasonably delayed, our foreign trading partners are likely to object to the application of such forfeiture provisions.

Moreover, we understand that the Department of the Treasury has serious misgivings as to the practicability of enforcing this measure throughout the channels of wholesale and retail trade, and that it will be commenting on this feature in its report to the committee.

Another factor to consider is the effect of this measure on handlers of merchandise. Since repackaged imported merchandise may be seized if improperly marked, it is likely that successive handlers would require some form of documentation to assure that the goods are properly marked and consequently would not be seized. The complications involved in such documentation might seriously discourage the stocking of imported goods, and thus operate as an unreasonable impediment against such products.

From the viewpoint of trade, the marking requirement would appear to cause unreasonable burden in several instances. For example, in those commodities where, as an ordinary trade practice, commingling occurs and where it is almost impossible to distinguish between the origins of the products after mixing or blending, it would be impractical to prepare in advance packages showing the origin of all ingredients. The result of the requirement, together with the

drastic enforcement procedures, may be to drive some of the packaging facilities out of this country.

Taking into consideration the disadvantages that would result from enactment of this bill, it is our view that the present marking provisions of the tariff act serve the purpose of disclosing origin in a manner preferable to that suggested by the amendment. We believe therefore that the additional obstructions to trade that would ensue are unjustified, and finally that the drastic enforcement provisions would render this bill particularly objectionable to foreign trading partners as well as to businessmen handling imported articles.

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).

STATEMENT OF A. SYDNEY HERLONG, JR., MEMBER OF CONGRESS, TO COMMITTEE ON FINANCE, U.S. SENATE

Mr. Chairman, I appreciate the opportunity to make this statement in support of H.R. 5054 which I sponsored in the House.

The purpose of this bill is to amend section 304 of the Tariff Act of 1930 as amended to assure that the American consumer knows the country of origin of imported goods. This is accomplished by requiring that when articles imported in containers which are required to be marked with the country of origin are repackaged in the United States, the new package shall also be marked with the country of origin.

The agricultural interests of my State, and I am sure of other States where fruit and vegetable growing and marketing are important to the economy, are concerned over the practice of importing fruits and vegetables in properly marked containers, then removing the contents and repackaging them either alone or commingled with domestic products in unmarked containers so that the purchaser believes he is buying American-grown products.

The seafood industry also faces this aspect of foreign competition, and the repackaging of imported shrimp without its identification as to origin affects those States, including my own, which have a large shrimping industry.

Obviously perishable products shipped from abroad are neither as fresh nor likely to have the keeping quality of those products grown in the United States. Furthermore, the standards for residues of pesticides and the handling of perishable foodstuffs are not as strict in many foreign countries as our own. On the score of quality of products sold, this deception permitted by repackaging in unmarked containers brings undeserved criticism on American producers.

The practice is not confined to perishable products. Many others which come into the United States in bulk containers properly marked according to law are similarly repacked by the importers in American-type packages which, so far as the consumer knows, are filled with products made in the United States of America.

The purpose of section 304 is to properly identify imported goods as to the country of origin. H.R. 5054 carries this laudable principle one step further so that the ultimate consumer in the United States knows what he is buying and the source from which it comes.

I shall appreciate your earnest and favorable consideration of this bill.

STATEMENT OF HON. CLEVELAND M. BAILEY, THIRD DISTRICT, WEST VIRGINIA, PRESENTED TO SENATE COMMITTEE ON FINANCE, JUNE 20, 1960

Mr. Chairman and members of the committee, I appreciate the opportunity to present this statement in support of the bill, H.R. 5054, the purpose of which is to protect domestically produced articles by improving and tightening up the marking provisions affecting customs practices.

As you know, section 304 of the Tariff Act of 1930, as amended, requires that imported articles be marked in such a way as to indicate to the ultimate purchaser in the United States the English name of the country of origin of the article. This section also provides that articles, which themselves cannot or need not be marked, shall have the container in which they are packaged marked with the name of the country of origin of the article.

The bill, H.R. 5054, amends section 304 by adding a new provision thereto, which provides that, if an imported article whose container must be so marked is removed therefrom, repackaged, and offered for sale in a new package, then the new container must also be marked with the name of the country of origin. In other words, the repackaged article must be marked in a manner similar to the requirements pertaining to the original package. The requirement for marking would apply to the person who does the repackaging, whether he be the importer, jobber, distributor, dealer, retailer, or anyone else.

The effect of the legislation here under consideration would be to eliminate the growing practice of commingling imported articles with like domestic articles and then marking the new packages "Made in U.S.A." The bill does not impose any new restrictions on imported articles. It simply protects the American consumer in his right to know the country of origin of such articles. At the same time the legislation will protect our American producers from false labeling.

Mr. Chairman, I am of the opinion that the products of our American industries are entitled to every protection. The Lord knows that the amount of these products is continually being diminished by increasing imports. The bill here under consideration will afford a little protection to the public and the consumer.

The Congress has by its own overt act so watered down the Buy American Act that this legislation is necessary in order that the American public be advised that articles they desire to purchase are made in foreign countries. The legislation here under consideration merely tightens up and improves the marking provisions affecting imported articles generally. We have similar legislation dealing with individual articles, such as the Wool Products Labeling Act of 1939, the Fur Labeling Act of August 8, 1951, and the Textile Fiber Products Identification Act of 1958. In this regard, permit me to direct

your attention to the following Associated Press article, dated June 18, 1960, from Brattleboro, Vt., in reference to fines imposed on the Northfield Mills, one of the Bernard Goldfine operations, for violation of the Wool Products Labeling Act.

GOLDFINES FINED IN LABEL CASE

BRATTLEBORO, VT., June 18 (AP).—Bernard Goldfine, his son, Horace and the Northfield Mills which they own, were fined a total of $5,000 yesterday in Federal Court on charges of violating the Wool Products Labeling Act.

They were charged with making interstate shipments of mislabeled wool fabrics between June and October of 1957.

The defendants claimed the wool material was mislabeled when the Northfield Mills received it from the wool producer and that the mills had no way of knowing it was misrepresented.

U.S. Attorney Louis G. Whitcomb said the mills made 10 shipments of mislabeled fabrics after a cease-and-desist order from the Federal Trade Commission.

Goldfine and his secretary, Miss Mildred Paperman, are waiting trial in the fall in Boston on tax-evasion charges.

Similar to the above-mentioned statutes, the legislation here under consideration has for its object the protection of the public and the protection of the American producer and the American consumer.

Mr. Chairman, the House of Representatives acted on this bill on February 2, 1960. Since we are nearing the adjournment time, I sincerely trust that your committee can take prompt favorable action on H.R. 5054. In this regard, I would hope that the legislation could take the same form as that already passed by the House, so as to avoid the necessity of a conference.

Thank you, Mr. Chairman.

STATEMENT

My name is T. Earle Bourne, president of Schindler's Peanut Products, Inc., but I am appearing here as secretary and treasurer of the Peanut and Nut Salters' Association.

The Peanut and Nut Salters' Association is a nonprofit cooperative trade association having 30 active members and 51 associate members.

The active members do approximately 85 percent by volume of all the salted nut business of the country and have a vital interest in this proposed legislation.

The active members purchase all types of raw shelled nuts including peanuts, almonds, English type walnuts, Brazil nuts, pecans, cashews, and filberts, blanching, cooking and salting most of them with the exception of English type walnuts and Brazil nuts and repacking in transparent films and vacuum cans raw walnuts, pecans, almonds, filberts, and Brazils for what is commonly known as "cooking nuts" to be used at home. They are marketed to the wholesale and retail trade and directly to consumers.

Cashews and Brazil nuts are imported because they are not grown in the United States and when the domestic supply of English type walnuts, almonds, and filberts is not adequate they are imported.

At times walnuts and Brazil nuts are not cooked but are used in the raw state and sometimes mixed with processed nuts to create "mixed nuts" for the ultimate consumer.

H.R. 5054 now up for consideration by the committee amends section 304 of the Tariff Act of 1930 by adding a new paragraph marked

"c." It is our understanding that this paragraph does not apply to nuts imported in the raw state and processed in the United States but such an amendment would apply to any nuts imported into the United States in the raw state and repackaged in the shell such as English type walnuts and Brazil nuts or possibly to shelled nuts repacked in vacuum tins and transparent films for "cooking nuts."

Brazil nuts are grown only in Brazil and no one in the United States could be misled into believing that such nuts are grown here. English type walnuts are grown in some of the Mediterranean countries and for the most part are used in the raw state mixed with other nuts that have been processed.

The proposed bill is silent as to whether mere shelling, mixing, or blanching constitutes processing or a change from the original state so that the package would have to be marked with the country of origin.

The problems that arise with our industry are as follows: Tree nuts are prepared, packaged, and sold both as cooking nuts in their raw state and as salted nuts. Our dependence upon domestic supplies of these varieties is sometimes affected by crop failures and consequent shortages, necessitating use of imported nuts. Printed film and labels and decorated tin cans are purchased well ahead of needs and restrictions such as might be imposed here would be very difficult to overcome. Problems involving labeling would be complicated further because of geographical location of plants since some of us have facilities all over the United States.

If we should have to make frequent changes in our ingredient statements it would impose a hardship which we do not believe justified by any results obtained. Consumers are interested primarily in purchasing clean, wholesome nut meats for their needs and countries of origin are of little import to them. Such health supervision as is necessary to protect the consumer is adequately taken care of by the regulations of the Food and Drug Administration.

While the proposed bill has considerable merit in certain situations to protect the American buying public the damage to other industries may well offset the merit unless certain industries are exempted from the bill.

There is no need whatsoever to burden this small industry with additional restrictions and complications in doing business.

On behalf of the association we urge that the bill be amended to exempt imported raw nuts from the proposed amendments.

Statement of Frank S. Ketcham, Esq., on Behalf of Thomas J. Lipton, Inc., In Opposition to H.R. 5054

My name is Frank S. Ketcham. I am a member of the firm of Scott, Lamensdorf, Ketcham & Smollar with offices at 517 Wyatt Building, Washington, D.C. I am Washington counsel for Thomas J. Lipton, Inc., an important processor of food in the United States. Thomas J. Lipton, Inc., is a major importer, blender, and seller of tea in this country and maintains plants in Suffolk, Va.; Hoboken, N.J.; Albion, N.Y.; Galveston, Tex.; San Francisco, Calif.; Streator, Ill. and Kansas City, Mo.

I am here today in opposition to H.R. 5054 insofar as it may affect the American tea industry. Tea is an imported commodity, none of which is produced in this country.

H.R. 5054, among other things, provides that—

> When any imported article the container of which is required to be marked under the provisions of subsection (b) is removed from such container by the importer, or by a jobber, distributor, dealer, retailer, or other person, repackaged, and offered for sale in the new package, such new package shall be marked in such manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of such article.

Containers or chests of tea are required to be marked under subsection (b) mentioned above to show the country of origin. It would appear that tea comes within the meaning of the language of H.R. 5054. I cannot believe that such result was intended since it is my understanding that the marking provisions in H.R. 5054 are designed only to reveal the country of origin of imported commodities in competition with similar commodities produced in this country.

As I have stated above, no tea is produced in this country. The tea-producing countries from which Lipton purchases tea are as follows: Ceylon, India, Indonesia, Kenya, Nyasaland, Tanganyika, Portuguese East Africa, Belgian Congo, Uganda, Brazil, Peru, the island of Mauritius, Malaya, Pakistan, Vietnam, the Argentine, Japan, and Formosa.

Lipton's tea is a blend of some, many, or all of the teas produced in the countries mentioned above, depending upon the tastes of the teas at time of blending. Tea tastes will vary depending upon the climatic and other conditions existing during the growing season. It is the aim of Lipton always to place before the consumer, tea tasting the same. This is the aim of all tea manufacturers, to wit, to have their particular tea taste the same from year to year. Thus, on some occasions, Lipton's tea will consist of a blend of a wide variety of teas from various countries of origin and at other times the number of countries of origin, the teas of which are in Lipton's blend, will be strictly limited. Thus, in any given blending, Lipton may well use teas from a completely different group of countries than were used in the previous blend.

The packaging of tea is a most important element in the marketing of tea. Tea-packing equipment is extremely expensive. Tea packages or containers are purchased and marked months in advance of their actual use. The present marking on each container of Lipton tea is sufficiently broad to cover any possible combination of blends and must necessarily be so. To require a tea company to mark on each package of tea the countries of origin of the teas in the particular package, when it is impossible to ascertain which teas will be in the blend until the time of the blending and packaging, would be to require an impossibility and would destroy the tea industry in this country.

Accordingly, since H.R. 5054 is intended only to require the marking of foreign commodities in competition with American commodities and the application of its provisions to the tea industry would result in disaster to that industry, it is respectfully requested that H.R. 5054 be amended to clearly except tea from its provisions.

We suggest the following corrective changes in the bill: On page 2, line 4, after "repackaged" add "in the same form or condition" And on page 2, line 9, after "forfeiture" insert a new sentence reading thus:

If any imported article is mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices, and otherwise than for the purpose of concealing the foreign country of origin of such article or articles, the new package shall not be subject to the marking provisions of this section.

TESTIMONY OF B. CLARK WHITE, PRESIDENT, U.S. TROUT FARMERS' ASSOCIATION TO SENATE FINANCE COMMITTEE IN BEHALF OF H.R. 5054, JUNE 20, 1960

I represent the U.S. trout industry, which is officially organized as the U.S. Trout Farmers' Association. The bill which is currently under discussion would afford some protection to the domestic trout industry, which is confronted with the problem of mislabeling of foreign products. Our product is rainbow trout, which you may be interested to know is native to our country. This species of trout was originally discovered in the Mount McCloud River in the High Sierra Mountains near Sacramento. During the past 75 years the rainbow trout has been spread and propagated throughout the world as a favorite of sportsmen and gourmets. The commercial trout industry is comparatively new; our domestic trout farms have largely come into existence during the past 40 years; they usually had their origin as a hobby in areas where there was an abundant supply of water, then gradually the commercially produced trout has grown to receive enthusiastic acceptance throughout the country.

Since the end of World War II the Japanese, with the help of our Government, has created a rainbow trout industry, mainly for export. They have found it somewhat difficult to sell their rainbow trout with the name "Japanese" or "Product of Japan" prominently displayed on the top of their consumer package, and have seized every opportunity to sell them as "Rocky Mountain Rainbow," "Stream Fresh," "Idaho Mountain Grown," and so on, with no mention of country of origin, knowing that by these means they can deceive the consumer into believing they are buying U.S. grown trout.

As a result, the domestic trout industry has been fighting desperately against foreign competition from Japan and Denmark. While we must sell our trout at 80 cents per pound and higher in order to realize a small profit, the Japanese importers have been selling their frozen trout at 35 cents per pound in California, delivered to the wholesalers, and the Danish trout are sold in New York and the Eastern States at 42 cents per pound. This discrepancy is caused by the fact that the foreign trout producers are subsidized with credits up to 80 percent of the cost of their trout farms, as well as incentives and educational moneys by their governments. In addition, there are no controls on the quality of the foreign product in regard to sanitary standards and inspection relating to processing and packaging, and, as you know, labor, feed, and ocean freight costs are extremely low.

On the other hand, U.S. producers of trout must meet high standards of quality in regard to sanitation and cleanliness, trout feed, water, methods of processing and packaging, in order to pass the quality control standards set up by the U.S. Trout Farmers' Association. We have as our aim the preservation of the true characteristics of the

wild mountain trout, an achievement which will be impossible to maintain as long as low quality foreign trout are permitted to be passed off as domestic trout.

In 1953 and 1954 our association was successful in sponsoring a trout-labeling bill which was passed by both the House of Representatives and the Senate only to have the President veto it. The reason given for the veto was that there were laws already enacted which would handle the abuse of nonlabeling of foreign products. However, it is believed that the actual reason was that the labeling bill might cause some friction in our trade agreements with foreign countries.

Since that time, the association and its members have frequently asked for assistance from the Food and Drug Administration and the Bureau of Customs in curbing the illegal and unfair practice of foreign importers passing off their product as American produced. The Trout Farmers' Association, through these agencies, has succeeded in requiring some of the importers to print on their packages "Product of Japan" or "Product of Denmark," though this notation is consistently made as inconspicuous as possible, and sometimes requires a magnifying glass to read. At the same time, both the Food and Drug Administration and the Bureau of Customs claim that they do not have either the funds or personnel necessary to effectively police foreign imports. It has been necessary for members of our organization to track down and report violations in order to get any kind of action from the Bureau of Customs. At the present time there is a ruling of the Customs Bureau (Circular Letter No. 3062) to the effect that foreign imports must be properly designated as to country of origin. There is a question, however, as to whether a mislabeling offense would stand up in a court of law if actually brought to a test.

Recently, our major problem has been that the importers have learned to ship their products in bulk packages which are clearly identified in order to pass the Customs Bureau. This enables the distributor or wholesaler to break down the bulk package on receipt, repackage and sell their imported trout as U.S.-grown trout. In a great many cases, retailers have even defrosted the repackaged trout and sold them as fresh rainbow trout (sample available). When this is done, the price of the foreign product has been increased to be equal to or higher than the standard price of domestic trout. This gives the retailer as much as a 200-percent profit. The practice is widespread in many chainstores and leading supermarkets throughout our country. The housewife then buys these trout, finds the quality poor after cooking, and never again will take a chance on buying rainbow trout in a market. Those among the distinguished Senators present here who are sport fishing enthusiasts would be extremely disillusioned if you happened to be hankering for trout out of season and had the misfortune to buy a package of imported trout such as I've described.

The U.S. Trout Farmers' Association is not seeking preferential treatment, but we do expect some protection from unfair foreign competition. H.R. 5054 will give us some immediate protection, and will help to protect the public from inferior products, improperly labeled, and will at least enable the ultimate consumer to make his own decision as to whether he wishes to purchase the poor quality foreign product or the superior rainbow trout which is produced by the domestic growers.

In support of the facts I have given, I have some correspondence of customs officials and members of the trout association with supermarkets and chainstores which gives several examples of mislabeling of repackaged foreign trout.

(The correspondence referred to appears at end of Mr. White's statement.)

Evidence of the most flagrant instances of mislabeling have already been turned over to the Customs Bureau during the past several months. Due to the short notice I had of my notification to appear before this committee, I was unable to obtain as many samples of violations as I would have liked to show you.

I appreciate the time you have allowed me to present my case and earnestly hope that the Finance Committee will see fit to report this bill favorably to the Senate in the near future.

(The material filed for the record follows:)

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
San Francisco, Calif., October 7, 1959.

MR. GERALD AWES,
President, Lucky Stores, Inc.,
San Leandro, Calif.

DEAR MR. AWES: During the course of an investigation conducted by this office to determine whether Japanese trout are marked in such a manner as to indicate to an ultimate purchaser in the United States the country of origin of the merchandise, it was learned that Lucky Stores' retail outlets are selling to consumers Japanese trout which is not so marked. The matter was brought to the attention of personnel of your organization on at least two occasions within the past several months, with particular reference being made to the requirements of section 1304(a), title 19, of the United States Code.

A survey of your retail stores in this area was made on October 5, 1959, by an agent of the Bureau of Customs, and it was found that imported trout are still being sold without indicia showing the country of origin. It is the opinion of the collector of customs, San Francisco, that the above practice violates the provisions of the aforementioned statute. Notice is hereby given that continuance or recurrence of this practice by Lucky Stores, Inc., at any time after October 19, 1959, will lead this office to request the U.S. attorney to institute proceedings under section 1304(e), title 19, United States Code.

Very truly yours,

R. J. O'HEARN,
Customs Agent Acting in Charge.

LUCKY STORES, INC.,
San Leandro, Calif., October 9, 1959.

MR. R. J. O'HEARN,
Customs Agent Acting in Charge, Treasury Department, Bureau of Customs, San Francisco, Calif.

DEAR MR. O'HEARN: Thank you for again bringing to our attention the necessity of having trout imported from Japan marked as such.

We have discussed this matter with our division managers and are enclosing two bulletins covering this.

We assure you that we are following through on this, and as of this date, our labeling is correct.

Very truly yours,

GERALD A. AWES, *President.*

NOVEMBER 19, 1959.

Mr. JOHN O. BROCKMAN, Jr.,
Customs Agent, Treasury Department,
Bureau of Customs, San Francisco, Calif.

DEAR MR. BROCKMAN: During my absence from the trout hatchery while on a business trip in the East, it has come to my attention that we have supplied you again with evidence that Lucky Stores are trying everything in their power to circumvent the requirements of section 1304(A), title 19, of the United States Code.

As late as this week I have again been advised by San Francisco that Lucky Stores are continuing to put out labels claiming that the product is "Product of Japan" in green ink on a green background so that it is impossible for the customer to read the label. On a sample of this type of material recently sent to you, the words "U.S. Choice" were in prominent evidence to further convince the housewife that they were buying an American-produced product.

We are beginning to wonder what we have to do to get the Treasury Department's Bureau of Customs to instigate action through the U.S. attorney. This is obviously a repeated action on the part of Lucky Stores to engage in deceiving the public into thinking they are purchasing a quality American product while in effect they are being offered an imported fish. I would like to draw your attention to the fact that we ourselves picked up evidence and submitted this to you after you had made formal notification to Lucky Stores of their violation. At that time you saw fit to do nothing about this matter, other than to again write the Lucky Stores a letter. Please advise us what we can do to protect our industry from this chain which is illegally passing off imported products as American-produced fish. We feel that we have done ample to supply you with a bona fide case against this store and yet your office does little.

Your prompt reply and a complete report of what has been done to date will be appreciated immediately.

Sincerely,

ROBERT A. ERKINS, *President.*

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
San Francisco, Calif., October 15, 1959.

Mr. ROBERT A. ERKINS,
President, the Snake River Trout Co., Buhl, Idaho.

DEAR MR. ERKINS: I am sorry for the delay in advising you of developments at this end, but we have been working closely with the U.S. attorney, and there is a possibility that he will institute criminal proceedings against Lucky Stores after October 19. Of course, it all depends on whether they are sincere in their assurances that they will cease the sale of Japanese trout improperly marked.

At the suggestion of the U.S. attorney, I wrote letters to all principal officers of the corporation, informing them that they were in violation of 19 U.S.C. 1304 and that they were flirting with criminal prosecution. (Copy of one of the letters attached hereto.) Mr. Gerald Awes, president of Lucky Stores, replied by letter of October 9, assuring us that their labeling will be correct. (Copy of Mr. Awes' letter, with attachments, is enclosed.)

However, on October 13, while on a road trip, I checked several of their stores and found no change in their procedure. After the 19th, in conjunction with the U.S. attorney, we will canvass their stores and if they are not abiding by the law we will seek prosecution. If they do comply, I will then work with the U.S. attorney in issuing the news release. I will keep you advised of events as they transpire.

Your information about Foodland Stores, Seattle, Wash., was passed on to the supervising customs agent in that city, and he will conduct an investigation at an early date, I am sure.

Best wishes,

(Signed) John,
(Typed) JOHN O. BROCKMAN, Jr.,
Customs Agent.

OCTOBER 19, 1959.

Mr. JOHN O. BROCKMAN, Jr.,
Customs Agent, Treasury Department, Bureau of Customs,
San Francisco, Calif.

DEAR MR. BROCKMAN: Thank you for your letter of October 15, reference SF 12–130. Certainly appreciate your keeping us posted on the situation with Lucky Stores and their use of Japanese trout improperly marked. We will be looking forward to your report of your survey after October 19.

On a recent trip to St. Louis, on October 8 and 9, I purchased the enclosed package of Japanese trout in Bettendorf Stores, one of the leading chains in St. Louis. This package is misleading in many ways, as it says: "World's Largest Packers of Package Frozen Rainbow Trout" and this statement, I doubt very much. I did, however, want to draw to your attention the very small wording in the center of this wrapper saying "Product of Japan." Please compare this to the large wording "Distributed by Independent Fish Co., St. Louis, Mo." The design of this package is obviously intended to lead the customer into believing that it is an American produced trout and I do not think the words "Product of Japan" which appear in small letters are in keeping with the letter of the law where it requires that imported products be conspicuously labeled. The idea of this package is obviously to defraud the buying public.

I recommend that all packages now in the custody of the Independent Fish Co., or in the food markets in St. Louis, be seized by the Customs Bureau in that area and be returned to the importer for proper labeling.

Your prompt attention and advice on the follow up of this matter will certainly be appreciated by myself as well as the members of the U.S. Trout Farmers' Association.

Sincerely,

ROBERT A. ERKINS, *President.*

DECEMBER 23, 1959.

Mr. R. L. HORST,
Pure Food and Drug, Customs Building,
Denver, Colo.

DEAR MR. HORST: It has come to our attention that Lucky Stores, Inc., of San Leandro, Calif., is selling frozen Japanese trout in their fresh meat counters in some stores as "fresh trout." Where this product is offered as "fresh trout" it is further disguised as a product of Japan by failing to mention the country of origin on the package or by stamping "Product of Japan" in green ink on a green label. This of course, makes the country of origin illegible.

These trout are purchased by Lucky Stores frozen from Japan at 35 cents a pound and sold to the housewife at 59 cents a pound which is a markup of over 40 percent. Lucky Stores purchases an estimated 50,000 pounds of trout a month for approximately $17,500 and sells them to the housewives for approximately $29,500, a gross profit of $12,000. You can readily see that this type of profit that a chain operation is interested in promoting these frozen Japanese trout as fresh trout. This, of course, gives the idea that the product is an American produced product which would normally have to sell at $1 to $1.25 per pound.

I regret that I do not have sales tickets from Lucky Stores, although we had trout purchased in Lucky Stores on December 18. Trout were purchased in the store at 2838 East 14th Street, in Oakland, and also the 18th Street store in Oakland. Trout were also purchased in the Alameda South Shore Shopping Center. The trout purchased at the East 14th Street store in Oakland were sold in the fresh meat counter, thawed out, but with the following information on them, "Rainbow Trout, Product of Japan." The trout sold in the Alameda South Shore Shopping Center were sold as fresh trout and the green stamp, "Product of Japan," had been applied to a green background so that only the most discerning person would ever see the country of origination designation. The trout sold by the 18th Street store were listed as "fresh trout" with no country of origin printed even on the green border of the sticker. In all cases these were as stated above frozen Japanese trout thawed out and sold in the fresh meat counter.

I wish that you would pass this information on to the San Francisco office of the Pure Food and Drug Administration. We have submitted this same information to Mr. Donald V. MacLeod, customs agent in charge, Bureau of Customs, San Francisco. I feel sure that should the office of the Pure Food and Drug Administration in San Francisco check with the customs office, they could verify the purchase tickets from the trout purchased by our representative on December 18. We have submitted these stickers to the customs department as mislabeling as to country of origin comes under their jurisdiction of course.

This has been a chronic problem with Lucky Stores as they are constantly selling Japanese trout as either fresh trout or with no country of origin so listed. At the type of profit that they make on this item, one can readily see why they are interested in promoting it even if illegally so.

Sincerely,

ROBERT A. ERKINS, *President.*

JANUARY 14, 1960.

Mr. R. L. HORST,
Pure Food and Drug Administration, Customs Building,
Denver, Colo.

DEAR MR. HORST: Enclosed are five labels from three different Lucky Stores in San Francisco with the purchase tickets. In all cases, the trout sold were frozen trout that had been thawed out and sold in the fresh meat counter. These trout were from Japan.

Lucky Stores has been a chronic offender of trying to pass off Japanese products as American.

You will notice that on store No. 435 in the South Shore area, that they are promoting thawed Japanese trout as "fresh trout." The words "Product of Japan" can hardly be read on the label. The only honest labeling is done by store No. 154 at 2838 East 14th in Oakland. The store at 247 East 18th, which is store No. 501, even goes as far as to use a meat label which says: "U.S. Choice."

Please bring this to the attention of the Pure Food and Drug Administration in San Francisco, particularly where the words "fresh trout" are being used on frozen thawed products.

Sincerely yours,

ROBERT A. ERKINS, *President.*

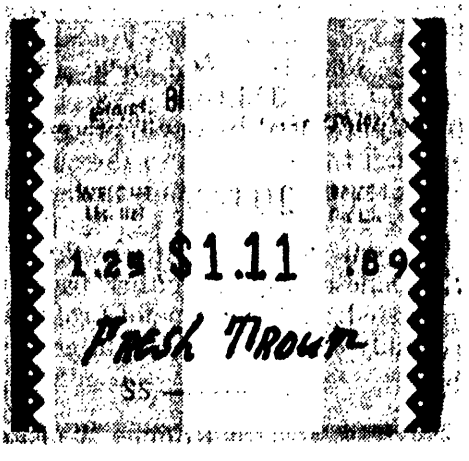
STATEMENT OF MR. ROBERT A. ERKINS, PRESIDENT, SNAKE RIVER TROUT CO., BUHL, IDAHO, JUNE 16, 1960

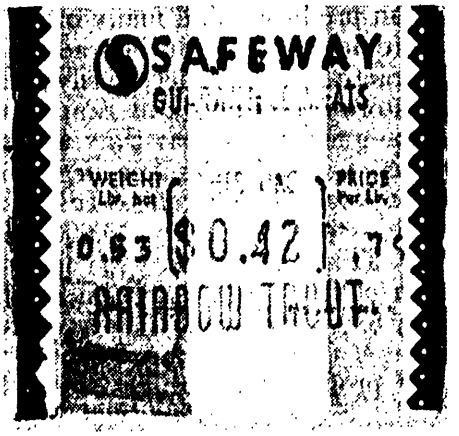
On Thursday, May 5, 1960, I visited the following supermarkets in Atlanta, Ga.:

1. Winn Dixie Store, Peachtree Road at Peachtree Battle, Avenue: This store was offering rainbow trout imported from Denmark in a thawed condition at 89 cents per pound. There was no identification on the repacked package as to country of origin. The trout were also offered as "fresh trout." See sample of label below.

2. A. & P. Store No. 8, West Paces and North Side Parkway: This store was offering thawed Danish rainbow trout at 79 cents per pound. The trout had no identification as to the country of origin and was offered as "rainbow trout."

Sample of label from Winn Dixie:





ROBERT A. ERKINS, *President.*

DECEMBER 23, 1959.

Mr. DONALD V. MACLEOD,
Customs Agent in Charge, Treasury Department,
Bureau of Customs, San Francisco, Calif.

DEAR MR. MACLEOD: On December 16, we answered your letter of December 11. This was your letter SF 12-130, with reference to imported trout from Japan being sold in Lucky Stores, Inc., in San Francisco. As you know, it has been our contention that when and where possible, Lucky Stores will pass this product off as an American-produced fish.

Again let me state the reasons why Lucky Stores would be interested in pursuing this course. First, you must realize that rainbow trout is considered a delicacy by many. The price of trout from an American trout hatchery; either fresh or frozen, will be somewhere between 75 and 85 cents per pound, delivered to the wholesaler or food market in California. Assuming a food market would want to purchase American trout at a delivered price of 85 cents a pound, they would sell this fish for approximately $1.20 to $1.25, or in other words, better than a 30-percent markup. This is a good markup, but we should remember that any product sold over $1 a pound has fewer buyers than products selling under $1 a pound and consequently the volume, although sizable to a trout producer when he sells to the food market, may be of little consequence to the food market. It is also necessary to remember that most items in food markets are sold on a very low markup and a product that might move in volume at a high markup is certainly a desirable profitmaker for any food market.

At the present time, Japanese trout are selling in San Francisco to the food markets for approximately 35 cents per pound. Lucky Stores is in turn selling these trout that they buy at 35 cents per pound, or thereabouts, for a price per pound to the housewife of 59 cents. This is over a 40 percent markup and the price is under 60 cents per pound so that the volume movement on trout at this price should be considerable, particularly considering the type of item that it is. You must further remember that rainbow trout has been promoted

for years by American producers and many other organizations such as breweries which promote it through their advertising as a gamefish just because it is attractive and not necessarily to help any particular producer. When a store can obtain a markup of over 40 percent on any item, you can be guaranteed that they will push it for all it is worth, whether pushing it or not is legal or illegal, because they do not make that type of markup in other items. It has been reported to us that Lucky Stores uses approximately 50,000 pounds of trout per month from Japan. This means that each month they would buy about $17,500 worth of trout and sell them at their going price to obtain approximately $29,500 return. This is a gross profit of $12,000 and I seriously doubt if there are many items in Lucky Stores that bring in this type of profit. You can rest assured that unless very decisive action is taken, that this practice will continue as it is, frankly, just too profitable to do otherwise.

I am sure that Lucky Stores would try to say they are complying with the regulations of the Customs Bureau. In some cases they obviously are, and these are the areas to which your agents might be directed by Lucky Stores or by chance check. I am, however, submitting labels from packages purchased in three different stores on the 18th day of December 1959. One store actually has the product marked "Rainbow Trout, Product of Japan." This you can clearly read and I would like to point out that this is a small store, while the labels from packages from the other two stores are from large stores. You will note that the small store is located at 2838 East 14th Street, Oakland, California. Sales slips are included with each package label. Please note that both the Alameda South Shore Shopping Center and the Lucky Store on 18th Street in Oakland are both promoting Japanese trout at 59 cents per pound. To further make the housewife believe that she is buying an American product, you will note that they have stamped this item "Fresh Trout." This information incidently, would also be of interest to the Pure Food and Drug Administration if you would care to pass it on to their San Francisco office. This is misleading advertising.

You will note on the four stickers submitted with the words "fresh trout" on them purchased at the 18th Street Oakland store and the Alameda South Shore Shopping Center, all on December 18, that only in two places can you find the words "product of Japan." This is not very clear, as you can see that it is stamped in green ink on a green background. I believe the customs regulation says that the country of origin of a product should be clearly stated and readable in English. The labels of the Alameda South Shore Shopping Center are not so readable. The Lucky Store at 18th Street in Oakland does not even have the product stamped.

There can be no possible doubt that Lucky Stores is continuing to follow a course of misleading the buying public into believing that they are purchasing an American-produced trout, when in fact, it is a product from Japan. Why else would any store take the trouble to stamp in green ink on a green label the words "product of Japan" when almost all stamp pad inks are red. Why else would any store take the trouble of stamping the words "fresh trout" on a product from Japan for any other reason than to mislead the buying public into believing they are buying an American-produced product?

I feel sure that if your agents would check these stores that you would again find this information to be true that we have submitted to you. When your agents check stores, please remember that if the price of the product is under $1 a pound that you can be relatively sure that it is an imported product from Japan. There have been very few instances when American-produced trout have sold under that price and then only as a special when certain hatcheries have been overloaded with trout. In every case that I have ever seen this happen, the store happily advertises that the trout are "Idaho trout" or "Utah trout" or some other designation to clearly signify that the product is from the United States. In no case do I know of Lucky Stores having purchased any American trout, either at the present time or the past.

I trust that this information will be enough to bring the desired results of having Lucky Stores stop selling Japanese trout as American-produced fish. Should you need further information, I know that I can obtain it as long as Lucky Stores continue to follow their present practices. I believe any of your agents could also obtain the same information if they will check the trout now being sold at the Alameda South Shore Shopping Center or the 18th Street Lucky Store in Oakland.

Sincerely yours,

ROBERT A. ERKINS, *President.*

DECEMBER 16, 1959.

Mr. DONALD V. MACLEOD,
Customs Agent in Charge, Treasury Department, Bureau of Customs, San Francisco, Calif.

DEAR MR. MACLEOD: Appreciated your letter of December 11, reference No. SF 12–130.

Your letter was very complete and gave us the type of information that we wanted to know. The efforts of your department have brought about the correct labeling of trout in all stores that we have personally investigated throughout California with the possible exception of Lucky Stores. We hope to again be able to submit evidence to your office shortly that although Lucky Stores is now labeling the product as a "product of Japan" that in so printing it they are using a green ink on top of a green label so that only a very discerning person would ever recognize the country of origin. We are now in the process of making a check of stores in the San Francisco Bay area and should we find the same information that we found at an earlier date we will submit this to you.

We will follow your advice in the event that we want further information as to any action being taken against Lucky Stores and contact the U.S. attorney in San Francisco or the Commissioner of Custom in Washington, D.C. Our end interest is not whether Lucky Stores will be prosecuted for this or not as we are solely interested in seeing Lucky Stores stop the practice of mislabeling. We would only want to see them prosecuted if they refused to stop such a practice.

Thank you again for your letter. The best of wishes for a Merry Christmas and a Happy New Year.

Sincerely,

ROBERT A. ERKINS, *President.*

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
San Francisco, Calif., December 11, 1959.

Mr. ROBERT A. ERKINS,
President, the Snake River Trout Co., Buhl, Idaho.

DEAR SIR: This will acknowledge receipt of your letter of November 19, 1959, in which you express displeasure at the fact that Lucky Stores, Inc., of California, has not been prosecuted under section 1304 of title 19, United States Code.

The function of this office is to conduct investigations and, when appropriate, report the findings to the U.S. attorney. This we have done both energetically and in detail. We referred the matter to the U.S. attorney here on or about October 1 of this year. Since that time, we have pursued the matter in accordance with the wishes of the Department of Justice, which is understandably interested in presenting a case best designed for prosecution. It was at their instructions that the letter to Lucky Stores, about which you took exception, was written by us.

You request us to furnish you a complete report of what has been done to date. We will limit our information to the advice that the matter of prosecution in U.S. district court is under advisement by the U.S. attorney's office. Any statement concerning their proposed action must, of necessity, come from that office. You may have been misled by our previous reports to you in connection with the progress of the investigation. These were merely a matter of courtesy. However, we now feel that future correspondence from your firm in connection with the investigation should be addressed either to the U.S. attorney, San Francisco, or the Commissioner of Customs, Washington, D.C., to whom we make our reports.

In your letter, you ask advice as to what you "can do to protect our industry from this chain which is illegally passing off imported products as American produced fish." We intend now, as we have from the outset, to investigate fully and to recommend forcefully for prosecution if applicable. We know we speak for the Department of Justice when we state that they share the same desires. Notwithstanding our intentions, in answer to your query as to what you can do, we quote below for your information section 1125(a) of title 15, United States Code:

> Any person who shall affix, apply, or annex, or use in connection with any goods or services, or any container or containers for goods, a false designation of origin, or any false description or representation, including words or other symbols tending falsely to describe or represent the same, and shall cause such goods or services to enter into commerce, and any person who shall with knowledge of the falsity of such designation of origin or description or representation cause or procure the same to be transported or used in commerce or deliver the same to any carrier to be transported or used, shall be liable to a civil action by any person doing business in the locality falsely indicated as that of origin or in the region in which said locality is situated, or by any person who believes that he is or is likely to be damaged by the use of any such false description or representation.

Very truly yours,

DONALD V. MACLEOD,
Customs Agent in Charge.

APRIL 11, 1960.

Hon. FRANK CHURCH,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR CHURCH: One of the problems that we have had in the trout industry has been the fact that imported trout from Japan in particular have been thawed by many leading supermarkets on the west coast and as far inland as Salt Lake City. These thawed trout are repackaged by the supermarket and sold to the housewife as fresh trout. We even have samples of these packages where the supermarket has used stickers on the package normally used for meat sales. These stickers bear the words "U.S. Choice."

We have had many supermarket chains sited by the Customs Bureau for repacking imported trout without designating the country of origin. Our only basis for this is a specific ruling that we were able to obtain from the Bureau of Customs related to imported trout.

I now note that House bill H.R. 5054, a bill to amend the Tariff Act of 1930 with respect to marking of imported articles and containers, was passed by the House on February 2 and sent to the Senate. The bill would require that when articles, imported in containers required to be marked, are repackaged in the United States and offered for sale, the new package will be marked with the name of the country of origin. Hearings on this bill are to be scheduled for the Senate Finance Committee. It probably will be late April or early May before these hearings can begin.

This bill is important to the trout industry, as it will give us a law to fight the repackaging of imported products so that they can be sold as ours. At the present time, we have only a ruling by the Customs Bureau and of course, this might not stand up in a court of law if actually brought to a test.

I, therefore, hope that you will support this legislation and request that the Senate Finance Committee bring it to the floor of the Senate for a vote. The problem of repackaging, particularly in the fishing industry, is quite serious because it is carried out to a great extent.

Sincerely,

ROBERT A. ERKINS, *President.*

THE NATIONWIDE COMMITTEE
OF INDUSTRY, AGRICULTURE AND LABOR
ON IMPORT-EXPORT POLICY,
Washington, D.C., June 20, 1960.

Re H.R. 5054, import marking bill.

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

DEAR CHAIRMAN: In the first session of this Congress the House passed H.R. 5054, which would tighten the marking requirements with respect to items imported in bulk.

There is only one purpose in requiring the marking or stamping of imports and that is to let the ultimate purchaser know that he is buying imported merchandise. The existing law requires such marking.

However, products shipped in bulk soon lose their identity with packaging for sale. This is true of numerous items such as screws, nails, other hardware items, vegetables, certain types of fish, etc. When the consumer buys these items he has no way of knowing whether or not they are imported; and is, therefore, unable to exercise any preference one way or another.

It is argued against the bill that its provisions would be too onerous on importers and that its enforcement would be too difficult. Many other regulations are more onerous than these would be; and in any case domestic producers would undertake the discovery of violations and would not expect minute policing and compliance machinery to be set up.

There is at stake much more than a mere whim. Consumers may have strong convictions about their patronage and preferences in purchasing. These are completely frustrated when imported goods lose their identity.

This committee urges early action on the bill. The House having already passed it, the bill would require reenactment by that body if it is not passed in this second session of the 86th Congress.

Very truly yours,

O. R. STRACKBEIN, *Chairman.*

STATEMENT OF GEORGE BRONZ, REPRESENTING THE NATIONAL COUNCIL OF AMERICAN IMPORTERS, INC., BEFORE THE COMMITTEE ON FINANCE, U.S. SENATE, ON H.R. 5054, JUNE 20, 1960

My name is George Bronz, an attorney practicing in Washington, and a member of the National Council of American Importers. I have been authorized to appear before your committee on behalf of the National Council to present the views of that organization on H.R. 5054.

The purpose of the marking provisions contained in section 304 of the Tariff Act is to indicate to the ultimate purchaser in the United States the name of the country of origin of the article.

H.R. 5054 would add a new subsection (c) to section 304 providing that when a container is required to be marked under the provisions of subsection 304(b) and then, after importation, its contents are removed from such container and put into new packages, each new package shall be required to be marked to indicate to the ultimate purchaser in the United States the English name of the country of origin of the contents.

It appears that this bill is specifically aimed to prevent some abuses of our marking laws, of which we, and the import trade in general, are not aware. Presumably, there must have been some isolated cases where an importer or a distributor of an imported article concealed from the ultimate purchaser the fact that the article was imported, or that it was imported from a particular country, by removing the article from its legally marked original container after it passed customs, and putting it in a new container bearing no mark to indicate the country of origin. We certainly do not object to the tightening of the marking provisions of our tariff laws to make such unethical practices illegal, if, in fact, such practices exist to such extent as to require new legislation.

There is, however, a serious question as to whether any amendment to the marking provisions of our tariff law is necessary, because under our present laws, the Federal Trade Commission is charged with the responsibility of taking action in situations where the marking or labeling of either domestic or imported merchandise has the capacity and tendency or effect of misleading or deceiving the ultimate consumer, either as to the origin of any imported article or in any other respects. The record will show that the Federal Trade Commission has for many years been diligent in carrying out its responsibilities of protecting the ultimate purchaser against misleading marking practices.

The term "ultimate purchaser" has been interpreted by the customs courts to mean the purchaser who will ordinarily make the last purchase of the article from a dealer's stock in the same form, or substantially the same form, as that in which it was imported. Thus, a manufacturer or processor in the United States who will convert or combine the imported article into a different article is considered the ultimate purchaser.

The proposal, moreover, presents some difficult problems of overlapping jurisdiction. This bill would amend the marking section of the Tariff Act which is administered by the Treasury Department and its Bureau of Customs. The Bureau must necessarily rely upon collectors of customs at various ports of entry, and on the appraising officers and examiners who inspect or sample a portion of all imported shipments, to see to it that imported articles that are required to be marked do have the proper marking at the time of importation. Once the imported articles are cleared through customs, there is no practical way for customs officials to supervise what might happen to the article. It would, therefore, appear that some administrative confusion would result from the adoption of this proposed legislation.

Many imported articles that would be affected by this bill are normally processed to some extent before they are repackaged, or they may be used in some mixture or blend with other foreign or domestic articles before they are placed in a new container to be offered for sale to the ultimate purchaser.

Under section 304(a) of the Tariff Act, the Secretary of the Treasury is authorized to exempt articles from the requirements of marking under certain circumstances. For example, if the article is to be processed in the United States otherwise than for the purpose of concealing the origin of such article, it may be excepted. This authority is purely discretionary, and we respectfully suggest that a similar provision be incorporated as a part of the new proposed subsection 304(c). Specifically, we propose that the following wording, or wording of similar purport, be inserted in H.R. 5054 after the words "seizure and forfeiture." on line 9, page 2 of the bill:

> If any imported article is mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices, otherwise than for the purpose of concealing the foreign country of origin of such article or articles, the new package shall not be subject to the marking requirements of this section.

A great many classes of imported products are imported in bulk and are normally repackaged in smaller packages after being processed or after being mixed, blended, or commingled in accordance with cus-

tomary and established trade practices in order that a more satisfactory product may be offered to the ultimate purchaser.

It must be pointed out that our proposed amendment will offer no relief from unnecessary expense and hardship to importers, jobbers, distributors, or dealers who receive an imported article in a large container and then repackage the article in smaller sized containers without change in form or condition for the convenience of the American consuming public. This is a normal trade practice with respect to many imported articles and the ultimate consumer is in nowise deceived or misled as to the fact that the article in the smaller container is imported rather than a domestic product. Often these consumer sized containers are, for practical reasons, merely marked as "Imported."

We further respectfully propose that the words "seizure and forfeiture" on line 16, page 2 of the bill, be deleted and that in lieu thereof, the words "the provisions of subsection (d) hereof." The present subsection (c) of section 304 now provides for any additional duty of 10 percent ad valorem if, at the time of importation, any article, or its container, is not marked in accordance with the requirements of section 304, unless such article or container is destroyed, exported, or marked after importation in accordance with the requirements of such section. If our proposal is adopted, the wording of the present subsection (c) would require the addition of the words "or thereafter" following the words "at the time of importation" in that subsection.

The provisions of H.R. 5054 would impose the very drastic penalty of seizure and forfeiture of repackaged goods, which means outright confiscation, in contrast to the 10 percent additional duty if the original containers of the very same goods were not properly marked.

Our basic position is that the amendment proposed to section 304 is unnecessary, but if H.R. 5054 is approved, we respectfully urge that the clarifying amendments to the pending bill that we have suggested be adopted by your committee.

STATEMENT BY THOMAS W. KELLY, OF BREED, ABBOTT & MORGAN, NEW YORK, N.Y., ON BEHALF OF THE AMERICAN SPICE TRADE ASSOCIATION, THE NATIONAL COFFEE ASSOCIATION, AND THE TEA ASSOCIATION OF THE UNITED STATES OF AMERICA

My name is Thomas W. Kelly, and I make this statement as general counsel for, and appear on behalf of:

1. The American Spice Trade Association, Inc.
2. The National Coffee Association.
3. The Tea Association of the United States of America.

Each of these trade organizations represents approximately 80 to 90 percent by volume of the trade members engaged in the particular industry.

All of these industries have in common the fact that they import all, or substantially all, of their raw products from foreign countries. All of these imported commodities are agricultural commodities, and (with minor exceptions in the spice industry, to be referred to later) there is little or no domestic production or growth of these raw agricultural products which are included in the final consumer package.

Insofar as tea is concerned, no tea is grown in any part of the United States in any commercial quantity. The main countries of origin insofar as tea is concerned are Ceylon, India, and Indonesia, as well as parts of Africa; teas are also received from other parts of the Far East.

In the case of coffee, except for a minute portion of 1 percent grown in Hawaii and Puerto Rico, all of the raw product is grown abroad. The main countries of production are in South America, Central America, and Africa, and in these areas many different States grow coffee.

With regard to spices, the situation is even more varied. There are a total of about 50 items, the bulk of which are grown in over 60 foreign countries and imported into this country. The only substantial production of spices in this country, in terms of a proportion of the total items used, would be mustard and sesame seed, red peppers, and paprika. Even in these four instances the majority in volume is imported. To use an illustration of the variety of consumer products which exist in the case of spices, reference can be made to the case of "curry powder." It might contain, although this is not the only composition possible, pepper from India or Indonesia; red pepper from Japan or Nigeria; turmeric from Formosa or India; coriander from Morocco or Rumania; bay leaves from Turkey or Greece; and salt from the United States.

Thus all of these three industries bring components from far corners of the world and mix, blend, or combine these constituents to secure a special and particular taste which is embodied in the ultimate consumer package. These three industries all deal with agricultural products which by their nature are seasonal in production, and accordingly, for this or other reasons will from time to time experience a limited availability of particular items, in which case items from other countries must be used interchangeably. In addition, prices and quality variations may suggest or require selection of the products of one country rather than those of another.

As a result, the final consumer product may from time to time contain different mixes or compositions all carefully selected or blended to insure the uniform taste and flavor which is associated with the brand and trademark of the individual manufacturer. In all of this variety and complexity it is impossible for the manufacturer to know in advance what particular item, from which particular country, may be incorporated in the final products. Yet, in order to maintain a constant flow of merchandise, the company must have, well in advance, an extensive inventory of labels and containers fully marked and ready for use.

Industry problems under this bill are illustrated by the following: the final consumer package of coffee, tea, or spice blends may originate in up to 20 different foreign countries, as is in fact the case, for example, with mixed pickling spice. Unpredictable variations in crops would render impossible any advance certainty about the ultimate country of origin of all constituent parts. In this situation, and under the bill as now written, the packer would be unable to take advantage of the economies and sanitation of lithographed containers, for these must be ordered with labeling specifications many months in advance and in large quantities. In practical effect, the bill might destroy domestic packing activities under these and similar circumstances.

On the other hand, I believe that no need is shown to exist for the application of the proposed measure to coffee, tea, or spices. In my experience with these industries I have heard of no instance in which it was alleged that any consumer was inconvenienced or put at any disadvantage by reason of the failure of the lebel to include detailed information as to the specific countries of origin of each individual component part. To the best of my knowledge, there has been no indication given anywhere that any confusion exists in the mind of the consumer with respect to any of the products covered by this statement.

Accordingly, it is respectfully requested that if this bill be considered for passage, that coffee, tea, and spices be specifically exempted. In the event it is not deemed appropriate to grant specific exemption, it is respectfully submitted that if the present measure were amended to include the language underlined below, it would preclude application of this law to instances which it was neither intended nor desired to affect. The bill with the suggested amendment italicized, would then read in section (c) as follows:

When any imported article the container of which is required to be marked under the provisions of subsection (b) is removed from such container by the importer, or by a jobber, distributor, dealer, retailer, or other person, repackaged, and offered for sale in the new package, *then in such case, whenever the Secretary of the Treasury shall find and declare, as to any specific article, that it is to the benefit or advantage of the ultimate purchaser,* such new package, *of such specific article,* shall, *commencing on such date after said finding and declaration as the Secretary of the Treasury shall fix,* be marked in such manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of such article * * *.

STATEMENT IN SUPPORT OF H.R. 5054 BY GEORGE P. BYRNE, JR., SECRETARY, U.S. WOOD SCREW SERVICE BUREAU, REPRESENTING 64 SCREW MANUFACTURERS, BEFORE THE SENATE FINANCE COMMITTEE, WASHINGTON, D.C., JUNE 20, 1960

INTRODUCTION

My name is George P. Byrne, Jr., I appear today as secretary of the U.S. Wood Screw Service Bureau, a trade association representing approximately 64 manufacturers of wood screws, machine screws, and other similar threaded fasteners. These manufacturers strongly urge the enactment by Congress of H.R. 5054, a noncontroversial bill, the principal purpose of which is to protect American consumers from unfair deception and misrepresentation. The people I represent ask speedy and favorable action on this legislation because, when enacted into law, H.R. 5054 will be a powerful aid in stopping the growing practice in the trade of repackaging low wage cost imported products and palming them off on the unsuspecting public in new packages with no marking thereon to indicate that the contents are imported.

OBJECTIVES OF H.R. 5054

The true value of H.R. 5054 may readily be seen by a detailed examination of its objectives:

(*a*) To require that packages, cartons, containers, boxes, etc., containing imported products packaged in the United States of America be clearly and legibly marked in English to show the

country of origin of the contents, and thus prevent American consumers from being mislead as to the origin of such contents;

(*b*) To remove the unfair advantage which imported goods have over domestic products when such packages containing low wage cost imported items are not marked with the country of origin and are offered for sale as apparent domestic products at prices far below those for which the domestic product can be sold;

(*c*) To properly identify to the American public, packages made up in the United States of America containing imported items originating in countries located behind the Iron Curtain; and

(*d*) To also eliminate the practice of commingling domestic products in new packages with imported products, and marking the packages "made in U.S.A."

NEED FOR THIS LEGISLATION

Import statistics show that large quantities of low wage cost imports, many of which are not customarily individually marked with country of origin, are now entering the United States. Included in these imports are fruits and vegetables from Central and South American countries; also screws, nuts, rivets, tacks, washers, small tools, electrical parts and many other items, coming from Japan, West Germany, England, France, Belgium, and some countries located behind the Iron Curtain. Shipments of products originating in Iron Curtain countries most of the time are shipped to Western countries outside the United States and then reshipped to the United States.

In many cases such foreign products are imported in large containers such as casks, hampers, barrels, packing cases, etc. Following arrival at importers place of business such imports often are removed from their large shipping containers and put in small American-type packages, which packages are offered for sale in the U.S.A. with no marking thereon to indicate country of origin. Thus American purchasers of the new smaller packages are misled into believing that they are buying products made in the U.S.A. when such is not the case. Several samples of new packages of imported products made up in the U.S.A. and containing no marking thereon to indicate country of origin of the contents accompany this statement. These are marked exhibits "A" and "B."

PRACTICABLY OF ENFORCEMENT

Any claim that H.R. 5054 cannot be administered by the U.S. Customs Bureau is entirely unfounded. First H.R. 5054 contains no criminal penalties. Thus the Customs Bureau would not be required to devote time to enforcement of such penalties.

Secondly, the Customs Bureau already is taking action on violations of marking requirements of section 304 of the U.S. Tariff Act as they apply to (*a*) imported items required to be marked and (*b*) to containers in which imports enter the United States and which reach the ultimate consumer. In a large number of such cases, the violations are discovered after the imports leave U.S. ports of entry, and evidence of the violations in many such cases is supplied to Customs

by representatives of domestic industry, in all parts of the country. Industry representatives frequently visit distributors, jobbers, wholesalers, and dealers and are already reporting to their principals numerous cases of imported items repackaged and sold by importers and distributors with no marking on the new packages to indicate country of origin of the contents.

This procedure would be entirely workable under H.R. 5054; and, once the new law was publicized and effective, would add very little burden to the Customs Bureau's enforcement of other provisions of section 304 of the present Tariff Act.

Also it should be borne in mind that it is economically unsound to repackage imported items more than once and repackaging of such items is, therefore, done once only. When large containers such as casks, parrels, drums, hampers, etc., arrive at the importer's warehouse or plant, the contents are repackaged in American-type packages, containing one gross, or other commercially accepted quantities from 10 or a dozen up to large packages of several thousands of the imported product. Since labor costs in the U.S.A. are high, repackaging imported items more than once is in most cases prohibitively expensive. In most instances, it is the original importer or wholesaler-importer who does the repackaging. The material is not again repacked. The problem of ascertaining the identity of the repacker is a simple one and does not require investigative or policing effort.

Most importers and other businessmen try to obey the law. Notification of the rule that all packages of imported products made up in this country must be marked with the country of origin should be sufficient in most cases.

The U.S. Customs Bureau is the best agency to administer H.R. 5054 because of its administrative functions in connection with imports. Also, experience has shown that evidence of marking violations relating to imported products required to be marked and containers of imports originating abroad which reach ultimate consumers as supplied to the Customs Bureau by representatives of domestic industry has resulted in prompt and effective action by the Customs authorities.

The same representatives of manufacturers of screws, nuts, bolts, cotter pins, tools, etc., and domestic producers of fruits and vegetables, can easily supply Customs authorities with concrete evidence of violations of provisions of H.R. 5054. Thus, the administration by the Customs Bureau of the provisions of H.R. 5054 can be handled without difficulty and without additional manpower.

Also the very fact that H.R. 5054 becomes law will have a salutary effect in deterring present unfair deception being practiced on consumers.

COMPLIANCE NO PROBLEM

Compliance with H.R. 5054 would be an easy matter. Once H.R. 5054 becomes law, all repackagers of imported items need do to comply will be to mark the name of the country of origin, plainly in English, on a new package. A very simple requirement for the protection of consumers. This requirement should have no effect on the demand for domestic and imported products and due to the keen competitive conditions of today between domestic and imported products, wholesalers, jobbers, and retailers will be obliged to continue to stock both domestic and imported products.

Furthermore, instead of interfering with trade, the clear rules for identifying the source of contents of packages of imports made up in this country will promote trade by insuring the buyer of what he is getting. Today, lack of confidence by buyers is manifested in many cases where they have no quick reliable way of ascertaining whether goods are imported or not, particularly where domestic products made according to U.S. standards of quality and design are preferred.

Under the circumstances outlined above we again urge favorable consideration and speedy enactment of H.R. 5054.

This statement is respectfully submitted in behalf of the manufacturers whose names appear on the attached lists, their employees and stockholders.

GEORGE P. BYRNE, Jr.,
Secretary, U.S. Wood Screw Service Bureau.

LIST OF SCREW AND RIVET MANUFACTURERS SUPPORTING STATEMENT OF GEORGE P. BYRNE, JR., SECRETARY, U.S. WOOD SCREW SERVICE BUREAU IN SUPPORT OF H.R. 5054

Allen Mfg. Co., Hartford, Conn.
Allied Products Corp., Detroit, Mich.
American Rivet Co., Chicago, Ill.
American Screw Co., Willimantic, Conn.
Anchor Fasteners, Inc., Waterbury, Conn.
Atlantic Screw Works, Inc., Hartford, Conn.
The Atlas Bolt & Screw Co., Cleveland, Ohio.
The Blake & Johnson Co., Waterville, Conn.
Brighton Screw & Manufacturing Co., Cincinnati, Ohio.
Camcar Screw & Manufacturing Co., Division of Textron, Inc., Rockford, Ill.
Central Screw Co., Chicago, Ill.
Chandler Products Corp., Cleveland, Ohio.
Chicago Rivet & Machine Co., Bellwood, Ill.
The Chicago Screw Co., Bellwood, Ill.
Clark Metal Products, Inc., Fairfield, Conn.
The Cleveland Cap Screw Co., Cleveland, Ohio.
Continental Screw Co., New Bedford, Mass.
The Eagle Lock & Screw Co., Terryville, Conn.
Economy Machine Products Co., Chicago, Ill.
Economy Screw Division, Federal Pacific Electric Co., Chicago, Ill.
Elco Tool & Screw Corp., Rockford, Ill.
E. W. Ferry Screw Products Co., Inc., Cleveland, Ohio.
The Ferry Cap & Set Screw Co., Cleveland, Ohio.
Great Lakes Screw Corp., Chicago, Ill.
The H. M. Harper Co., Morton Grove, Ill.
Hartford Machine Screw Co., Hartford, Conn.
Harvey Hubbell, Inc., Bridgeport, Conn.
Holo-Krome Screw Corp., Hartford, Conn.
Illinois Tool Works, Chicago, Ill.
International Screw Co., Detroit, Mich.
Kerr-Lakeside Industries, Inc., Cleveland, Ohio.
Lake Erie Screw Corp., Cleveland, Ohio.
The Lamson & Session Co., Cleveland, Ohio
Mac-it Parts Co., Lancaster, Pa.
Mid-America Fasteners, Inc., Franklin Park, Ill.
Midland Screw Corp., Chicago, Ill.
The Milford Rivet & Machine Co., Milford, Conn.
George W. Moore, Inc., Waltham, Mass.
National Lock Co., Rockford, Ill.
National Rivet & Manufacturing Co., Waupun, Wis.
The National Screw & Manufacturing Co., Cleveland, Ohio.
The Wm. H. Ottemiller Co., York, Pa.
Parker-Kalon Division, General American Transportation Corp., Clifton, N.J.
Pawtucket Screw Co., Pawtucket, R.I.
Pheoll Manufacturing Co., Chicago, Ill.

The Progressive Manufacturing Co., division of the Torrington Co., Torrington, Conn.
Reed & Prince Manufacturing Co., Worcester, Mass.
Rockford Screw Products Co., Rockford, Ill.
Russell, Burdsall & Ward Bolt & Nut Co., Port Chester, N.Y.
Safety Socket Screw Co., Chicago, Ill.
Scovill Manufacturing Co., Waterville, Conn.
Screw & Bolt Corp. of America, Pittsburgh, Pa.
Screw & Bolt Corp. of America, Southington Hardware Division, Southington, Conn.
Set Screw & Manufacturing Co., Bartlett, Ill.
Southern Screw Co., Statesville, N.C.
Standard Pressed Steel Co., Jenkintown, Pa.
Judson L. Thomson Manufacturing Co., Waltham, Mass.
Towne Robinson Nut Co., Inc., Dearborn, Mich.
Townsend Co., New Brighton, Pa.
Tru-Fit Screw Products Corp., Cleveland, Ohio.
Tubular Rivet & Stud Co., Wollaston, Mass.
United Screw & Bolt Corp., Chicago, Ill.
The Western Automatic Machine Screw Co., Elyria, Ohio.
Whitney Screw Corp., Nashua, N.H.

Statement of Gustave Springer on Behalf of Holland Bulb Exporters Association in Support of H.R. 5054, Before the U.S. Senate Finance Committee

The Holland Bulb Exporters Association is composed of some 300 exporters engaged in selling flower bulbs grown in the Netherlands to consumers in every country in the world. The American section of the organization lists about 150 exporters who annually ship close to 500 million tulip, hyacinth, narcissus, gladiolus, and other flower bulbs to the United States and Canada. A permanent office is maintained by the association in New York. The promotion arm of the Dutch flower-bulb industry (Associated Bulb Growers of Holland) spends over $300,000 annually to advertise and publicize Dutch flower bulbs in the United States.

The Dutch flower-bulb industry has been in existence for over 300 years. Its products have been used by gardeners in the United States since its very inception. Thomas Jefferson, at his home in Monticello, had one of the finest collections of Dutch flower bulbs in his garden. This long and honorable history coupled with intensive modern marketing methods have made the tulip almost synonymous with the name Holland. The Dutch bulb industry has always been proud of the quality of its product and the American public has grown to rely on the Dutch reputation for quality.

In recent years an increasing number of tulip bulbs have been imported into the United States from Japan. When compared in terms of quality and wide choice of varieties, Dutch tulip bulbs are superior to those imported from Japan. The latter are, however, offered to retailers at prices far below those normally charged for Dutch bulbs or for American bulbs produced in the Northwest. If the bulbs in question were offered to the consumer with full disclosure of the country of origin we would have no cause for complaint. Unfortunately it has become standard practice for those few retailers who deal in Japanese tulip bulbs to conceal the country of origin. This has been possible because there is no statute on the books at the present time that requires such a disclosure.

Pursuant to the provisions of section 304 of the Tariff Act of 1930, the Secretary of the Treasury has exempted tulip bulbs from marking requirements since this article is not capable of being marked without injury to the bulb. The outer containers, however, must be properly marked. Tulip bulbs from Japan are usually imported packed 250 to a bag, with from 8 to 16 bags to a case. The bags and cases are always marked "Product of Japan." After importation the largest percentage of these bulbs are then repacked into small containers with from 6 to 12 bulbs per package. These packages are then sold in retail stores to the consumer. We have never heard of a single instance of a retail package being marked "Product of Japan" although millions of packages of Dutch bulbs are sold to the American public marked "Product of Holland." Usually packages of Japanese bulbs are marked "Imported Tulip Bulbs" without disclosure that they are imported from Japan. To the average consumer an imported tulip bulb is one that was imported from Holland. We have seen packages, which have no designation of country of origin or that they were imported but which we are convinced contained Japanese tulip bulbs, on counters alongside of packages marked "Product of Holland." Under such circumstances a deception of the public is inevitable.

We respectfully submit that the American consumer has a right to know what he is buying. The legislation now under consideration by this committee would give him that protection. Opponents to H.R. 5054 may argue that undue hardship will be caused packagers in requiring labeling of retail packages with the country of origin. We believe that any commercial firm packaging quality imported articles would be only too happy to do so.

Another argument against the bill will probably contend that the Treasury Department through the Bureau of Customs is not the proper enforcement agency. We respectfully submit that it is the one agency peculiarly suited to this task. The U.S. Customs is familiar with imported merchandise and its movement into commerce. In exercising its duties of appraisement and classification the Bureau of Customs, through the local appraisers and collectors, repeatedly investigates the terms and conditions of ultimate sales of imported products. The Bureau of Customs has a force of customs agents that has for years acted as a policing force to ferret out fraud. It may be true that this legislation places a burden on the Bureau of Customs that it is not, at this time, properly staffed to undertake. It is, however, not true that the Bureau of Customs is not the proper agency to execute the provisions of this bill.

The bill as it is presently worded does not place any undue hardship on any commercial enterprise. It does not affect imported articles that are used as material in the manufacture or production of a finished product which is then sold to the public. Its sole coverage is of items that are repacked prior to sale to the consumer, without anything being done to the article itself.

So far as specific reference to an article of commerce is concerned, we have restricted this statement to flower bulbs since we are keenly aware of the conditions in that trade which cry out for legislation such as H.R. 5054. We urge this committee to approve the bill without any amendments.

HOLLAND BULB EXPORTERS ASSOCIATION, INC.,
New York, N.Y., June 21, 1960.

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

SIR: It is unfortunate that, due to pressure of business on the floor of the Senate, your committee was compelled to cancel the hearing on H.R. 5054, scheduled to be held Monday morning, June 20, 1960.

The statement which I filed with the committee cited several arguments in favor of the passage of the bill.

I have now received a copy of the statement of Assistant Secretary of the Treasury Flues, noting the Treasury Department's opposition to H.R. 5054, and I am taking this opportunity to comment on some of the objections raised by said statement.

None of the supporters of the proposed legislation have ever suggested that the customs service would be expected to "follow articles imported in properly marked containers into domestic consumption to detect violations." This would, of course, be impossible. It is also unnecessary. Section 304(e) of the Tariff Act of 1930 provides for severe penalties of fine and/or imprisonment for anyone removing or destroying a mark required by section 304. Certainly the Treasury Department has never construed this section as requiring it to follow each article into commerce. There can be no doubt that the existence of this provision has reduced the prohibited activity to an absolute minimum.

The Treasury Department contends that inability to identify an imported article by physical examination would prevent the customs service from effectively enforcing the repackaging feature. We respectfully submit that there are means of detecting violations other than by identification by physical examination. A well-trained investigator can obtain all necessary evidence by examining commercial documents, packing records, and books. Customs agents have an excellent reputation for ferreting out violations of the Tariff Act long after goods have left customs custody. They could do an equally splendid job of enforcing the proposed legislation.

The statement that "we do not believe that it is good policy to depend on the public as the primary source of evidence of violations," is completely meaningless since in the previous paragraph Mr. Flues indicates that—

> upon receipt of an allegation, specific as to type of merchandise and the details of the violation, Customs would undertake an investigation to see if there were sufficient evidence that a violation had taken place.

There are other agencies of Government that protect consumers in just this fashion.

Adequate enforcement of legislation does not necessarily mean complete enforcement. The fact that some violations may go undetected or that, in some instances, sufficient probative evidence is not obtainable, is not a valid reason for opposing legislation necessary for the protection of the public against deception. The need for the legislation exists. That should be the primary consideration.

Respectfully yours,

HOLLAND BULB EXPORTERS ASSOCIATION, INC.,
GUSTAVE SPRINGER, *General Counsel.*

STATEMENT OF EDWARD LARAJA OF THE OLIVE OIL ASSOCIATION OF AMERICA, INC., ON H.R. 5054, JUNE 20, 1960

Mr. Chairman and members of the committee, in order to analyze the full impact of the labeling provisions of the Herlong bill, H.R. 5054, on the domestic packed olive oil industry, it is absolutely necessary to have a general knowledge of the basic sources of imported olive oil, the international olive oil market, the characteristics of olive oil, the method of importation, the processing of the product prior to packing, the containers in which it is repackaged and sold, the methods of distribution, and finally the requirements and expectations of the ultimate American consumer.

Sources of supply.—Historically the traditional suppliers of olive oil in bulk to the U.S. market are the producers, refiners, and exporters of Spain, Greece, Tunis, and Italy. However, within the past decade olive oils have been imported from Algeria, Morocco, Turkey, Lebanon, Tripoli, Chile, Lybia, and Argentina as well as more recently, Israel.

It is not a remote possibility that one exporting country could be supplying the U.S. market for an extended period of time, however historically and realistically, the vicissitudes of the olive crop and the keen competition in the international market make for supplies from numerous countries the rule rather than the exception.

International market, olive oil.—Olive oil is an agricultural commodity subject to normal crop fluctuations and when traded between a variety of nations in any given period of time within any given year one or more of the countries listed above can be supplying the U.S. importers and packers due to one or a combination of the following factors:

(1) Annual yield of the crop.
(2) Exchange fluctuations.
(3) Quality of the annual crop.
(4) Availability of reserve stocks.
(5) Demand from countries other than the United States which are traditionally large consumers of olive oil.
(6) Arbitrary regulations of consuming and producing countries regarding imports and exports.

And any number of other factors not listed but generally characteristic of the multitude of differentials governing any international agricultural market.

It is interesting to note that many of the producing countries are also recipients of funds under our Public Law 480 for the purchase in the United States of vegetable oils.

Methods of importation.—U.S. packers purchase imported olive oil on the basis of a unit price per 100 kilos, pay for the product with letter of credit payable at sight, receiving the merchandise via steamer from the producing or exporting country to the U.S. port in steel drums of approximately 55 gallons net each, enter and pay duty on the product under present existing customs laws.

Dependent upon market conditions and supply, there is also a "Spot market" here in the United States in which importers sell from the dock or out of warehouse on the basis of a price per gallon, duty paid.

Characteristics of olive oil.—To some a study of olive oil is a science, to others it is an art, to others an avocation, to those in the industry a vocation.

For the purposes of this report, it suffices to say that olive oil is not a uniform product. To be more specific, its characteristics vary not only according to the country in which it is produced but also in accordance with the particular section of the country in which it is produced. Furthermore, growing conditions, storage conditions, maturity of fruit are only a few of the factors affecting the quality of olive oil. Add to this the different methods and technique of extraction, filtering, and refining, storing, and blending of edible olive oils toegther with differentials as to the facilities available for the harvesting and processing of olives in the respective producing countries, it is not difficult to begin perceive the multitude of variables affecting the finished product.

These variables specifically affect the properties of olive oil in which the U.S. packer must interest himself to obtain the most acceptable product. Basically these properties are purity, palatability, color, clarity, aroma, uniqueness of flavor, stability, freedom from rancidity, age, free fatty acids, "blendibility," viscosity, mellowness, sharpness, etc.

Processing.—Processing of imported olive oil in the United States falls into two main categories: (1) filtering, and (2) blending.

Filtering.—Prior to packing the olive oil, it is thoroughly filtered to afford the product the greatest clarity possible.

Blending.—Of primary importance to the U.S. packer of imported olive oil is the establishment and consistent maintenance of a specific type of the various olive oils packed under his brand by seeking uniformity of taste, aroma, color, etc., as brand loyalty depends largely on the strict maintenance of such uniform quality.

To fully appreciate the problems of maintaining a "uniform type," we make reference to the previous paragraphs in this report listed under the headings "Sources of Supply," "International Market," and "Characteristics of Olive Oil."

In brief, from a multiplicity of producing countries, under the pressures of a fluctuating international market, a U.S. packer must purchase and import a variety of types of olive oil to eventually achieve a marketable product, and within the course of the operation keep his cost to a minimum.

For example, a U.S. packer could be blending a neutral oil from Algeria as a base, a Spanish oil for bouquet, and a Tunisian oil for body and flavor and within the course of his operation, market fluctuations and supply could permit and force the substitution of the Spanish oil with a Greek oil of similar characteristics and/or a heavy Argentine oil would suddenly become available in the spot market at a good price and provide an adequate substitution for the Tunisia product.

Accordingly, within the framework of constantly changing prices, current stocks on hand, types available for purchase, merchandise in transit, tendencies in the international market, the U.S. packer seeks to maintain a uniformity of his product consistent with minimum costs.

Packing.—After filtering, the imported olive oil is pumped into large tanks where it is blended. From these tanks the olive oil is

packed in the various consumer-sized containers and distributed to the trade.

Containers.—Olive oil is packed and sold to consumers in lithographed tins of one-half pint, 1 pint, quart, half gallon, and 5 gallons. It is also packed in glass bottles of 1 ounce, 1¾ ounces, 2 ounces, 3 ounces, 4 ounces, 8 ounces, 16 ounces, 32 ounces, and 1 gallon.

Labeling.—Both the lithographed tins and the paper labels on bottles include the brand of the U.S. packer plus any and all other notations necessary.

Methods of distribution.—Packers sell their consumer packages either directly to retail stores, chainstores, department stores, hotels, restuarants, etc., or in many instances through distributors, wholesalers, and jobbers, which eventually distribute to these same retail or consumer outlets.

Price structure.—Imported olive oil filtered, blended, and packed in the United States in consumer containers sells in competition with—and at a discount under—brands packed in consumer containers in the country of origin and exported to the United States ready for distribution to retail outlets.

This discount is in a sense the very basis for the existence of the U.S. industry and is possible because of the American packers' flexibility in choosing a source of supply, whereas foreign packed olive oil requires the use of the production available within the borders of the exporting country which may or may not be in competition with world markets at any given time.

Problems arising for U.S. packers of imported olive oil through compliance with the Herlong labeling provisions.—Prior to any specific discussion in this respect, the following facts must be taken into consideration:

(1) Lithographed tins and labels for bottles are made from costly plates.

(2) Once printed, lithographed tins and labels have no other economical value except the specific purpose for which they are made.

(3) Lithographed tins and labels are purchased at a discount only when ordered in large volume.

(4) Changes in lithographed tins and labels are difficult and expensive to make.

(5) Storage (especially for empty tins) is an expensive and space-consuming proposition.

Furthermore, labeling laws usually apply to the carton in which a consumer product is packed and shipped as well as to the consumer package itself. Accordingly, the facts listed above apply to the cartons as well as to the tins and labels, as these too are printed to conform with a packer's brand.

Accordingly, from the practical point of view, what are a few of the alternatives open to the U.S. packer of imported olive oil which would provide for compliance with the labeling provisions of the Herlong bill?

(1) Print the tins and the labels with one specific country of origin and pack only the product imported from this particular source.

Disadvantages: The packer leaves himself at the mercy of the qualities and price of one producing country. Flexibility to purchase various oils from various sources at the lowest possible prices is lost, and consequently the very foundation of the U.S. olive oil industry will crumble. Such a procedure can only ruin the quality and raise the price of the product beyond the price the consumer is willing to pay.

(2) Print several different tins or labels each identifying a different country of origin.

Disadvantages: A sudden embargo or switch in the world market leaves the packer with stocks of labels and tins which he must store until such a time as the specific country designated on the tin resumes exports of the desired qualities at competitive prices. The packer looses flexibility in that he cannot use a certain type of olive oil desired to effect a blend with the country already stated on his label. Again his quality is threatened and his costs and his prices rise.

(3) Print tins and labels with various combinations of the countries of origin in accordance with the blends he would hypothetically use.

Disadvantages: This procedure would first involve the expense and time necessary to make new and varied plates. It would require the need to keep a steady supply of containers corresponding specifically to the blend used. Labels and tins would have to be purchased cautiously in order to avoid overruns thereby losing the advantages of volume buying. Despite all precautions dead stock would be inevitable. Eventually, a packer would be forced to purchase his olive oils to comply with the markings on his tins and labels, rather than under the sound economical basis of price and quality.

(4) Have the brand packed in a foreign producing country and import the product in consumer containers.

Disadvantages: For all intents and purposes, this alternative eliminates the need for a packing plant and makes the entire industry superfluous. This procedure puts the packer in a position where he is in reality an importer without the benefits of flexibility of purchases and blending of olive oils from several countries. With the cost advantage dissipated, the packer goes into direct competition with foreign brands and consequently the U.S. consumer pays higher prices.

The extinction of the U.S. packing industry has serious and extensive effects. Firstly, it abruptly and summarily cancels out the investment and labors representing a lifetime of efforts for those old and established American firms in the industry. It takes jobs from those American citizens directly employed by U.S. packers. It has serious and far-reaching effects upon large and small American businesses which today supply U.S. packers of imported olive oil with the machinery, tins, labels, bottles, cartons, closures, printing, lithographing, tinplate, paper, and services such as brokerage, accounting, advertising, and market research.

Intents of the Herlong bill H.R. 5054 as applicable to the U.S. olive oil production.—It is assumed that the primary purpose of the Herlong bill is to prevent the intermingling of a cheap foreign product with an equivalent domestic product to the detriment of the legitimate interests of U.S. industry and the eventual deception of the American consumer.

Imported olive oil is definitely not in this category nor by any stretch of the imagination is the U.S. production of olive oil in California detrimentally affected.

Domestic (U.S.) production is for all intents and purposes only a byproduct of the larger and more important industry of growing and curing and packing olives. U.S. production accounts for not more than 5 percent of the U.S. consumption of olive oil and its sale is normally concentrated in the producing areas of the Far West because of freight differentials. (The normal flow of olive oil is westward.)

It is to be noted that even the west coast of the United States itself does not produce sufficient olive oil for its own consumption and as a consequence, imports account for approximately 50 percent of the consumption of olive oil in this area.

Furthermore, U.S.-packed imported olive oil traditionally and historically commands a price premium over domestic olive oil. This promotes a rather unique situation in the American economy, that is, the danger that a domestic product could be intermingled or blended with an equivalent imported product to cheapen the imported product. This problem is of such concern on the west coast that the California authorities have enacted and strictly enforce laws and regulations to prevent the possibility. Under present regulations, should a west coast packer desire to blend an imported olive oil with a domestic olive oil, he cannot label the product "Imported." The higher cost of the blending merely penalizes the packer since without the premium "Imported" label, he still must compete with those packers blending straight (and cheaper) domestic olive oil.

It is reasonable to conclude that any conflict of interests between the U.S. olive oil industry and the U.S. packing of imported olive oil is actually nonexistent—at best extremely negligible.

Effects of the Herlong bill on the ultimate U.S. consumer.—Flexibility of supply and blending skills give to the U.S. consumer a good imported olive oil at a price consistently cheaper than olive oil packed in foreign countries. Historically, a prime prerequisite for any consumer of olive oil is that it must be imported. Current municipal, State, and Federal laws insure this requirement and from this point he may choose the brand which best fulfills his personal standards of taste and price. It can be stated beyond all reasonable doubt that the consumer of U.S. packed imported olive oil cannot and does not in any way feel deceived if the country or countries of origin do not appear on the tin or bottle in which it is purchased. Traditionally and realistically this has never been the concern of a consumer and it is the conviction of those in the industry that the labeling with countries of origin forces upon the U.S. consumer a new standard—an entirely new concept—which could only precipitate confusion without practical purpose. The commensurate higher price the consumer would have to pay for his accepted brand would only add to this confusion and hurt sales.

For example, is a buyer of coffee really interested to know if the particular brand of coffee he is using is a product of Brazil, Colombia, Costa Rica, South Africa, and/or a combination of the product of several or all of these producing countries?

More specifically, would being informed of the origins of the contents of the can of coffee he is using afford the consumer any greater protection or satisfaction than he enjoys under present labeling laws?

By the same token, knowing the origins of the olive oils blended in his current brand affords no greater protection to the consumer who is satisfied with the fact that he is receiving 100 percent pure imported

olive oil at a reasonable price. On the other hand, should a buyer feel that he must have an olive oil specifically from one particular country, he can choose from any number of foreign brands packed in the various producing countries and imported and distributed here in consumer sizes which must clearly state their origin on the label. To fulfill this standard, however, he must be prepared to pay the corresponding premium in price.

Enforcement and compliance of the Herlong bill labeling provisions.—Today, the U.S. consumer is assured by law that the product he is buying is 100 percent pure imported olive oil. The labeling provisions of the Herlong bill currently propose to assure the buyer that the olive oil in the tin or bottle is specifically a product of the respective countries marked on the label. The consumer today is protected from short weights by standards of weights and measure. He is protected from adulteration and filth by any number of chemical tests which can be made even when the product is in the tin or bottle. However, once the product is blended and sealed in the tins or bottles, what test or standard exists or will ever exist to guarantee to the consumer that the oils in the container are irrevocably a product of the countries marked on the label?

It is inevitable that the enforcement of the labeling provision of the Herlong bill as applied to the blending of olive oils is a most complicated and extremely expensive operation.

Furthermore, unless enforcement is rigorous and efficient, the labeling provisions work only for the benefit of unscrupulous packers.

If a U.S. packer has in stock olive oils from four different producing countries, who is to certify which one—or which two, three, or four—were eventually blended and packed in tins and bottles labeled with the correct country or countries of origin? What assurance does the honest packer have that his more unscrupulous competitors are complying in the same proper manner in which he is packing?

Does 1 gallon of Tunisian and 1 gallon of Greek olive oil added to a 1,000-gallon tank of Spanish olive oil justify a label marked product of Spain, Tunis, and Greece? Does the mere presence of Italian olive oil on the premises of a packer constitute sufficient basis for labeling a tin "product of Italy," when the packer also has stocked in his warehouse olive oil from Algeria and Tunis?

We submit that control, inspection, and enforcement is almost impossible—at best, extremely difficult and costly.

Furthermore, the provisions of the Herlong bill provide a penalty for infraction for the distributor or retailer to the relative exclusion of the packer. In what manner is a retailer expected to determine that the contents of the tins or bottle sold by him actually correspond to the countries stated on the labels?

Foreign competition.—It is obvious that the provision of H.R. 5054 as applied to the U.S. packed imported olive oil industry precipitates insurmountable economic hardships, reduces flexibility of supply, undermines traditional marketing practices, complicates brand acceptance, and needlessly confuses consumers.

American skill and techniques of blending, advertising, flexibility of supply, have served as sufficient justification for the very existence of a small specialized American industry strong enough to fight foreign competition which continually threatens to dominate the distribution of olive oil in this country. The provisions of the Herlong bill bring

about circumstances which give U.S. businessmen all of the disadvantages and none of the advantages of his foreign competitors.

It is inconceivable that the sponsors of this bill, who obviously are concerned with the protection of American industries subject to foreign competition, could seek to penalize or destroy American industries, which must to a large extent rely on imported products for their raw material to the exclusive benefit of the competing foreign industry, and it can only be surmised that the failure to exclude such products (among them olive oil) must have been the result of oversight or unfamiliarity with these small specialized activities.

STATEMENT OF WILLIAM J. BARNHARD, OF CHAPMAN, WOLFSOHN & FRIEDMAN, ON H.R. 5054, JUNE 20, 1960

Mr. Chairman and members of the committee, my name is William J. Barnhard, of the Washington law firm of Chapman, Wolfsohn & Friedman. We are counsel for the American Chamber of Commerce for Trade with Italy, Inc., the Imported Nut Section of the Association of Food Distributors, Inc., the Olive Oil Association of America, Inc., and other groups of American importers and handlers of imported products who are seriously concerned with the terms and the effect of H.R. 5054.

Mr. Edward Laraja of the Olive Oil Association will testify in detail on the drastic impact H.R. 5054 would have on the olive oil importers and on the way in which this legislation would destroy at least one American industry. Mr. Wm. C. Martin, chairman of the imported nut section was scheduled to testify on the tree nut industry, and Mr. George Gershuny, of the Newark Packing Co., on the nut salters industry, but both these gentlemen who could have given the committee much worthwhile and practical information, were unable to rearrange their business schedules on such short notice and have asked me to testify on their behalf.

As to the merits of H.R. 5054, this legislation has nothing to commend it except its general objective of informing the public. This is a worthwhile objective, and no one, importer or otherwise, quarrels with it. But this generally worthy end does not justify a means which is unworkable, unnecessary, unfair, and unwise.

H.R. 5054 is unworkable.—It puts enforcement of a complex statute on mislabeling in the hands of an executive department which doesn't want it and is not equipped to handle it. This bill requires the policing of untold thousands of retail wholesale, jobber, dealer distributor, and similar establishments, as well as industrial consumers, in every city and town of the country, by a Bureau which maintains its small staff only in the principal ports of entry. The Customs Bureau is equipped to deal with imports and with importers. It has no staff and no experience to deal with the thousands of merchants and industries who handle imported products after they leave the place of importation and enter the stream of American commerce. There is such an agency, properly equipped, staffed, and experienced in exactly this field—viz., the Federal Trade Commission. We submit this bill could never be made to work properly in the hands of the Customs Bureau of the Treasury Department, where the terms of H.R. 5054 would place enforcement.

H.R. 5054 is unnecessary.—The functions which this bill would place in the Customs Bureau not only properly reside in the Federal Trade Commission, but actually they are already there. The FTC has already proceeded in scores of cases, and has been upheld by the courts of appeals, for failure to indicate country of origin on repackaged imported articles, where such failure constitutes an unfair or deceptive act or practice in commerce. Such acts or practices are already declared unlawful by section 5 of the Federal Trade Commission Act (15 U.S.C. 45). In fact, the FTC has already attempted to go far beyond the terms of H.R. 5054 in preventing such practices. In one pending case, articles are imported in large containers and are repackaged by the importer in small sacks, each marked with the country of origin. This would be in complete compliance with the terms of H.R. 5054. Yet the FTC, in the absence of H.R. 5054, believes the present law permits it to prohibit such marking as insufficient under the law. In at least one case, the agency has demanded that each individual article within the small properly-labeled sack be stamped with the country of origin. If H.R. 5054 were to become law, it might very well be construed as limiting the power which the FTC now claims under section 5. To this extent, H.R. 5054 could easily defeat its avowed objective by reducing, instead of enlarging, the enforcement provisions for marking the country of origin. In one respect, however, the proposed bill would obviously enlarge such enforcement, for it is by its terms applicable to marking failures which are not unfair or deceptive acts or practices, as well as to those which are. The FTC act permits corrective action only where the action or omission is unfair or deceptive.

H.R. 5054 is unfair.—This proposed legislation is unfair for many reasons:

(1) Because it punishes for deception labels which are not deceptive, and punishes as unfair actions which are not unfair. The failure to mark Brazil nuts as a product of Brazil deceives no one; the failure to mark cashew nuts as a product of India leads no one to believe he is buying an American product; yet both of these, as well as hundreds of other products not produced at all in the United States, would be condemned in the same category as malicious deliberate falsification under the all-inclusive terms of this bill.

(2) Because it imposes a harsh penalty on the innocent along with the guilty. These products become subject to seizure and forfeiture if they should be mislabeled. All other products similarly mislabeled are subject only to cease and desist orders. And the penalty under this proposed bill would more often be imposed on a retailer or wholesaler, who in many cases would not even know that the products have been repackaged or have been labeled in violation of the law. To have an American businessman lose his stock under such circumstances is, I submit, intolerable.

(3) Because it imposes an impossible burden upon hundreds, probably thousands, of American businessmen by requiring commercial actions that are either physically impossible or commercially unrealistic. You will hear in detail why it would be impossible for the American olive oil blending and packing industry to remain in existence under the terms of this bill. There are endless other examples. Chick peas are imported from seven different countries, lentils from nine. One major importer sells these products in cartons which

are lithographed 5 million at time. Does this mean that the importer has to maintain a warehouse of 45 million cartons, some of which he may never be able to use, depending on the vagaries of weather and crop yields in different parts of the world?

Cans, bags, plastic sacks, and other containers have to be lithographed months, or even a year, in advance. It takes months and between $500 and $2,000 to change a lithograph. Consider, then, the case of a broker who had for years used only U.S.-grown red kidney beans, but this year found that the U.S. crop (mostly in upstate New York) was unusually small, insufficient to meet the market demands. He had to supplement the U.S. shipments with beans from Chile. But if he had to wait for newly lithographed bags before he could sell the Chilean beans, he would have been unable to use this source, or indeed any source, to fill the consumption gap created by a crop failure here.

Honey is imported from Argentina, Guatemala, Chile, Mexico, and is blended here, sometimes mixed with U.S. honey, always blended in combination to achieve the desired body, taste, aroma, etc. It is commercially impossible to identify the exact quantities from each source, and physically impossible to prepare labels and packages in advance so that a particular blend can be labeled as required by H.R. 5054.

Walnuts may originate in France, Turkey, or the United States, depending on the weather and various other uncontrollable factors. There is no way to tell in advance, in time to prepare the necessary labels and sacks, whether the coming crop will come from any particular source or combination of sources.

The list of products subject to these impossible conditions is endless. The number of American businesses forced to close because of these impossible conditions can run into the thousands.

H.R. 5054 is unwise.—It was hastily conceived and adopted in the Lower House. Even its sponsor, in debate on the floor, conceded that he did not know, and did not explore, the effect it would have on these various products and industries. It cannot be adequately enforced or policed by the designated Government agency. It would work unnecessary, harsh and unfair hardships on American businessmen to achieve an objective which is already in the law in a more effective and more equitable form. Its principal and immediate effect would be to close hundreds, or even thousands, of American business enterprises, and to force scores of American industries overseas.

Mr. Chairman, this is a bad bill, and it should not be approved on the pretext that it will help keep the American public informed.

That completes my statement, Mr. Chairman. Thank you.

STATEMENT OF ROBERT M. FREDERICK, VEGETABLE GROWERS ASSOCIATION OF AMERICA, BEFORE THE SENATE FINANCE COMMITTEE REGARDING H.R. 5054, TO AMEND THE TARIFF ACT OF 1930, JUNE 20, 1960

I am Robert M. Frederick, executive secretary of the Vegetable Growers Association of America, representing 49 State and local affiliate associations with membership in 30 States.

Our association strongly recommends that Congress enact H.R. 5054, which provides for amending the Tariff Act of 1930 by requiring that when any imported article, the container of which is required to be marked under the provisions of subsection (b) of section 304, is removed from such container by the importer, or by jobber, distributor, dealer, retailer, or other person, repackaged and offered for sale in the new package, such new package shall be marked in such manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of such article, subject to all applicable provisions of this section.

NEED FOR THE AMENDMENT TO TARIFF ACT OF 1930

The marketing methods used today in the fresh produce business are vastly different than 10 or 15 years ago. A few years ago, before prepackaging became established, the imported produce was offered for sale in bulk and in most cases it was displayed in the original shipping container. The shipping carton was required by the Tariff Act of 1930, section 304(b), to be plainly stamped in a conspicuous place and in a manner which would indicate to an ultimate purchaser in the United States the English name of the country of origin. Under those conditions, a housewife selecting tomatoes or cucumbers from a bulk display, could plainly see the place of origin of the produce she was buying. Today, however, with 9 out of 10 items offered for for sale in a supermarket being removed from the original bulk shipping container and repackaged in consumer type packages, the ultimate consumers do not know if they are buying a product of the United States or a foreign import.

Such containers in which the articles are repackaged in the United States are not required to be marked to show the country of origin. In practice, the process of repackaging in consumer-type packages allows the product to be offered for sale packaged but without the name of the country of origin marked on the container. The new subsection (c) which H.R. 5054 adds to section 304 would eliminate this and carry out the original intent of this section, which the U.S. Court of Customs and Patents Appeals has held is to mark the goods so that at the time of purchase the ultimate purchaser may, by knowing where the goods were produced, be able to buy or refuse to buy them, if such marking should influence his will.[1]

When the Tariff Act of 1930 was first enacted and later when it was amended, foreign imports of fresh vegetables were a small portion of total U.S. consumption. Today, however, they are increasing each year and in the shipping season just passed, a total of 295,947,000 pounds of tomatoes and 54,147,000 pounds of cucumbers were imported into the United States from Mexico and Cuba. The Foreign Agricultural Service informs us that almost all of these imports are repackaged after passing through customs inspection at U.S. port of entry.

The produce, after entering the United States, is normally regraded and repackaged. In a few cases, they may be placed back in the original container that is marked with the country of origin, but in most cases they are repackaged in smaller consumer type cartons that are not marked as to the country of origin. They are then shipped north

[1] *U.S. v. Friedlaender & Co.* (1940), 27 C.C.P.A. 297.

to major market areas and placed in supermarkets for sale. Thus, American consumers of the prepackaged produce are misled into believing that they are buying produce of the United States when such is not the case.

The other important reason for amending the Tariff Act of 1930 to provide for all packages of imported products of all kinds and types, when repackaged in this country, to be plainly marked in English to indicate the country of origin of the contents, is in connection with chemical spray residues.

We have definite proof that certain chemicals have been found on foreign imports that are in violation of our food and drug laws. In one case, it was Thiourea found on citrus. Thiourea is a toxic material, derivatives of which have been known to cause cancer in mice. Upon chemical analysis, it was found that the imported citrus contained 5–10 ppm in extract and at least 10 ppm in the whole fruit. Thiourea is used to add color to citrus and is not used in this country because of its toxic effect.

We bring the use of Thiourea to your attention, not because of the misuse of a chemical, but because if the citrus had been repackaged in consumer-type packages and then the violation of the pure food and drug law discovered, the Food and Drug Administration might indiscriminately have had to cite an entire industry by announcing that citrus was found contaminated with a cancer producing chemical.

It is for these reasons that we feel that it is important that all imports of foreign produce, which are repackaged in this country, be marked so as to determine the country of origin. In so doing, the domestic industry, as well as the foreign industry, will be protected from any seizure of produce found to be guilty of an infraction of the pure food and drug laws.

This legislation, if enacted, will make it possible to identify such repackaged imports, thereby protecting the consumer as well as the domestic and foreign industries, and will eliminate the practice of mixing imported produce with domestic for sale as domestic

The vegetable industry is not asking for any special protection, only the opportunity to offer our products for sale in fair competition with products from other lands. We feel that this legislation, if enacted, will enhance our position to do so.

In conclusion, we wish to express our thanks to the committee for allowing us the opportunity of presenting our views on this important subject. Your consideration of our views on the amendment to the Tariff Act of 1930 will be appreciated.

STATEMENT IN SUPPORT OF H.R. 5054 SUBMITTED FOR THE HEARINGS ON JUNE 20, 1960, BY T. E. VELTFORT, MANAGING DIRECTOR, COPPER & BRASS RESEARCH ASSOCIATION, NEW YORK

The Copper & Brass Research Association is a trade association having for its members essentially all of the brass mills in the country. The brass mills roll, draw and form basic mill shapes, such as sheet, strip, rod, and tube of copper and its alloys.

The brass mill industry has had to meet a steadily increasing volume of imports. From a negligible quantity before World War II, such

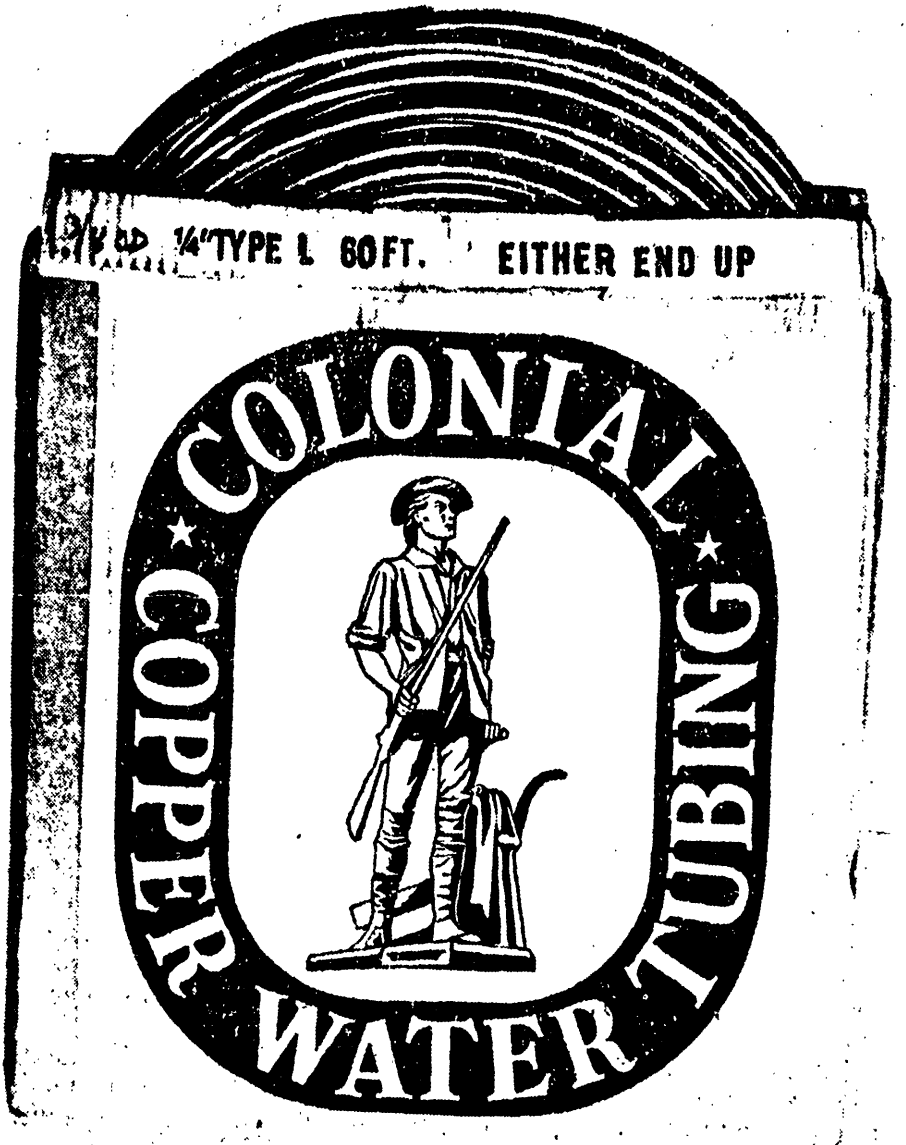
imports have grown to 200 million pounds at present, constituting about 12 percent of the current domestic market. And these imports are still rising in volume. The principal reason for this steady growth is the much lower wages abroad, coupled with productive efficiency which in the principal exporting countries is quite close to our own. Brass mill production costs abroad, therefore, are substantially lower than our own and our markets are increasingly preempted by imports because of their low prices which our mills find it economically impossible to meet.

Under these circumstances, domestic brass mills are particularly subject to intolerable injury when importers of brass mill products resort to misrepresentation as to the origin of such imports. This adds to the higher cost disadvantage which the domestic mills must face the additional burden of false claims of American origin with its implied assurance of high quality and compliance with American standards.

One of the brass mill products for which a large market has been developed by the industry is copper tube. American made copper tube has had a long established reputation for high quality and dependable service. Taking advantage of this fact, certain importers have in the past, removed copper tube obtained from abroad from containers marked with the country of origin and mixed the tube with that of domestic manufacture, thus tending to conceal the foreign identity of the imported tube. To stop this deceptive practice, the Bureau of Customs issued a ruling, effective August 1, 1958 (Bureau of Customs Circular Letter No. 3026, March 24, 1958 and Supplement 1, April 25, 1958) requiring that each individual piece of imported copper tube be marked with the country of origin.

This ruling, however, has not entirely closed the door to the deceptive practices. Properly marked tube is now being removed from its original containers and is placed in containers not marked with the country of origin and so designed as to imply domestic manufacture. An example of this is illustrated in the photographic reproduction attached as exhibit A. Here a coil of copper tube which is marked "Made in England" has been put into a carton bearing, as shown, the inscription "Colonial Copper Water Tubing" and a drawing of what is obviously intended to be a Minuteman. Furthermore, the container itself bears an imprint to the effect that the container was made in Elmira, N.Y. All this is manifestly to create the impression that the contents are made in the United States. There is no notation on the carton to the contrary.

Discussion of this case with both the Bureau of Customs and the Federal Trade Commission indicates that under present laws and regulations it is practically impossible to stop this misrepresentation, so injurious to the domestic industry. H.R. 5054 if enacted into law, would put an end to such a deceptive practice. We, therefore, respectfully urge its passage in the Senate and its enactment into a much needed law.


1/4 OD 1/4"TYPE L 60FT. EITHER END UP
COLONIAL
COPPER WATER TUBING

STATEMENT OF SENATOR GEORGE SMATHERS ON H.R. 5054

Mr. Chairman, the last tariff act adopted by the Congress was in the year 1930. That act is now over 30 years old and, although we have practically turned over to the President the setting of tariff rates, we in the Congress have retained control over a large number of administrative provisions of the act.

One of the many outdated provisions is that protection to domestic consumers known as the "marking" section. That section requires that all items imported into the United States be marked, where feasible, with the country of origin. This has, for many years, been an important feature of our tariffs. Our consumers should know whether what they buy is imported, and if so, where it comes from.

When items are imported in large containers for wholesale distribution those containers may be properly marked, but there has developed a very widespread ability to circumvent the marking provisions. This is done simply by having the importer unpack the large containers and put the items in small ones for retail sale, or they may be dumped in boxes or bins with no mark or even with U.S.A. on them. The ultimate consumer may never have seen the marked container and may infer that the item is of good American origin and would not have any idea that it originated in Cuba, or Poland, or Russia, or some other country.

Foreign exporters have learned a great deal since the 1930 Tariff Act was adopted and our present marking requirements are being circumvented by millions of dollars worth of imports by the simple expedient of removing their goods from containers that are marked and putting them in others.

When the act of 1930 was first adopted there was a certain glamor attached to the fact that an item was imported. Most importers were glad to have the country of origin prominently displayed.

Times have changed. Fruits and produce that could not be imported in any sizable quantities then may now enter in huge quantities. The marking section of the act has not changed with the times.

When a tomato or an orange or an avocado or any of a dozen vegetables grown in a foreign country goes into the market basket and finally on the table of an American housewife, she is entitled to know whether it is grown and packed under American standards. She would want to know whether it may not have been raised, picked, cleaned and packed by the high standards she supports in her own land.

The problem is by no means confined to the fruit and vegetable field. It cuts across the whole vast family of goods made in America, from one end to the other. I am sure we will hear today of a number of other instances where the marking provisions of our law are being flagrantly stretched and abused. I do not say that the law is being actually broken although it may be in some of the extreme cases. I do say that if we do not amend this law in order to close the loopholes the American public will be more and more misled and we here in Congress will be more and more guilty of allowing these abuses to continue.

The House has sent us a bill that may create some administrative problems. Any new bill creates problems, but they are very minor

compared with the problems that arise without this legislation. I am a firm believer that our citizens, domestic producers, importers, wholesalers and retailers are anxious to comply with our laws, and the fact that we have made certain acts illegal will stop 80 to 90 percent of the abuses. We have accomplished a great deal even if the Treasury Department is unable to fully enforce it. Furthermore, I doubt that they will have to do much policing—too many American consumers and interested parties will be watching for violations and I doubt that it will create much in the way of administrative difficulties.

Mr. Chairman, I am happy that we have finally met to discuss this bill which was passed by the House so long ago. We tried once before and had to postpone it. Now I hope that it will be cleared and move fast so that it can become law before this session ends.

WASHINGTON, D.C., *June 21, 1960.*

Re H.R. 5054.

U.S. SENATE, COMMITTEE ON FINANCE,
Washington, D.C.
(Attention of Mrs. Elizabeth B. Springer, Chief Clerk.)

GENTLEMEN: This letter is to urge passage of H.R. 5054, the customs marking bill. Such a bill is urgently needed to prevent unfair competition with domestic manufacturers and to protect the public against deception through repackaging without marking new containers with name of country of origin.

Very truly yours,

BOYD J. OUTMAN.

CHICAGO, ILL., *June 21, 1960.*

COMMITTEE ON FINANCE,
U.S. Senate, Senate Office Building,
Washington, D.C.
(Attention of Elizabeth B. Springer, Clerk.):

Our association strongly advocates passage of H.R. 5054. This act strengthens section 304 of Tariff Act of 1930 which is ineffective in dealing with cases where structural steel products are imported without individual marking and bundles opened and bundle tags showing country of origin removed by fabricators so that contractors and owners of structures are unaware of foreign origin of steel. Furthermore, loophole in present law lends itself to violation of Buy American Act through deception and unfair competition by unscrupulous steel fabricators using foreign products since lack of individual marking prevents Government inspectors from detecting foreign materials. Typical example is recent case where two prime contractors of Government under Buy American Act furnished foreign steel without marking of country of origin for construction work at Sheppard Air Force Base, Tex., in violation of contract specification. This would not have occurred had H.R. 5054 been in effect.

W. H. JACOBS,
Executive Secretary, Rail Steel Bar Association.

ELECTRONIC INDUSTRIES ASSOCIATION,
Washington, D.C., February 23, 1960.

HON. HARRY F. BYRD,
Chairman, Senate Finance Committee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: In behalf of the Electronic Industries Association I wish to express our support of H.R. 5054 and urge its enactment at this session of Congress.

The purpose of this bill is to amend section 304 of the Tariff Act of 1930 to provide that when articles imported in containers required to be marked, are repackaged in the United States and offered for sale, the new package shall be marked with the name of the country of origin. Thus under this amendment, articles imported in containers required to be marked under section 304 of the Tariff Act but which are removed from such containers, repackaged, and offered for sale in the new package by an importer, jobber, distributor, dealer, retailer, or other person, would be required to be marked in repackaging to show the country of origin.

It is our firm belief that enactment of this proposed amendment is essential in order to preserve the identity of origin of an imported product which is repackaged and resold and to carry out the original intent of Congress. It is our further belief that this amendment reflects sound Government policy in dealing with imported articles.

In this connection, I would like also to invite your attention to a related problem concerning articles that are imported into the United States but are intended for use in the manufacture of an article having a name, character, or use different from that of the imported article. Under section 304 of the Tariff Act of 1930, as amended, the country of origin need not be shown on such imported articles. We do not believe that Congress intended that such imported articles should lose their identity as imports merely because they eventually become part of the manufacturing process.

It is our view that section 304 of the Tariff Act was intended to establish a governmental policy that every "article of foreign origin * * * imported into the United States shall be marked" as to the country of origin. Judicial interpretation has not supported this view. In *United States* v. *Gibson-Thomsen Company, Inc.* (C.A.D. 98), an exception has been established to this governmental policy. The clear intent of Congress is being thwarted by judicial interpretation establishing an exception to the legislative policy that imported articles shall be marked with the country of origin to avoid misleading the ultimate purchaser.

We hold, as has the Congress, that the foreign origin of an article should be made known to the person in the United States who purchases it for his own use. The fact that a foreign article is combined in manufacture in this country with other articles of foreign manufacture, or with articles of American manufacture, or a combination of both, certainly does not eliminate the foreign origin of the imported article. We do not feel that subjecting an article to further manufacture should remove the Government's obligation to inform the buying public of the origin of the article.

We believe the problem exists because Congress has not defined "ultimate purchaser" as used in section 304 of the Tariff Act. Therefore it is our recommendation that the Congress include a definition

of "ultimate purchaser." This definition should state that such "ultimate purchaser" is the last person in the United States who will receive the article in any form which is susceptible to marking whether or not such article shall be subject to further processing.

In summary, the Electronic Industries Association supports the enactment of H.R. 5054 and requests further that consideration be given to an additional amendment to section 304 of the Tariff Act to clarify the intent of Congress with respect to the identification of the country of origin of imported products even though such products become part of the manufacturing process.

I respectfully request that this letter be made a part of the record in the hearings on this issue. We will be happy to discuss this matter with your committee or staff if you so desire.

Sincerely,

D. R. HULL, *President.*

HOLLAND BULB EXPORTERS ASSOCIATION, INC.,
New York, N.Y., February 25, 1960.

SENATE FINANCE COMMITTEE,
Senate Office Building, Washington, D.C.

GENTLEMEN: It has come to our attention that H.R. 5054 has been passed by the House of Representatives and referred in the Senate to your committee. This association wishes to go on record in strong support of this bill. The members of our organization are exporters of flower bulbs from the Netherlands to the United States. As such, we have always been proud of the quality of our product. In every instance we are only too glad to label containers of bulbs with country of origin. In addition, we feel the American consumer has a right to know where the bulbs he purchases come from.

In recent years American consumers have been misled as to the origin of many articles imported into the United States. We believe that H.R. 5054 will have the support of all American producers but, in addition, will also have the support of all reputable exporters and importers. It is our earnest hope that the bill will be speedily passed.

Should there by any occasion for us to present our views at a hearing, we would be only too glad to do so.

Very truly yours,

GUSTAVE SPRINGER.

GROCERY MANUFACTURERS OF AMERICA, INC.,
New York, N.Y., February 26, 1960.

Re H.R. 5054, marking of new packages for imported articles.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: This proposal for amendment of section 304 of the Tariff Act recently passed the House; it is now before your committee, and I write this letter because a public hearing is scheduled for next week. On behalf of numerous food manufacturers who are adversely affected by this proposal, I urge that your committee disapprove it.

If you do not reject this bill, I urge that you amend it to save important domestic business investments and employment from extinction. The affected activity of packing imported foods will simply be taken over by foreign enterprises, with a consequent loss to the U.S. economy.

When the container of any import bears a mark of origin under the Tariff Act and that import is transferred to a new container, H.R. 5054 would require that the new container also show the country or countries in which the contents originated.

This antideceptive purpose of the bill is of course unobjectionable; and it is normally achieved by traditional Federal Trade Commission proceedings against violators. However, that purpose is preserved in any event by the restricted nature of the following protective amendments, which we earnestly urge your committee to adopt if the bill is considered for enactment:

1. Page 2, line 4, after the word "repackaged" add "in the same form or condition".

2. Page 2, line 9, after the word "forfeiture" add this new sentence:

If any imported article is mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices, and otherwise than for the purpose of concealing the foreign country of origin of such article or articles, the new package shall not be subject to the marking requirements of this section.

Complaints from member companies of this association note the following practical problem among others presented by the bill: Components of certain food mixtures and blends may originate in as many as nine different countries. Crop variations being unpredictable, advance knowledge of these origins may be impossible. This means that under the bill the packer would no longer be enabled to assure the economy and sanitation of lithographed containers. For these must be ordered many months in advance and in large quantities. And obviously, such packer cannot maintain a variety of inventories of containers to anticipate the several combinations of countries which will supply the ingredients of his product.

Sincerely yours,

F. T. Dierson, *General Counsel.*

A Statement by the Florida Fruit & Vegetable Association, Orlando, Fla., to the Senate Finance Committee on H.R. 5054

The Florida Fruit & Vegetable Association, 4401 East Colonial Drive, Orlando, Fla., a trade association representing the vegetable and fruit growers in Florida, respectfully urge the enactment by Congress of H.R. 5054, a bill to amend the Tariff Act of 1930, with respect to the markings of imported articles and containers. This organization actively supported H.R. 5054 from the time of its introduction into the House of Representatives and earnestly seeks its passage by the Senate.

For many years growers and shippers of domestic fruits and vegetables have encountered on the markets of the United States imported fruits and vegetables in containers improperly labeled with the country of origin. American producers, therefore, are forced under costly

handicaps, to compete frequently on the domestic markets against nonidentified imports, especially when the act of implying the country of origin is the United States rather than foreign possesses certain definite market or price advantage. Such misleading or incomplete labeling of imported produce is currently possible due to a peculiarity in the present wording of section 304 of the Tariff Act of 1930 which legally allows such a procedure by importers.

The circumstances that permit this loophole in the labeling requirements of the Tariff Act center around the fact that certain imported articles when repackaged within the United States may be placed in a different container from the original container used to import such articles. Even though the original or first container must be properly labeled with the country of origin, the second container does not by law require any identification as to the origin of its contents. In addition, the articles are such that it is not feasible to require labeling and thereby have been exempt by law; provided however, that the first package containing the articles is properly labeled with the country of origin. Imported fruits and vegetables are one of the kind of articles permitted to be repackaged in the United States at either the port of entry or the terminal market and then placed in an unmarked second container. Foreign produce is frequently regraded and repackaged within the United States and for that reason the practice of imported produce being sold improperly labeled is rather common.

Such a defect in section 304 of the Tariff Act allows deception and creates an adverse marketing situation for the domestic fruit and vegetable industry that can easily and fairly be alleviated by the enactment of H.R. 5054. The omission of the country of origin on packages conceals the fact that the produce is actually of foreign origin. Unscrupulous importers, by leaving off the country of origin and in turn inferring the origin is the United States, attempt to convey a higher degree of freshness and quality than actually exists. Foreign fruits and vegetables commingled with domestic produce on the markets quickly lose their true identity and frequently may indirectly result in lowering the overall price structure for true domestic produce.

Another serious problem that exists and confronts the domestic produce industry, when foreign produce is not properly labeled with the country of origin, concerns the Federal Food, Drug, and Cosmetic Act. The domestic produce industry, through a combination of Federal and State Food, Drug, and Cosmetic Acts as well as the U.S. Department of Agriculture, is policed and regulated to a high degree in order to assure that only pesticides approved and certified by the U.S. Department of Agriculture and the Department of Health, Education, and Welfare are utilized by the domestic produce industry and that only the proper levels of pesticide residues remain on such produce. Most of the foreign countries do not possess the same stringent requirements on the use of agricultural chemicals as the United States. Many agricultural chemicals are used indiscriminately in some foreign countries to produce and process for market fruits and vegetables. Many such chemicals are highly toxic to man and are prohibited for use by the laws of the United States, yet they are permitted for use by certain foreign countries. For example, thiourea, a carcinogen strictly forbidden in the United States, may

not be used by the domestic citrus industry, but it is used in some foreign countries and can be present on citrus permitted to enter the United States, which in turn may be repacked in containers not possessing the country of origin.

Due to the present adverse publicity that has resulted from the manner the Department of Health, Education, and Welfare has handled pesticide seizures, considerable confusion exists in the minds of consumers. Due to fear, misinformation and lack of a proper understanding of the subject by the consuming public, the natural tendency is to avoid and not purchase any item connected or associated with such publicity. For foreign produce to be seized by the Department of Health, Education, and Welfare either for the use of unauthorized pesticides or for an excess residue of authorized pesticides; but for the U.S. produce to be held responsible, due to shipping containers lacking correct details on the country of origin, would cause extensive and costly damage to the produce industry of the United States by destroying public confidence in the wholesomeness of domestic produce and result in drastic loss in sales volume.

The enactment of H.R. 5054 will not cause any undue hardship upon importers of foreign articles as section 304(a)(3)(J) of the Tariff Act of 1930, as amended and reflected in Tariff Decisions 49690, 49835, 49896, and Tariff Decision 54167, exempted certain individual articles from being marked with the country of origin; provided, however, as required by section 304(b), that the master container or immediate container of the imported articles be properly labeled with the country of origin. The adoption of H.R. 5054 would simply require when repackaging imported articles in another container that the second container must also be properly marked with the country of origin exactly the same as the first container was so labeled. It is a normal routine and required practice for any container shipped to possess the name and address of the shipper as well as the net contents. For this reason, no undue hardship would arise in requiring by law that the labeling of any second container also possess, in addition to the other regular information mentioned, the country of origin of the articles. No new expense would be created by such labeling information being mandatory as proposed in H.R. 5054 since it would simply become an adjustment in the regular labeling or marking practice of any importer. It also only follows the same requirements the domestic producers must practice when exporting their merchandise into foreign countries.

On behalf of the vegetable and fruit industry of Florida, we sincerely request the enactment of H.R. 5054 as the bill is not only reasonable, but is inoffensive corrective legislation that is needed to alleviate and correct a present intentional or unintentional abuse by importers of the Tariff Act of 1930.

THE NESTLE CO., INC.,
White Plains, N.Y., March 7, 1960.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We are writing to you with reference to H.R. 5054, introduced by Mr. Herlong of Florida and passed by the House of Representatives on February 2, 1960. We understand that

such bill is now before your committee and that you propose to hold a public hearing on it as soon as possible.

As you know, H.R. 5054 would amend section 304 of the Tariff Act of 1930 so as to add a new subsection (c) with the effect of requiring the marking of the country of origin on all commodities made from imported articles.

Our company is one of the largest processors of instant coffee and of chocolate and cocoa products in this country. In our processing we use coffee beans and cocoa beans which necessarily come from a number of growing areas, depending upon seasonal and weather conditions in the country of growth and the variable factors of supply and demand. In making both instant coffee and our chocolate and cocoa products we are compelled to use a blend of beans, be they coffee or cocoa, as the case may be, in order to arrive at a quality end product.

If H.R. 5054 were enacted into law we would be forced to change the labels of our end products using coffee or cocoa beans as a raw material each time that we should change the blend of beans in processing. We respectfully submit that such a result is an unwarranted and costly imposition upon industry. In effect we would be unable to order labeling materials sufficiently far in advance in order to avail ourselves of the economies incident to large-scale purchasing.

Accordingly, we wish to record our vigorous protest against the enactment of H.R. 5054 in its present form as passed by the House of Representatives and respectfully request that your committee disapprove H.R. 5054 in its entirety or, as an alternative, that such bill be amended in such a way that its provisions would not be applicable to food processors who use raw materials of foreign origin.

Your cooperation in this matter will be sincerely appreciated.

Very truly yours,

E. O. CURRAN,
Secretary and General Counsel.

CAIN'S COFFEE CO.,
Oklahoma City, Okla., March 7, 1960.

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

DEAR SENATOR BYRD: I had an occasion today to discuss the package marking bill, which is further designated as H.R. 5054 with, John McKiernan, president of the National Coffee Association.

As I understand it, this bill is now before the Senate Finance Committee and that hearings will be held on the bill within the near future.

Senator Byrd, this bill would be very burdensome to Cain's Coffee Co. and to every other coffee roaster in America. As I understand it, the bill requires certain labeling requirements for all raw materials which are imported into the United States and which are subsequently processed, packaged, and sold to the American public. This bill requires the manufacturer or processor to list the country of origin of each and every component part of the product.

Unless the members of the Senate Finance Committee are familiar with the coffee industry, it probably would not occur to them as to how objectionable such a provision would be for everyone in the

coffee industry. Every pound of coffee has various types of coffee from producing countries located in Central America, South America, and in some instances, other countries.

To give you an idea, I saw an ad the other day by a well-known regional roaster stating that there were 44 different types of coffee in a certain blend. You can readily see that if it were necessary to list the countries of origin and all of the different coffees, a package would soon become very cluttered labelwise.

Also, the information on the package would frequently be inaccurate since all coffee companies are required to change the types of coffee used from time to time to maintain absolute uniformity of the blend. In other words, to use a local example, the Washington apple crop one year might be better than the Oregon apple crop and the reverse might be true the following year.

Consequently, the proposal as we see it, would be very cumbersome and really serves no useful purpose insofar as the coffee industry is concerned. The problems involved in the tea and spice industry are very similar and it would also be a very cumbersome program with reference to both spice and tea.

Mr. McKiernan, the president of the National Coffee Association, has been invited to testify at the committee hearing but I wanted to give the facts to you so that you would also have them.

Sincerely yours,

JACK R. DURLAND, *President.*

ATLANTA, GA., *March 11, 1960.*

Re the package marking bill, H.R. 5054.

Hon. HARRY FLOOD BYRD,
Senator from Virginia,
U.S. Senate, Washington, D.C.:

The passage of this bill would work a hardship on the coffee and tea packing industries due to the great number of producing countries involved, the frequent interchange of growths in blends because of supply, price, and transportation delays, and the undetermined country of origin of coffee and tea blend components at the time packing supplies must be purchased to meet production schedules. Your consideration of these objections to this bill are earnestly requested, it being common knowledge that all coffee and tea are produced in foreign countries.

JACK DINOS,
President, Mocha Coffee Co. and Southern Tea Co.

CHOCOLATE MANUFACTURERS ASSOCIATION
OF THE UNITED STATES OF AMERICA,
Washington, D.C., March 11, 1960.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: This association is composed of the principal manufacturers and distributors of chocolate and cocoa products in the United States. Our 21 members produce approximately 90 percent of these products manufactured in the United States.

Our attention has been called to H.R. 5054, introduced by Mr. Herlong, of Florida, and passed by the House of Representatives, and that your committee now has before it this bill for consideration.

H.R. 5054 would amend section 304 of the Tariff Act of 1930 so as to add a new subsection (c) to require the marking of the country of origin on all commodities made from imported articles.

As I am sure you are aware, the principal commodity from which our members' products are made is the cocoa bean, all of which is imported from foreign countries. These cocoa beans come from a number of growing areas, and the use of them by our members depends upon seasonal and weather conditions in the country of growth and the variable factors of supply and demand. Our members in making their products are compelled to use a blend of cocoa beans which may come from several foreign countries in order to arrive at a quality end product.

As we read H.R. 5054, it would require our members to change the labels of their end products using cocoa beans as a raw material each time they change the blend of beans in processing. We feel that such a result was not contemplated by this law, which, we understand, was originally introduced by the wood-screw industry, and we feel that the present provisions of H.R. 5054 would result in an unwarranted and costly imposition on our industry. Our members might be unable to order labeling materials sufficiently far in advance in order to avail themselves of the economies incident to large-scale purchasing and of course would have to carry large and numerous stocks of labels to conform with the requirements of H.R. 5054. This could lead to unintentional and inaccurate labeling.

The Chocolate Manufacturers Association of the United States of America wishes to record a vigorous protest against the enactment of H.R. 5054 in its present form as passed by the House of Representatives, and respectfully requests that your committee disapprove H.R. 5054 in its entirety, or, as an alternative, that the bill be amended in such a way that its provisions would not be applicable to food processors, such as our members who must use raw materials of foreign origin.

We feel that H.R. 5054 in its present form goes far beyond a situation it might have originally been intended to remedy.

We will greatly appreciate your cooperation in this matter.

Very truly yours,

BRADSHAW MINTENER,
Executive Director.

EPPENS, SMITH CO., INC.,
Secaucus, N.J., March 10, 1960.

Reference: H.R. 5054.

Hon. HARRY BYRD,
U.S. Senate, Washington, D.C.

DEAR SIR: The requirements of H.R. 5054, making it obligatory to state the country of origin of products packed in containers for resale, would prove a distinct hardship to the coffee and tea industry.

Since all coffee, other than that coming from Hawaii and Puerto Rico, and all tea is of foreign origin, and since practically all branded coffees and teas are blends of coffees and teas from several foreign

countries, the marking required under the above bill would be impossible to anticipate. The containers, cans, boxes, and bags are purchased in large quantities and in advance of the purchase of coffees and teas. Plates for printing the containers are very expensive and changes in these would add to the cost to the retail customer.

Availability of coffees and teas from different countries varies, and flexibility must be maintained so that a consistent end result can be achieved. For instance, if, in a blend, Salvador coffees were not available and Mexican coffees were substituted, cans already lithographed for Salvador coffee would not be suitable. This not only would require new plates at considerable expense, but would require storage space for cans already made up.

Because of the above and numerous other difficulties which would arise out of the requirements under H.R. 5054, we earnestly request that coffee and tea be specifically exempt from the bill.

Yours very truly,

FRANK E. HODSON, *President.*

ST. LOUIS, MO., *March 14, 1960.*

Senator HARRY BYRD,
Care Senate, Washington, D.C.:

The passage of the package-marking bill (H.R. 5054), particularly as it affects importers, blenders, and roasters of coffee, would be detrimental, difficult, and costly to the coffee marketers because of the many countries of origin the necessity of changes in sources of supply due to production quality and availability. Roasters in most cases use two, three, or more coffees of different origins at varying time in top blends; therefore, compliance with this bill would prove excessively expensive in the cost of package identification and would consequently result in higher prices to the consumer without material benefit. We therefore urge your careful consideration of this bill and the exemption of coffee if passed.

P. R. RUBINELLI,
President, Star Coffee Co.

MORNING TREAT COFFEE CO., INC.,
Baton Rouge, La., March 15, 1960.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
Washington, D.C.

DEAR SENATOR BYRD: We wish to bring to your attention the package-marking bill, H.R. 5054, which will now come before the Senate Finance Committee.

Coffee has been exempt from marking provisions, but as we do not know beforehand how the bill will be passed we wish to say that we are definitely opposed to this bill for the following reasons:

We buy coffees from several countries and blend them. We may buy one type and if this is not available we are obliged to buy a similar type from another country, perhaps within a few weeks. By the same token our chicory blend would be affected, as we import from Belgium, Poland, France, and Yugoslavia, depending upon which country has the better price. This would mean a great increase in

the cost of the container or package, as we would be required to mark what country the product came from. Also, we buy paper bags and vacuum tins in quantities at a price saving; a years supply in advance, which would not be possible if we were constantly changing the marking. It takes several months to make a change in printing. Containers or paper bags could not be delivered immediately.

The passage of this bill would place a heavy burden and increased costs on the coffee industry, with no commensurate benefits to anyone. Also its passage would increase the retail cost to the consuming public while the Government is striving to keep down inflation.

For the above reasons we hope you will vote against this package-marking bill, H.R. 5054.

Very truly yours,

JAMES LIEUX, *President.*

A. A. SAYIA & Co.,
New York, N.Y., March 15, 1960.

Senator HARRY BYRD,
Senate Finance Committee,
Washington, D.C.

DEAR SENATOR: I understand your committee is studying H.R. 5054. I would like to protest against the approval of this bill by your committee, as it applies to the repacking of spices, seeds, and herbs.

I do not do any repacking myself, but I do know the spice business. It would be virtually impossible for distributors throughout the United States to list the country of origin of all the spices that go into the various blends prepared.

To sight an example, one need only look at curry powder. This is a mixture of—

> Pepper from Indonesia. Red peppers from Japan. Turmeric from India. Coriander from Morocco. Bay leaves from Turkey. Salt from the United States.

Depending upon the availability of supplies, this formula could be changed in a hundred different ways. For example, it might be necessary to make the blend as follows:

> Pepper from India. Red peppers from Nigeria. Turmeric from Formosa. Cordiander from Roumania. Bay leaves from Greece. Salt from the United States.

It is conceivable that the label would have to be altered after every batch was made. There are many other blends that would offer the same problem.

As a matter of fact, there are alternate origins for most of the spices, seeds, and herbs. The spices used in consumer packages depend a great deal on market conditions, general availability, and crop quality in each area.

Spices, seeds, and herbs should certainly be exempted from any legislation requiring the country of origin to be shown on consumer packages.

Yours truly,

DONALD A. SAYIA.

MUTUAL SPICE CO.,
North Bergen, N.J., March 15, 1960.

Hon. Senator HARRY F. BYRD,
Chairman of Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: The House of Representatives has passed a bill identified as H.R. 5054 and we understand from our association that hearings are to be held shortly by your committee on this bill.

We are writing to protest the passage of this bill because it would place a harsh and burdensome load on our industry in particular and the food industry in general. Spices come from all corners of the earth and many of our items such as pepper, come from many origins such as India, Indonesia, Sarawak, Ceylon, and Brazil. We do not always know in advance if one country will have a crop failure or another some restriction and to print up tins in advance to show what variety we are to package is a practical impossibility if not highly uneconomical. Furthermore it serves no purpose since the consuming public knows that pepper is always imported and that no nutmeg or mace grows in the United States, etc., etc.

No doubt this legislation is aimed at some particular abuse of which we are not aware, but it would certainly place a heavy burden on the many legitimate law-abiding food packers in the United States. If this is the case, then an amendment to exempt such foods, as spices, coffee, tea, etc., must be worked out to prevent any injustice.

Over the years you have earned the admiration of honest American businessmen by your efforts in their behalf and we are confident that you will not permit this bill to be passed in the Senate without the proper safeguards that would protect our industry from any harsh and burdensome measures.

Respectfully yours,

SAMUEL KALTMAN, *President.*

BLUMENTHAL BROS. CHOCOLATE CO.,
Philadelphia, Pa., March 16, 1960.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We have learned of a bill, H.R. 5054, now under consideration by the Senate Finance Committee.

It is our impression that this bill will require the marking of the country of origin on items made from imported articles.

We are manufacturers of chocolate and all our cocoa beans are imported. This would seem to mean that every time we change types of cocoa beans in making chocolate, we will have to change our labeling.

This is, we feel, almost an impossibility and we feel that H.R. 5054 is highly unfair and we would like to enlist your support in altering the fact.

Yours very truly,

JOSEPH BLUMENTHAL,
Vice President, Confectionery Sales.

APRIL 1, 1960.

Subject: Package marking bill H.R. 5054.

Hon. JOHN O. PASTORE,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR: Thank you for your letter of March 29, 1960.

On behalf of Brownell & Field Co. I wish to express our opposition to the package marking bill H.R. 5054 in its present form.

The attached statement indicates our views in some detail.

We strongly urge you to oppose this bill as it applies to coffee and tea and ask that these products be specifically excluded.

I am enclosing a copy of this letter and statement so that you may forward it to the Senate Finance Committee.

Thanking you for your interest in this matter, I am

Sincerely yours,

RUSSELL W. FIELD, Jr.,
President, Brownell & Field Co.

STATEMENT BY RUSSELL W. FIELD, JR., PRESIDENT, BROWNELL & FIELD CO., APRIL 1, 1960

We import, package, and sell coffee and tea. Neither of these products is grown domestically.

Our products are actually blends of tea or coffee from many different countries. Our coffee comes primarily from Colombia, Venezuela, and Brazil. We also use coffees from practically all of the Central American countries and from at least six different countries or colonies in Africa. Our teas come principally from India, but we use as well teas from Ceylon, Pakistan, Sumatra, and Formosa. Occasionally we use teas from Japan, Indonesia, and infrequently China.

Our blends are frequently changed and are composed of growths from several different countries. The purpose of a blend is to permit a consistency of characteristics which can be continued regardless of variations occurring in individual growths. Since both tea and coffee are agricultural products, they are obviously greatly affected by the weather conditions during their development. It is therefore impossible to obtain absolute consistency from year to year for any particular growth of tea or coffee.

After blending it is almost impossible even for an expert to accurately determine the source of the various components of a blend. Actually the countries of origin have no practical value as an indication of the quality of either the individual growth or the blended product.

If we were required to change our package marking each time we changed our blend, our packaging costs would be materially increased. Eventually these costs would affect the price the consumer would be required to pay for our product.

We therefore do not see any particular advantage to the consumer by identifying the countries of origin of our blends. On the other hand, we do feel this identification would result in a higher cost to the consumer for our products.

BROWNELL & FIELD CO.,
Providence, R.I., March 15, 1960.

Subject: Package marking bill H.R. 5054.

Hon. HARRY BYRD,
The U.S. Senate, Washington, D.C.

MY DEAR SENATOR: The above-captioned bill which I believe has passed the House requires when an imported article is removed from the original containers and repackaged, the new packaging must show the country of origin. We pack both coffee and tea which require all materials entirely from countries outside of the United States. We, therefore, would appear to be subject to this package marking bill.

We feel that we would have extreme difficulty complying with this bill because of the many countries of origin for our products and more particularly, the changes which occur in sources of supply. Both tea and coffee sold by us are blends from many different countries. These blends are in constant change in an effort to continue a consistency of flavor despite the change of commodities from one country or another. In other words, the weather greatly affects agricultural products and we must compensate for these changes. Constantly changing our packaging would result in higher costs to ourselves but in turn, many of these would have to be passed on to the ultimate consumer of our products.

We urge that you oppose passage of this bill in the Senate because we do not believe it would in the best interest of the ultimate consumer.

Very truly yours,

RUSSELL W. FIELD, Jr., *President.*

THE FRANK TEA & SPICE CO.,
Cincinnati, Ohio, March 16, 1960.

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

SIR: It has come to our attention that recently the House of Representatives passed a bill identified as H.R. 5054, that this bill is now before the Senate Finance Committee, and that hearings will be scheduled shortly.

The passage of this bill as it is presently drafted would impose a terrific burden on our company and the spice industry, and all other industries where imported merchandise is repackaged, unless it is amended to exempt any article that is ground, mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds, or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

May we urgently request that you consider very thoroughly before passing a bill of this kind. It could very easily increase the retail cost to the ultimate consumer of all products imported and repackaged.

The Spice Trade Association and the industry will be represented at the hearings and we hope you will listen to their testimony and

consider thoroughly what passage of this bill would mean to repackagers in this country.

Very truly yours,

JOHN J. FRANK, *President.*

WESTFELDT BROS., INC.,
New Orleans, La., March 16, 1960.

Hon. HARRY F. BYRD,
U.S. Senate, Washington, D.C.

DEAR MR. BYRD: There is a bill coming up for discussion before the Senate Finance Committee; namely, package marking bill, H.R. 5054.

The coffee industry is very much concerned about this bill which could place a heavy burden of extra cost on the industry with no commensurate benefits to anyone. In addition, if coffee is not exempted from the bill, its passage might increase the retail cost of roasted coffee to consumers in this country.

As you know, green coffee is imported in the raw and, in turn, roasters blend various green coffees to make the final package you buy at the retail store. The blends usually consist of from three to even as many as eight different coffees from different countries. Also, it is not always possible for the roaster to continually get the same coffee from the same country and he must therefore substitute other coffees from other countries. You can well understand it is not a set pattern. This is due to crop conditions, availability, and taste variance from one year to the next.

What I am driving at is that it would be a terrific inventory problem on bags and cans if the roaster is required to place on the package the origin of all of the coffees he uses. The details involved could be tremendous.

I hope you understand my plea in this matter as I don't really like to write you about such things but I do think the industry has a well-founded argument for their product to be exempted in this bill. (I would much prefer to write you about Rosemont, apples, and all the Byrds with whom I have had such enjoyable times in the past.)

Certainly hope that you are enjoying good health and please give my best to any and all of the family when you see them. Kindest personal regards.

Yours very truly,

GEORGE G. WESTFELDT, Jr.

WILBUR CHOCOLATE CO.,
Lititz, Pa., March 16, 1960.

Re bill H.R. 5054, amending section 304 of the Tariff Act of 1930.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: The above mentioned bill, introduced by Mr. Hurlong, of Florida, and passed by the House of Representatives, which is now before your committee for consideration, if adopted in its present form will create an unwarranted economic and adminis-

trative burden on the chocolate and cocoa industry. Therefore, we respectfully request that your committee disapprove this bill in its entirety, or amend it so that its provisions will not be applicable to food processors whose principal raw material is the cocoa bean, all of which are imported from foreign countries.

Briefly, our products are composed of a blend of cocoa beans which may come from several foreign countries. We understand that the new subsection (c) to be added to section 304 of the Tariff Act of 1930 would require the marking of the country of origin on all products made from imported articles. We would, therefore, be required to change the labels of our products each time we change the blend of beans in processing. This would necessitate our carrying large and numerous stocks of labels, and we probably would be unable to order labeling materials sufficiently far in advance to avail ourselves of economies incident to large-scale purchasing.

We will greatly appreciate your cooperation in this matter.

Yours very truly,

W. L. NEWCOMER, *President.*

H. M. NEWHALL & Co.,
San Francisco, March 16, 1960.

Re H.R. 5054.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
Washington, D.C.

HONORABLE SIR: We refer to the above bill which we understand was passed by the House without the formality of hearings. This bill requires that when an imported article is removed from the original container and repackaged, the new packaging must show the country of origin. We understand the bill is now before your committee.

Since the passage of the bill as presently drafted would impose a terrific burden on the industry (spice), we would strongly suggest it be amended to exempt any article that is ground, mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds, or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

We would like to point out that the bill in its present form can place a very heavy burden and extra cost on the industry and could well increase the retail cost of the products to the ultimate consumer. It would appear to us that sufficient thought was not given in the wording of the bill at its inception and submission to the House.

As importers and members of the American Spice Trade Association, we deem it very necessary to ask for this reviewal and amendment.

Respectfully,

H. M. NEWHALL & Co.,
By H. J. STEELE, *President.*

E. A. JOHNSON & CO.,
San Francisco, Calif., March 16, 1960.

Re package marking bill, H.R. 5054.

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

DEAR SENATOR BYRD: We are informed that the above measure will come up for hearing soon before the Senate Finance Committee.

We are coffee importers, selling to most of the large coffee roasters in this country.

In our opinion, the application of the provisions of this measure to the retail marketing of roast coffee in cans, cartons, and paper bags would be highly impractical. Most coffee so marketed is a blend from many growing countries, in order to obtain the proper quality. To be forced to label each package with all of these countries of origin would entail unnecessary expense and ultimately raise the price of the product to the consumer. Inasmuch as the United States produces only insignificant amounts of coffee, as compared to our consumption, no useful purpose would be served in protecting domestic producers from foreign competition.

We respectfully request your consideration of the above circumstances, and request a clarification of the wording to definitely eliminate coffee from the requirements for marking repackaged imports.

Respectfully yours,

R. C. POWELL.

RICHARD J. SPITZ, INC.,
New York, N.Y., March 16, 1960.

Hon. Senator HARRY BYRD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BYRD: We refer to bill H.R. 5054 which recently passed the House of Representatives and which is now before the Senate Finance Committee.

We wish to protest against that bill because it would bring undue hardship to us and all members of this industry and place a heavy burden of extra costs on us which would result in an increase of the retail costs of the products to the ultimate consumer.

In our opinion the bill should be amended to exempt any article that is ground, mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds, or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles, because in many instances the same spices originate from many different countries.

Thanking you for your kind consideration, we are,

Respectfully yours,

RICHARD J. SPITZ, *President.*

U.S. SENATE, *March 24, 1960.*

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

DEAR MR. CHAIRMAN: Please note the enclosure herewith from Mr. Earl P. Bolen of the Griffith Laboratories, Inc., 1415 31 West 37th Street, Chicago, Ill., wherein he proposes a clarifying amendment to the House-passed bill (H.R. 5054) to amend the Tariff Act of 1930 with respect to the marking of imported articles and containers.

I shall appreciate the careful and sympathetic consideration which I am sure your committee will give to Mr. Bolen's suggestion.

Sincerely,

EVERETT MCKINLEY DIRKSEN.

THE GRIFFITH LABORATORIES, INC.,
Chicago, Ill., March 17, 1960.

Hon. HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: It has been brought to our attention that there is a bill known as H.R. 5054 which has passed the House without the formality of hearings. It is our understanding this bill is now before the Senate Finance Committee. It is our belief that the intention of this bill is not made entirely clear. If this bill is passed it will impose a terrific burden and extra cost on our industry. This bill could well increase the retail cost of the products to the ultimate consumer. We, therefore, would suggest that an amendment be added to H.R. 5054 as follows:

To exempt any article that is ground, mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

Thanking you for your kind attention to this matter, we are

Yours very truly,

EARL P. BOLEN.

THE GRIFFITH LABORATORIES, INC.,
March 22, 1960.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We are writing to call your attention to a bill identified as H.R. 5054 which was passed by the House of Representatives without the formality of hearings and purports to make known to purchasers the country of origin when a product is sold on the U.S. market.

While the objective of the bill might be considered worthy in some cases, the bill as presently proposed could, in practice, impose a substantial burden on industry which is accustomed to blend raw materials from the various countries, the percentages of such blends being determined by the cost of those raw materials in a particular year.

A product such as olive oil might contain olive oil produced in several different countries and the various percentages of each source would vary widely over a period of years. To specifically label the percentage of each source would be impractical and expensive.

If such a bill were to be enacted, exemptions of such articles is requested that may be ground, mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed in the United States in accordance with the customary and established trade practices; such processing to be interpreted to include the cleaning and/or any other treatment of whole spices, seeds, or herbs prior to repacking, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

We are sure that very few concerns actually wish to hide the source of any raw material. However, since we in the United States trade with many countries in the world, enactment of such a bill would merely serve to increase our costs and could well serve to increase the cost to the consumer.

At the appropriate time, we hope you will consider these views.

Very truly yours,

F. W. GRIFFITH.

ATLANTIC PROCESSING MILLS CORP.,
New York, N.Y., March 16, 1960.

Hon. Senator HARRY BYRD,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We refer to bill H.R. 5054 which recently passed the House of Representatives and which is now before the Senate Finance Committee.

We wish to protest against that bill because it would bring undue hardship to us and all members of this industry and place a heavy burden and extra costs on us which would result in an increase of the retail costs of the products to the ultimate consumer.

In our opinion the bill should be amended to exempt any article that is ground, mixed, blended or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles, because in many instances the same spices originate from many different countries.

Thanking you for your kind cooperation, we are

Respectfully yours,

G. TROEDL, *Vice President.*

VAN LEER CHOCOLATE CORP.,
Jersey City, N.J., March 17, 1960.

Hon. HARRY FLOOD BYRD,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: In behalf of my company which is engaged in the chocolate business, I wish to make known my objection to the amendment to the tariff act proposed in H.R. 5054 which is now pending before Senator Byrd's Finance Committee.

H.R. 5054 would amend section 304 of the Tariff Act of 1930 so as to add a new subsection (c) to require the marking of the country of origin on all commodities made from imported articles. If this amendment were enacted it would place a tremendous hardship on the industry and on this company in particular.

Our products are made from cocoa beans, which are imported from various foreign countries, depending upon the season of the year, and from a blend of cocoa beans. To constantly change the wrappers on every shipment so as to show the country of origin is practically an impossibility. To indicate on our wrappers that the cocoa beans may have come from any one of ten countries would serve no purpose.

It is common knowledge that cocoa products in this country are manufactured almost exclusively from imported products and it would serve no purpose to be redundant and to say that the cocoa beans come from any particular country.

Would you therefore, please record my protest against the amendment of H.R. 5054 in its present form as passed by the House of Representatives in its entirety, or, as an alternative, be amended so that its provisions would not be applicable to food processors, such as our company who must use raw materials of foreign origin.

Sincerely,

L. K. VAN LEER, *President.*

CRESCENT MANUFACTURING CO.,
Seattle, Wash., March 18, 1960.

Hon. HARRY BYRD,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR BYRD: Recently the House of Representatives passed a bill identified as H.R. 5054. Briefly, this bill states when an imported article is removed from the original container and repackaged, the new packaging must show the country of origin. We wish to point out the hardship that would be worked upon some industries if this bill were to become law.

Our primary business is the importing, grinding or processing, and packaging of spices, flavoring materials and coffee. All of these items would suffer increased costs if H.R. 5054 becomes law.

Both coffee and spices are grown in many different countries. The processor must purchase from the source that offers the most economical purchase at the time the raw material is needed. Several times during the year, he may change his source of supply from one producing country to another. Frequently, products from one or more countries are blended to give a more satisfactory finished product. This is particularly true of coffee.

Both coffee and spices are marketed in lithographed containers which are purchased in sizable quantities and are printed with very costly printing plates. It would be impractical to change the printing on the containers every time the product from a different country was used.

If purchases of coffee or spices were made from a single source throughout the year it would certainly cause an inflationary trend in the raw materials.

We sincerely urge you to use your influence to help prevent H.R. 5054 from becoming law. Please consider the hardship that would be pressed upon our industry as well as others who import raw materials for manufacturing use.

Sincerely,

J. E. CLARK, *Purchasing Agent.*

LOUIS FURTH, INC.,
New York, N.Y., March 17, 1960.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

HONORABLE SIR: Recently the House of Representatives passed a bill identified as H.R. 5054, requiring that when an imported article is removed from the original container and repackaged, the new packaging must show the country of origin.

The passage of this bill, if not amended, would impose an unbearable burden, hardship and extra cost to the spice industry and could very well increase the retail cost of the products to the ultimate consumer. May we therefore urge that the bill be amended to exempt any article that is ground, mixed, blended or comingled with any foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

Thank you for the consideration you will give this matter.

Yours sincerely,

LOUIS FURTH.

STAR COFFEE CO.,
St. Louis, Mo., March 17, 1960.

Re bill H.R. 5054.

Hon. HARRY BYRD,
Senator from Virginia, U.S. Senate,
Chairman, Senate Finance Committee, Washington, D.C.

DEAR SENATOR: We are advised that the House of Representatives has passed a bill identified as H.R. 5054, requiring that when an imported article is removed from the original container and repackaged, that the new packaging must show the country of origin.

Frankly, this is our first protest against legislation, but we would like to bring up the fact that this would be a rather tough law to comply with 100 percent.

For instance, we ship a considerable quantity of pickling spice, which contains about 10 items in the mixture, practically all of which are from a different point or country of origin. How these various originating points can be placed on the original package or in small cartons which we pack for the sholesale trade, is absolutely beyond us. It would merely bring on a condition where there would not be enough room on the container to show the necessary information. This could be said on quite a few other items in our line, such as: Barbecue spice, poultry seasoning, and pumpkin pie spice, and could mention a large number of additional items.

Should this legislation pass, it would be extremely difficult to comply with same, bringing on quite a hardship to packers and making it necessary that added cost would have to be figured into packages. Even on the smaller containers for the grocery shelves, it would just about be impossible to comply with.

We observe all pure food laws and have never been cited for a violation, and trust you will use your best efforts to prevent final passage of this bill H.R. 5054, which was enacted by the House of Representatives.

If we can give you any further information, will be glad to have you call the writer, or write or wire, and will be very glad to pass it along in an endeavor to bring out not only our position, but all houses in the spice line who operate along the same lines that we do.

Very truly yours,

E. C. BEHRING,
Manager, Spice Department.

SPICE ISLANDS CO.,
South San Francisco, Calif., March 17, 1960.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We strongly protest the passage of bill H.R. 5054 in its present form and as recently passed by the House of Representatives.

This bill would impose an unreasonable economic burden on the spice industry which will ultimately be passed on to the consumer.

We request that bill H.R. 5054 be amended to exempt any article that is ground, mixed, blended, or commingled with any other foreign or domestic article or articles or is processed in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds, or herbs prior to repacking, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

Many of the products produced and distributed by the spice industry are blends of a number of ingredients. The number of such ingredients may range from 2 to 12. In many instances, each of the ingredients has a different country of origin.

Presently, the Food, Drug and Cosmetic Act requires that all ingredients in a food product be listed on the label in order of decreasing proportion. To attempt to identify each ingredient with its country of origin would result in confusion to the consumer and could very well negate the intent of the proposed law.

Yours truly,

F. CALIGIURI, *Vice President.*

VEGETABLE GROWERS ASSOCIATION OF AMERICA,
Washington, D.C., March 18, 1960.

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

DEAR SENATOR BYRD: The Vegetable Growers Association of America is urgent in its desire that the Senate take action on H.R. 5054 now pending before the Senate Finance Committee.

H.R. 5054 provides that all packages of imported products of all kinds and types, when repackaged in this country, be plainly marked in English to indicate the country of origin of the contents.

Foreign agricultural products are being shipped into this country in increasingly larger amounts. In 1951–55, 1,473.2 (1,000 hundredweight) of tomatoes were imported into this country, by 1957 this amount increased to 2,709.4 (1,000 hundredweight). In 1951–55, 276.7 (1,000 hundredweight) of cucumbers were imported and by 1957 this figure increased to 451.3 (1,000 hundredweight). Onions and potatoes also show a big increase in imports from 1951 to 1957 (U.S. Department of Agriculture, Foreign Agricultural Service, Fruit and Vegetable Division, February 1959).

This legislation, if enacted, will afford real protection against packing marking abuses in connection with imported fruits and vegetables repackaged in this country. It will help identify such imported packages, help remove the price advantage these low wage cost items have over our domestic products, and eliminate the practice of mixing imported produce with domestic for sale as domestic.

In view of what happened to the cranberry industry from an overpublicized seizure of their product, that was found in violation of the chemical residue tolerance, it is important that all imports of foreign produce be marked so as to determine its origin. In so doing, the domestic industry will be protected from any seizure of imports found to be guilty of the same infraction of food and drug regulations.

The vegetable growers are not asking for any special protection for their industry, only the opportunity to offer these products for sale in fair competition with products from other lands. We feel that this legislation, if enacted, will enhance our position to do so.

Thank you for your kind consideration of our views in support of H.R. 5054.

Sincerely yours,

ROBERT M. FREDERICK,
Executive Secretary.

D. & L. SLADE CO.,
Boston, Mass., March 17, 1960.

Hon. HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We want to bring to your attention a bill known as H.R. 5054 which has passed the House and is now before the Senate Finance Committee.

The necessity of such a bill is unknown to us and it would do nothing to give the consumer any greater information than the name of the product, and this applies not only to spices but to many, many other food products.

There are times when it becomes necessary, particularly in our case, to purchase spices or herbs from various and varied countries, and with the requirement of lithographed label or lithographed metal container for the country of origin the resultant confusion would be terrific.

An amendment to this bill exempting certain articles from these requirements, such for instance as spices and flavor seeds of all kinds, would remove an objection which we have to the bill, and we are of the opinion that you can readily understand what the results would be for those who are in the spice business, such as we are.

We sincerely hope that you will give this your close attention.

Respectfully yours,

NORMAN S. DILLINGHAM, *Treasurer.*

DAVIS MANUFACTURING CO., INC.,
Knoxville, Tenn., March 17, 1960.

Senator HARRY BYRD,
Senate Office Building, Washington, D.C.

DEAR SENATOR: H.R. 5054 is a proposed bill requiring that when an imported article is removed from the original container and repackaged, the new packaging must show the country of origin. This may be a good law on certain individual animate objects but as far as our business is concerned, it would be almost impossible to comply with such a law.

We are in the spice and flavoring business and our spices, herbs, and essential oils come from the far corners of the earth. Let's take one item—barbecue spice which is a blend of some 12 different spices and herbs. It will contain paprika which may come from Spain, Portugal or Hungary. It will contain black pepper which may come from Indonesia, India, Brazil or some other country. It will contain oregano that may come from Crete, Yugoslavia, Greece, Italy or Mexico, and so on. Just think of the labeling requirements we would be faced with and the changes on the printed label we would have to go to on each incoming shipment. Now suppose we sold some of this barbecue spice to a canning company to use in barbecued beef or pork. Just imagine what they would have to go through on their labeling if they had to show each spice ingredient and what country it came from.

The same thing would apply to flavorings that may be a blend of essential oils from 5 to 20 different countries.

Certainly H.R. 5054 should be amended to exclude ground, mixed, blended or commingled articles.

All best wishes.

Sincerely,

JIM WRIGHT,
President and General Manager.

BOWEY'S, INC.,
Chicago, March 18, 1960.

Hon. HARRY FLOOD BYRD,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR BYRD: We are manufacturers and distributors of chocolate and cocoa products in the United States.

As we understand it, Congressman Hurlong of Florida, introduced a bill to protect the wood and screw industry in the United States. However, the provisions of bill H.R. 5054, as written, would require us to label our products with the countries of origin.

Our products are made up from cocoa beans, all of which are imported from foreign countries, and these cocoa beans come from a number of growing areas. Our use of these products depends upon the season and weather conditions of the country of growth, and the factors of supply and demand.

In making our products we are compelled to use a blend of cocoa beans which may come from several different countries so we may arrive at a quality product.

As we understand bill H.R. 5054, it would require us to change the label of our end products using cocoa beans as a raw material each time we change the blend of beans in processing. We feel that such a result was not contemplated by this bill H.R. 5054.

Undoubtedly, we would not be able to order labeling material sufficiently in advance in order to avail ourselves of the economies incident to large-scale purchasing, and of course, we would have to carry a tremendoulsy large stock of labels to conform with the requirements of H.R. 5054. This could lead to unintentional and inaccurate labeling.

We, as a manufacturer, wish to record a vigorous protest against the enactment of H.R. 5054 in its present form as passed by the House of Representatives, and respectfully request that your committee disapprove H.R. 5054 in its entirety, or, as an alternative, that the bill be amended in such a way that its provisions would not be applicable to food processors, such as ourselves, who must use raw materials of foreign origin.

We feel that H.R. 5054 in its present form goes far beyond what was originally intended.

May we count on your cooperation in this matter?

Thank you.

Sincerely yours,

W. C. MCNITT,
Vice President and General Manager.

S. & W. FINE FOODS, INC.,
San Francisco, Calif., March 15, 1960.

Hon. HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SIR: We understand that package marking bill H.R. 5054 has passed in the House of Representatives and that it will be considered by your committee shortly.

While it is our understanding that coffee is excepted from provisions of this bill, in view of the following question asked by Representative Gross during House debate on the bill: "Does not the gentleman think that every imported article from a foreign country ought to in some way tell the ultimate consumer in this country where that article originated?" we realize there is some danger a bill could slip through with unintentional inclusion of coffee.

Coffee enters the United States from approximately two dozen foreign sources. No coffee is grown in the United States. No purpose could be served by insisting that containers of coffee be marked with country or countries of origin. No consumer would benefit from such marking, no domestic industry would be benefited in any way from such marking.

From a very practical standpoint, marking of countries, or country, of origin would be a virtual impossibility, since coffee from each source of supply is not available at all times, thus necessitating variations in blend makeup, and since a blend might contain coffee from a large number of separate sources.

Undoubtedly, any extension of provisions of the package marking bill to coffee would result in intolerable hardship to the coffee industry of the United States and increases in cost to the consumer. We ask, therefore, that your committee make certain coffee is not included as an article that must be marked with country of origin, assuming your committee recommends to the Senate passage of any bill similar to H.R. 5054.

Thank you.

Sincerely yours,

IRVING MANNING,
Manager, Coffee Department.

KING COFFEE, INC.,
Detroit, Mich., March 17, 1960.

Senator HARRY BYRD,
Chairman of the Senate Finance Committee,
Senate Office Building, Washington, D.C.

SIR: The writer would like to go on record as opposing the package marking bill, H.R. 5054, recently passed by the House of Representatives and now being considered by the Senate.

At the present time we understand that coffee is exempt from package marking regulations under the old bill still in force. We would recommend most heartily that this exemption be retained should the H.R. 5054 be favorably considered by the Senate committee.

As you may not know, coffee it as is commercially distributed in the United States, is customarily a blend of coffees from many coun-

tries, often times as many as six or seven countries of origin being involved. Because of availability and changing market conditions, these component coffees do not remain the same in a certain brand of coffee. For example quite frequently coffee from Costa Rica is not available at the end of the crop year and other similar coffees must be substituted in their place.

For this reason it would work a considerable hardship on the coffee industry as a whole and would serve no good office for the consumer to have a changing list of coffees marked on the packages. We do not see where any useful purpose could be served by informing the consumer, for example, in June that she is drinking coffees produced in Brazil, Colombia, and Guatemala, and in October inform her that her blend is now composed of coffees from Brazil, Venezuela, and Costa Rica.

We are in favor of any bill which protects the consumer from fraud or which would promote the economic health of our own economy. We do not feel that this bill as it applies to the coffee industry would do so.

Will you therefore please consider our company as being opposed to this bill unless the exemption now applying to coffee is continued.

Should you wish further information which we could supply, please call upon us.

Very truly yours,

JACK B. FREY, *Treasurer.*

UNITED INSTANT COFFEE CORP.,
Paterson, N.J., March 21, 1960.

Reference: Package marking bill H.R. 5054.

Hon. HARRY BYRD,
U.S. Senate, Washington, D.C.

DEAR SIR: One of the principal provisions of the above bill is a requirement that—

> * * * if an imported article whose container must be marked under provisions of existing law is removed from that container and repackaged then such new container must also be marked with the name of the country of origin.

At first glance, such a requirement appears quite reasonable but when applied to the general coffee trade it would develop hardships of immeasurable consequence.

A coffee roaster or processor who must adapt himself to the vicissitudes of the market, who must continuously make use of available growths to blend the desired end result, would be forced to constantly reprint labels to comply with the requirement.

Ninety-nine and nine-tenths percent of coffee users look upon all coffees as coffee and it is important that it remain exactly coffee. The coffee blender, on the other hand, must often replace, in his blend, an equally good coffee from say, Tanganyika, or from Colombia, or from Brazil, etc. with coffees produced in say, Guatemala, or in Costa Rica, or in Abyssinia, etc. * * * to mention some 5 percent of the growth countries from which coffees are imported, blended, roasted, and distributed as a single item, "coffee."

Supplies are constantly in flux. The coffee blender concerns himself with producing a flavor, typical of his brand, and, to continue an

even flow of his business, he must often make changes for reasons of type disappearance or that available type does not come up to his cupping expectations. If he has included the country of origin of such a coffee on his label, then it means revamping his entire label to suit the change and keep reprinting labels continuously—also relithographing cans, at very high extra cost.

The only people to benefit by this would be the label manufacturers. The consumer is not helped one iota—on the contrary—he is hurt because increased production costs must be passed on to him directly.

It should be remembered that blends could vary to include 5, 10, or even 15 different countries of origin with variations that could exclude any number of the original growths or replacement for any number of such original growths.

One other important point that should merit diplomatic attention is the fact that within the very sensitive coffee world—so vital to our foreign relations—there is always the possibility of "slight" by advertised preference for some countries over others. The widespread publication of such a "slight" on labels seen nationally would not endear us to the countries whose growths have been slighted.

We solict your most considered investigation of these points and trust your research into these facts will guide you to the disapproval of package marking bill H.R. 5054.

Respectfully yours,

GEORGE HARRISON.

FORT WORTH, TEX., *March 22, 1960.*

HARRY F. BYRD,
Chairman Finance Committee, Washington D.C.:

Your urgent attention to H.R. 5054 is requested; coffee, tea, and spice industry could not live with this law; these products are primarily of foreign origin. With lithographed containers it would be impossible to list the nearly 100 countries shipping coffee to United States. When orders are placed it would be impossible to determine country of origin of green coffee or tea and spices. Thank you for helping us.

L. H. SOULES,
Vice President, White Swan Coffee Co.

TEA ASSOCIATION OF THE
UNITED STATES OF AMERICA, INC.,
New York, N.Y., March 21, 1960.

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

SIR: The Tea Association of the U.S.A., which represents tea packers, importers, retailers and allied trades, handling an estimated 80 percent of all tea processed in the United States, takes strong exception to package marking bill, H.R. 5054, which will shortly be considered by the Senate Finance Committee.

Our membership feels that the commodity tea should be specifically excluded from H.R. 5054 or any similar act for these reasons:

First, the commodity tea is not in competition with any domestic agricultural tea interests; all tea is imported.

Secondly, almost all tea sold in the United States is a blend of teas from many different countries, including India, Ceylon, Indonesia, Uganda, Tanganyika, Nyasaland, Formosa, Japan and others. All blends vary frequently and it would be impractical to change the packages of all brands of tea each time the blends change.

Thirdly, were all tea firms to try to conform to a regulation requiring that all countries of origin appear on all packages, the result would be to add greatly to the packaging costs and consequently to the cost the consumer must pay.

Fourth, once tea from various countries has been blended it is for all practical purposes impossible for even a tea expert to identify the countries of origin. The information would have no meaning to the public since the name of the country has absolutely nothing to do with the quality of the tea.

Fifth, under the terms of the Tea Act of 1897 all tea imported into the United States is now inspected by the Food and Drug Administration for quality, a measure which protects the public now from substandard tea, which is the proper and desirable protection.

Sixth, it is a provision of the Tariff Act of 1930, section 304B, that tea is excluded from the provisions of that act. This, of course, is because as we have previously stated, all tea is imported; there is no tea grown in this country.

For all of the above reasons, without taking any position on the overall merits of package marking bill H.R. 5054, we strongly urge that an exclusion be specifically made for tea.

We will be represented at the public hearing of the Senate Finance Committee hearing on this bill by our counsel, Mr. Thomas W. Kelly of the law firm of Breed, Abbott & Morgan who will express for the record the facts stated here.

Very truly yours,

P. C. IRWIN, Jr., *President.*

MORRIS J. GOLOMBECK, INC.,
Brooklyn, N.Y., March 22, 1960.

Re H.R. 5054.

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

DEAR SENATOR BYRD: We strongly urge you to defeat the above bill dealing with marking country of origin on goods repackaged and removed from original container.

Spices are imported from many lands. There is no desire to conceal the country of origin but the average consumer doesn't care to know whether the tin of pepper comes from India, Indonesia, Ceylon or Brazil or the tins of cloves he buys are from Madagascar, or Zanzibar.

Many spices are mixed, ground and blended with other imported or domestic articles as in pickling spices. To require marking of at least a half dozen countries of origin on a packaged item would be a heavy burden and entail extra costs which would be passed on to the consumer.

If other industries require that such a bill be passed then it should be amended to exempt any article that is ground, mixed, blended or

commingled with any other foreign or domestic article or articles, or is processed, in the United States, in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

Very truly yours,

HY GOLOMBECK, *Vice President.*

LEES SUMMIT, MO., *March 23, 1960.*

HON. HARRY F. BYRD,
Chairman of the Senate Finance Committee,
U.S. Senate, Senate Office Building, Washington, D.C.

MY DEAR SENATOR BYRD: I am strongly in favor of package marking bill, H.R. 5054, and would appreciate anything you could do to assist in getting the Senate to pass the bill without any major change.

I personally feel that requiring foreign materials when repackaged to show the point of origin is very important.

Sincerely yours,

F. B. HERSCHBERGER.

M. DE ROSA, INC.,
Mount Vernon, N.Y., February 17, 1960.

HON. JACOB JAVITS,
Senator, State of New York,
Washington, D.C.

DEAR SENATOR: We wish to oppose bill H.R. 5054 which is up for consideration before the Senate Finance Committee. We oppose this measure on the ground that it would cause a great hardship to us and many other importers of olive oil. As olive oil is purchased from several Mediterranean countries, such as Spain, Italy, Greece, Tunisia, Algeria, France and even Israel, it would be extremely difficult for us to have on hand at all times containers marked with all the countries that we purchase olive oil from. It would necessitate new containers every time we purchase the product from a new source. In the event that a country does not produce sufficient olive oil during a given season, we would be hampered with a supply of containers we could not use until an olive oil supply is again available from that source. This leads to waste and a consequent increase in the cost of the product.

We trust you fully realize the economic hardship involved in such a bill.

Very truly yours,

THOMAS DEROSA.

LUDWIG MUELLER CO., INC.,
New York, N.Y., March 15, 1960.

Hon. Senator KENNETH KEATING,
U.S. Senate, Washington, D.C.

DEAR SENATOR: As members of the spice industry, we have been informed that the House of Representatives recently passed a bill, H.R. 5054, requiring that an imported article, when removed from the original container and repacked, must continue to be identified as to the country of origin.

We understand that this bill is now before the Senate Finance Committee, and that hearings on it are scheduled to take place shortly.

We believe that not only the spice industry, but many other industries will find that the bill as drafted would place an unbearable burden on every processor. Presumably a number of industries will voice their protest, and will point out the impossibility of applying such a law to processed foods and other processed goods. We should like to suggest that this bill should not become law unless it be amended -

to exempt any article that is ground, mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

Any person, whether within or outside the packaging and processing industries will immediately see the tremendous extra cost which would arise if the various ingredients making up a product would have to be identified on the package as to their country of origin. It would seem to be physically impossible to comply with such a provision, and any added cost would no doubt be passed on to the consumer, who would otherwise not necessarily benefit at all from the provisions of this law.

We respectfully ask you to bear the above in mind when giving consideration to this bill, H.R. 5054.

Sincerely yours,

LUDWIG MUELLER CO., INC.

THE WOOLSON SPICE CO.,
Toledo, Ohio, March 24, 1960.

Re H.R. 5054.

Hon. HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: It has recently come to my attention that the House of Representatives has passed the above-mentioned bill which requires that all imported commodities that are repackaged must show the name of the country from which they were imported.

Our company wants to go on record as being definitely opposed to the passage of this legislation because it would work an undue hardship upon our company and all other firms who import spices and repackage

them for sale to the consumer. It would be a particular hardship against our company because we are in the private label packaging of spices for many wholesale grocers and chain organizations scattered throughout the United States, and as such we have lithographed metal tins under dozens of different brands. Our container inventory is, therefore, exceptionally large as compared with spice grinders who pack merchandise under one label.

Nearly all spices are imported from various parts of the world. An individual type spice may come from many different countries and as they are an agricultural commodity, they are by nature subject to climatic conditions which can seriously effect the crop in any one area. We could conceivably have containers which read "Spanish Cumin Seed" and find that no Spanish Cumin Seed was available or the quantity not large enough to take care of our requirements. The same condition might exist on dozens of the different spices we package.

I am particularly familiar with the problems that exist on spices because, during World War II, I served as Administrator of War Food Order No. 25, which regulated the importation and distribution of spices throughout the United States. Many firms had containers indicating the country of origin on them and found it necessary to dispose of all package supplies when spices were not available from various areas.

We also have a problem with blends of whole spices. Mixed pickling spice, for example, is composed of up to 25 different spices. These are packaged in small containers and it would be nearly impossible to show the countries of origin on a small container.

We sincerely hope that your committee will give serious consideration to defeating H.R. 5054.

Yours very truly,

W. L. MacMillan, *President.*

Albert Ehlers, Inc.,
Brooklyn, N.Y., March 25, 1960.

Senator Harry Byrd,
Senate Office Building,
Washington, D.C.

Dear Senator: Regarding the bill requiring a repackaged imported article showing the country of origin, this is the bill identified as H.R. 5054 which was recently passed by the House of Representatives.

We respectfully submit that to designate the country of origin on the coffee, tea, and spice containers that we sell would place a heavy burden and extra cost, which ultimately will result in an increase in the retail cost of these products to the ultimate consumer. In view of this, we request that this bill be amended to exclude coffee, tea, and spices.

Sincerely yours,

Edwin Thoet, Jr., *Secretary.*

KANSAS CITY, MO., *March 25, 1960.*

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

MY DEAR SENATOR BYRD: It has come to my attention that package marking bill, H.R. 5054, which recently passed the House of Representatives by two-thirds majority vote is now before the Senate Finance Committee.

I recently had the occasion to purchase a small package of nails in a package labelled "Made in U.S.A." On application the nails proved to be of extremely inferior quality, with the result that I inquired of the retailer where he had purchased the nails. The retailer is a sincere and honest businessman and was so distressed over the condition of the merchandise that he took it upon himself to try to ascertain the mill of their origin. We were both amazed some weeks later to find that the nails were purchased by a west coast importer in bulk and were then repackaged in small packages under the importer's trade name and clearly marked "Made in the U.S.A."

I recently read in the Wall Street Journal that over 65 percent of the barbed wire and over 45 percent of the nails sold in the United States last year were of foreign origin. It occurs to me that if these low-wage produced items are allowed to flood our domestic markets, then the American laborer is in for a drastic revision in his living standards. I believe in our high standard of living and in sound and honestly led labor unions, however, I object most strongly to purchasing an article which I assume to be manufactured in the United States and find that it was imported, to the detriment of our own domestic production, without being so labelled "Made in Japan" or "Made in Belgium."

I, therefore, strongly urge passage of H.R. 5054 and request most respectfully that you inform me how you intend to vote in this regard.

Sincerely yours,

W. O. BUFFE.

DE HOPE GOLDSCHMIDT CORP.,
New York, N.Y., March 25, 1960.

Re package marking bill No. 5054.

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

SIR: With reference to a letter addressed to you by the Tea Association of the United States of America, we would like to go on record that as tea importers we fully agree therewith, and that we feel that the requirement of listing the countries of origin on retail tea packages would be impracticable for the American tea industry.

Very truly yours,

O. H. GOLDSCHMIDT, *President.*

PH. WECHSLER & SON, INC.,
New York, N.Y., March 21, 1960.

Senator HARRY BYRD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BYRD: I am writing you with reference to the package marking bill H.R. 5054.

As a coffee roaster I would like to protest vigorously against the provisions of this bill requiring that packages must show the country of origin. Coffee is imported from many countries and in the blending of coffee many coffees are used. It would not only be extremely inconvenient to list the various countries of origin since in any one blend there may be as many as ten different coffees being used, but also competitors in the industry would be able to identify the ingredients in a blend of coffee. It is the anonymity of the coffees used in our blends that is the secret of each individual coffee roaster. To force publication of these facts would be to create chaos in the industry.

Since all coffees imported into the United States must be passed by the Pure Food and Drug Administration the consumer is protected. Since no additives are used in the production of roasted coffee there is no danger for a consumer in this respect. It appears to me that no other purpose would be served but to force disclosure of facts in a business which would offer no protection for the consumer but rather hurt the industry.

I respectfully urge that this bill be defeated or if it should be passed that coffee be exempt from its provisions.

Very truly yours,

JAMES H. SLATER, *President.*

HERBERT MARMOREK & SON,
Brooklyn, N.Y., March 25, 1960.

Hon. HARRY BYRD,
Chairman, Senate Finance Committee,
Washington, D.C.

DEAR SIR: Our attention has been called to your Finance Committee's impending consideration of H.R. 5054 regarding the showing of the country of origin on imported goods.

We cannot speak for other industries, but we know that H.R. 5054 in its present form would impose an almost impossible and certainly expensive and most cumbersome burden on the spice trade. Unfortunately, such extra burden would have to lead to increases in the prices charged to the consumers.

For that reason, we take the liberty of urging you to either vote against this entire bill in committee and on the floor of the Senate or at least to use your best endeavors to secure adoption of an amendment to exempt any article which is ground, mixed, blended or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds, or herbs,

prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

We would appreciate to hear your views on the above matter.

Sincerely,

KURT M. A. MARMOREK.

GRIFFITH LABORATORIES, INC.,
Chicago, Ill., March 24, 1960.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: A major portion of our business has to do with spices, and in addition to our main plant in Chicago, we have a plant at Union, N.J., and at Los Angeles, Calif. Most of the spices are imported, although red pepper which we use is produced in the United States.

It is my understanding that H.R. 5054 requires that the country of origin be shown on products manufactured from imported materials. Certain spices come one from certain countries, other spices, such as black pepper, may come from several countries, and it is customary in the trade to substitute or to use Indonesian black pepper regardless of whether it comes from British Borneo, Indonesia, or India. Nutmeg come from either Indonesia or the island of Granada in the British West Indies. Cardamon seed may come from India or from Morocco, or from one of several South American countries. Coriander may come from Mexico, or from India.

The typical spice blend which we sell for sausage might be as follows: Black pepper, nutmeg, cardamon, and coriander. Thus you see the labeling problem, and how would anyone be able to carry a stock of printed labels when the various spices in a mixture come from different countries.

If the bill is like as I understand, and if it is interpreted literally, the law if enacted would be to all intent impractical to follow. On this basis, I strongly recommend that you vote against the bill. It would do no good, and would cause a lot of trouble.

Very truly yours,

C. L. GRIFFITH.

MARKING DEVICE ASSOCIATION,
Evanston, Ill., March 7, 1960.

Senator HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: We herewith offer our endorsement of legislation pertaining to the marking of packages containing imported merchandise, H.R. 5054, which we understand is currently awaiting hearings before the Senate Finance Committee.

We in the marking industry have experienced an increasing amount of competition with foreign made merchandise. The 350 members of the Marketing Device Association have reported increasing numbers

of cases in which such merchandise is not clearly marked as to country of origin. Just recently we turned over such a case for investigation to a customs agent of the U.S. Treasury Department located here in Chicago.

We understand that the pending legislation might have serious repercussions to food packagers and to others. We sincerely hope, however, that the spirit of the proposed legislation can be enacted into law. We believe that the protection therein offered is the minimum warranted by the situation confronting our industry.

Very truly yours,

THOMAS H. BRINKMANN,
Secretary and General Manager.

ARCHIBALD & KENDALL, INC.,
New York, N.Y., March 30, 1960.

Re House Resolution 5054.

Hon. HARRY S. BYRD,
U.S. Senate, Washington, D.C.

DEAR SIR: This resolution requiring imported commodities, when repacked from the original container, to carry the country of origin, would work a great hardship on the spice-trade industry. Most spices, seeds, and herbs are imported from abroad and are repacked into many consumer and industrial sizes. The cost of labeling countries of origin would be very high and would accomplish no real good result.

We respectfully request your help in opposing this bill unless amended in some form so as to exclude spices, seeds, and herbs.

Yours very truly,

DOUGLAS C. ARCHIBALD.

CHICAGO, ILL., *March 30, 1960.*

Subject: Package-marking bill (H.R. 5054).

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

MY DEAR SENATOR: You are undoubtedly aware of the full meaning and intent of subject bill, recently passed by the House of Representatives. If enacted into law, it would prevent the loss of identity of the country of origin on imported goods.

Too often, cheaply priced foreign-made products are not properly identified to the American purchaser, whether through inadequate marking or through repackaging in this country and consequently, the American consumer is not given a free choice of buying American or buying foreign-made goods.

There are many patriotic Americans who would prefer domestic products over foreign in spite of any price difference, and they should not be denied the right to ascertain which of the two is being offered to them.

The tremendous increase in imported products of many kinds in the past 10 years is discouraging to numerous American producers. They see sizable portions of their market slipping away from them and

they are powerless to combat the trend chiefly due to the difference in wage levels, foreign versus domestic. And, while subject bill is not a cure-all for such troubles, it is certainly desirable from the American viewpoint and will at least permit the consumer in this country to exercise free choice in the purchase of his needs.

I urge you to give your intelligent consideration to the passage of this bill.

Yours very truly,

WM. P. KINSELLA.

FRANCIS H. LEGGETT & CO.,
SUBSIDIARY OF SEEMAN BROS., INC.,
NEW YORK, N.Y., *April 1, 1960.*

Hon. HARRY BYRD,
Senate Office Building, Washington, D.C.

DEAR SENATOR: I am writing on behalf of my company which has been in the business of importing, packing and distributing White Rose tea in the New York metropolitan area for the last 50 years.

We have been concerned to learn that a package-marking bill (H.R. 5054) has recently been passed by the House of Representatives and is soon to be considered by the Senate Finance Committee, if this has not already occurred. As we understand it, this bill would require us to state on each package of White Rose tea the countries of origin of all tea contained therein.

While we are not in a position to comment on the effect of this bill on other commodities, we take very strong exception to its application to the commodity "tea" for the following reasons:

1. Our package and teabag tea, like all other advertised brands, is a blend of tea coming from a variety of foreign countries, including India, Ceylon, Indonesia, Uganda, Tanganyika, Nyasaland, Formosa, Mozambique, and others. Although we maintain a consistent standard of quality and flavor in our blend, we make frequent changes of specific ingredients according to market conditions. It must be understood that country of origin has little to do with the quality of the tea, as tea of widely varying quality can readily be purchased from any one of the countries referred to above. If we were to state accurately the contents of each package, we would have to change the description on our package from month to month which would, of course, be extremely expensive and cumbersome.

2. The statement on the package of country of origin will not supply the consumer with useful information. No tea is produced in the United States and the entire contents of every package are known to be of foreign origin, so that country of origin gives no clue to quality or flavor of a blend.

3. Under the Tea Act of 1897, tea already is under stricter quality regulation than most other imported foods.

In view of the above considerations, we strongly urge that tea should be specifically excluded from the provision of package-marking bill. We will appreciate very much any efforts that you may make in this direction.

Yours very truly,

CARL SEEMAN, JR.

McCormick & Co., Inc.,
Baltimore, Md., April 1, 1960.

Re H.R. 5054, marking of new packages for imported articles.

Hon. Harry Byrd,
Chairman of the Senate Finance Committee,
Senate Office Building, Washington, D.C.

Dear Senator Byrd: I am writing in regard to House bill 5054 which, I understand, is now before the Senate Finance Committee. This amendment to section 304 of the Tariff Act would create many serious problems for food manufacturers, particularly those selling spices and flavoring extracts. Specifically, when imported commodities are removed from their original containers and put into a new package, the new package also would have to be marked to indicate to the ultimate purchaser the name of the country of origin of such article.

I am sure you are aware of the fact that practically every spice used in the United States is imported from more than one foreign country. Pepper is obtained from India, Indonesia, Ceylon, and Brazil. The same is true of all the other many spice products we package. It would be extremely burdensome if we had to indicate on each such package the particular country of origin. Obviously, this would mean that we could not order in advance the lithographed tins, cartons, or labels used on our products because it would be impossible to know from which country the particular product would be obtained at the time these packaging materials had to be ordered. In addition to this problem, many common household spices are blends, such as poultry seasoning, mixed pickling spice, curry powder, and others. The ingredients of these types of products may be obtained from half a dozen different countries.

I believe that the hardships that this proposed bill would create would far outweigh any possible advantages that would result from its passage. Therefore, I earnestly request that the Senate Finance Committee reject this bill.

If the bill is considered necessary in some form, we urge that it be properly amended to exclude from its application spices. I believe the Grocery Manufacturers of America, Inc., has already suggested two amendments to read as follows:

(*a*) Page 2, line 4: After the word "repackaged", add "in the same form or condition".

(*b*) Page 2, line 9: After the word "forfeiture", add this new sentence:

If any imported article is mixed, blended, or comingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices, and otherwise than for the purpose of concealing the foreign country of origin of such article or articles, the new package shall not be subject to the marking requirements of this section.

We concur completely with the desirability of these amendments. However, many spices are repackaged and sold as whole spices without any processing other than repackaging. Therefore, we feel some additional amendment should be provided to exclude all spice products sold as such. We do not feel that this would constitute any preferred treatment for our industry. The consuming public is well aware of the fact that the great majority of spices are imported from foreign countries.

I would be happy to discuss with you at your convenience if you desire any further information.

Sincerely yours,

JOHN N. CURLETT.

NEW LENOX, ILL., *March 29, 1960.*

Subject: Package marking bill H.R. 5054.

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

DEAR SIR: I understand the subject bill, recently passed by the House of Representatives, is now before the Senate Finance Committee.

I am employed in a sales capacity by a steel company, and when I comment that foreign-made steel items, very cheaply priced when compared to domestic products, have taken a big bite out of the U.S. market, I know what I am talking about.

I think it very unfair to manufacturers in this country and to the people of this country that foreign-made items lose their origin identity before getting to the final user or consumer, as the case may be. Further, I think all foreign-made products, or products made partly with foreign materials, should be plainly marked to that effect, rather than being marked in some obscure place or marked in such a way that the origin is not immediately apparent.

I will appreciate it if you will consider this very carefully and I sincerely hope that you think as I do and will lend the weight of your influence *to see that this bill is passed.*

Yours very truly,

J. G. WILSTERMAN.

H.F.B.: Hadn't intended to tell you but I'm going to anyway. Where I'm concerned your performance has been outstanding. Thanks for the contribution you have made to keep our Nation strong and free and what past statesmen intended it should be.

J. G. W.

B. HELLER & CO.,
Chicago, March 28, 1960.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: It has been brought to our attention that a bill identified as H.R. 5054, requiring that when an imported article is removed from the original container and repackaged, the new packaging must show the country of origin, is now before the Senate Finance Committee.

This bill in its present form would create a tremendous hardship on the spice grinding industry of which we are a part. For example, we buy black pepper from India, Ceylon, Borneo, Indonesia, and Brazil depending upon availability, price, and quality. When we have labels printed we do not know where we will be buying pepper and at times pepper is not available from one or more of the above sources. The public is interested in buying pure ground black pepper of good

quality and is not particularly interested in the source or country of origin. The problem with pepper holds true with practically every other spice.

We respectfully request that this bill be amended as follows:

Exempt any article that is ground, mixed, blended, or commingled with any other foreign or domestic article or articles, or is processed, in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds or herbs prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such article or articles.

Failure to amend this bill undoubtedly would place a heavy burden on the industry as many labels and lithograph packages would be required, and this increase in cost would have to be passed on to the ultimate consumer.

Very truly yours,

B. HELLER & CO.,
JAMES R. HELLER,
Chairman of the Board.

J. A. FOLGER & CO.,
San Francisco, March 28, 1960.

Subject: H.R. 5054.

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

DEAR SENATOR BYRD: The above bill would amend section 304 of the Tariff Act of 1930 to provide that the containers of goods which are imported into this country must be marked with the country of origin even though these goods are offered for sale in a new package. Our company and many like us have for years imported green coffee into this country in sacks which are marked with the country of origin. This coffee is then roasted, blended, and ground and ultimately packed and sold to the public in containers of convenient size for household use. Conceivably, this bill could be construed to require our company and similar companies to mark the cans in which coffee is sold with the country of origin, although the intent of the bill is by no means clear in this instance.

We therefore strongly urge that the bill be amended to remove this uncertainty and to clearly exempt coffee roasted and packed in this country from the requirement that the containers show the country of origin. Such marking of coffee cans is not necessary to protect the public against the unwitting use of imported products, for everyone knows that coffee is imported. Most important, however, is the fact that it would be impossible to mark each can with the proper country of origin, for coffee is blended to taste and not according to its various countries of origin. All that any coffee company could do would be to list on the cans all the countries of origin from which it imports coffee, but such a list would frequently be inaccurate for a particular batch of coffee and would therefore not comply with the requirements of this bill. The alternative of separately labeled cans for each batch of coffee would, of course, be a practical impossibility.

We are not opposed to the principle of this bill which apparently is aimed at giving to American consumers information as to the countries which produced the products which they are buying. We strongly urge, however, that the ambiguity which would be created

by the passage of this bill in its present form be removed by an amendment which would make it clear that coffee sold in this country need not be so marked where, because of the blending of the product, accurate marking with the countries of origin is impossible.

Yours very truly,

PETER FOLGER,
Executive Vice President.

THE GRAND UNION CO.,
East Paterson, N.J., March 30, 1960.

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

MY DEAR SENATOR BYRD: The Grand Union Co., which operates 457 stores along the eastern seaboard objects strenuously to House bill H.R. 5054, commonly called the package marking bill, and which shortly will be considered by your committee.

This bill which has already been passed by the House of Representatives would require that all merchandise imported in the United States, which is repacked from original containers, must list on the new package the country or countries of origin.

This bill would create many hardships, specifically concerning the packaging of tea, coffee, and spices. Of course many other commodities would be affected to some degree.

In the case of tea, using just one example, the commodity when repacked in the United States is invariably a blend of teas from many different countries including India, Ceylon, Tanganyika, Indonesia, Uganda, Formosa, Nyasaland, Japan, and others. The blends frequently vary and it would be impractical to change the package of all brands each time the blends change.

Since all the tea imported into the United States is now inspected by the Food and Drug Administration for quality, and since no consumers to our knowledge purchase tea by reason of the country it comes from, we fail to see the advantages of the H.R. 5054 bill.

Very truly yours,

WILLIAM W. BRADY,
Director of Public and Government Relations.

HOUSTON, TEX., *March 31, 1960.*

Hon. HARRY F. BYRD,
U.S. Senate,
Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: It is my understanding that bill H.R. 5054 will be coming before the Senate shortly concerning package marking.

I would sincerely urge that you vote for this bill so that some effective means will be available to prevent the public from being misled into believing that imported products are of domestic manufacture. Surely the American public has a right to know where the products which they are purchasing are manufactured, and I believe this new bill will close the loophole that repackaging has permitted to disguise the origin of imported products.

Yours very truly,

C. G. WARD.

WILKINS COFFEE CO.,
Washington, D.C., March 30, 1960.

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

DEAR SIR: It has come to our attention that a package marking bill (H.R. 5404), which has already been passed by the House, would require that all merchandise imported into the United States which is taken out of the original carton and repacked must have on the new package a listing of the country or countries of origin.

This bill would of course include such items as tea and coffee and therefore is of particular concern to us. We would like to call to your attention that in the case of tea and coffee, both are imported from many and various countries and in making up a blend of either tea or coffee it is conceivable that you would have coffees from five or six countries.

Blends vary frequently as marketing conditions change and new blends are developed which make it almost impossible and certainly impractical to change the labels on all brands of teas and coffee each time the blends are changed.

In that neither commodity is grown in this country and they are not competitive items it would appear that such a regulation would not be applicable, nor would it serve any purpose, and any and all efforts on your part to exclude these items will be greatly appreciated.

Thank you for your cooperation.

Very truly yours,

ROGER H. HEFLER,
Executive Vice President.

OLD JUDGE COFFEE CO.,
St. Louis, Mo., March 28, 1960.

Hon. STUART SYMINGTON,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR SYMINGTON: As you know, we are importers and packers of tea and coffee, distributing to a great many retailers, jobbers and wholesale outlets throughout all of the Midwest. Being thus engaged in this business, we wish to register with you our strong opposition to the package marking bill, H.R. 5054, which will shortly be considered by the Senate Finance Committee.

It is our feeling that the categories tea and coffee should be specifically excluded from H.R. 5054 or any similar act for these reasons:

First, the commodities tea and coffee are not in competition with any domestic agricultural tea or coffee interests; all tea and coffee is imported.

Secondly, almost all tea and coffee sold in the United States is a blend of tea and coffee from many different countries, including India, Ceylon, Indonesia, Uganda, Tanganyika, Nyasaland, Formosa, Japan, Central America, South America, Santo Domingo, and others. All blends vary frequently and it would be impractical to change the packages of all brands of tea and coffee each time the blends change.

Thirdly, were all tea and coffee firms to try to conform to a regulation requiring that all countries of origin appear on all packages, the

result would be to add greatly to the packaging costs and consequently to the cost the consumer must pay.

Fourth, once tea or coffee from various countries has been blended, it is for all practical purposes impossible for even an expert to identify the countries of origin. The information has very little meaning to the general public since the name of the country of origin in itself has very little to do with the overall general quality of the products.

Fifth, it is a provision of the Tariff Act of 1930, section 304B, that tea and coffee are excluded from the provisions of that act. This, of course, is because as we have previously stated, all tea and coffee is imported; there is no tea or coffee grown in this country.

For all of the above reasons, without taking any position on the overall merits of package marking bill, H.R. 5054, we strongly urge that an exclusion be specifically made for tea and coffee.

Since we are members of both the National Coffee Association and the Tea Association of the U.S.A., we expect to be represented at the public hearing of the Senate Finance Committee on this bill but, in addition, we sincerely hope you will register our strong opposition to the proposed bill as it stands.

Your assistance and cooperation in our behalf will be greatly appreciated, and we take this opportunity to extend kindest regards and best wishes.

Cordially yours,

CARL F. HULL, *President.*

NATIONAL RETAIL MERCHANTS ASSOCIATION,
Washington, D.C., March 28, 1960.

Subject: H.R. 5054.

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

DEAR SENATOR BYRD: There is before your committee for consideration a bill (H.R. 5054) designed to require that imported articles which have been removed from their original containers and repackaged for sale, are to be marked so as to indicate to the ultimate purchaser in the United States the English name of the country of origin of such articles.

As you know, the National Retail Merchants Association represents some 11,500 retail department, speciality, and chainstores located in ever State of the Union. These stores import many articles from abroad, and, therefore, the provisions of this legislation are of deep concern to them.

As is so often the case, legislation with worthy motives sometimes threatens to bring about undue hardships not contemplated in the drafting of the bill. We feel H.R. 5054 falls into the category of such legislation.

Present provisions of the pending bill would make a retail establishment responsible by law for proper marking, whether or not such retailer actually repackaged the imported article. Equal responsibility, however, is not required of the importer. This legislation provides that—

> When any article passes out of the custody and control of the importer he shall be absolved from *all* responsibility with respect to subsequent repackaging unless performed by or for his account. [Emphasis supplied.]

Compounding the retailer's unjust burden, H.R. 5054 would make applicable the penalty of forfeiture and seizure, a truly severe penalty for a party innocent of repackaging or of knowledge that imported articles were repackaged. To require innocent retailers to suffer such loss, recoverable only through extensive court action against the real offenders, is not in accordance with the precedents set by the system of American jurisprudence.

The legislation, in addition to including the severe penalty provisions described above, provides for enforcement of the bill by the Bureau of Customs. Obviously, the present staff of this agency would have to be expanded substantially, in order to police the tens of thousands of retail and wholesale establishments in the country. Further, by placing the responsibility for enforcement upon the Bureau of Customs, this bill would encourage the application by the Bureau of its administrative procedures for enforcement; namely, use of informers and payment of informers' fees. This application would leave retail stores (1) open to the prying of informers acting for the Bureau, or (2) at the mercy of malcontents.

The purpose of this legislation may be to inform the consumer of the fact that goods are imported. However, we believe the Federal Trade Commission already has adequate authority to prevent improperly marked goods being offered for sale.

The purpose of this legislation may be to discourage imports. However, we believe there are other more effective and fairer methods available to accomplish such an aim.

In summary, our position is that this proposal, regardless of the purpose for which it was drawn up, places the retail industry in an unfair and inequitable position. It is our hope that your committee will disapprove this legislation in the spirit of consideration for the retail industry.

Sincerely,

JAMES S. SCHRAMM,
Chairman, Foreign Trade Committee.

GERTRUDE H. FORD TEA CO., INC.,
Poughkeepsie, N.Y., April 1, 1960.

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

DEAR SIR: I have just received a notice from the tea association that a package marking bill, H.R. 5054, will shortly be considered by the Senate Finance Committee which would require teas to be taken out of their original cartons and be repacked and the new packages must have a listing of the country of origin.

In regard to tea, this bill is a dreadful thing to have passed because a fine quality, high-class tea like I am importing would lose some of its delicious flavor by opening it before using it. In other words, it could put a small exclusive business, like mine, out of business. I beg of you to do something to prevent this from being passed as a law.

It is my firm belief that if you will analyze this situation, you will feel that it would be an unjust law to be passed. I am hoping and praying that you will help to try and prevent it from being put into execution.

Cordially yours,

GERTRUDE H. FORD RAMSAY.

CADILLAC COFFEE CO.,
R. S. GEHLERT & CO.,
Detroit, Mich., April 4, 1960.

Hon. HARRY BYRD,
Chairman of the Finance Committee,
Washington, D.C.

DEAR SENATOR: We understand that soon you will have the package marking bill H.R. 5054 before your committee for consideration.

If the passage of this bill should include coffee roasters to indicate on the outside of the coffee container the many countries of origin it would be extremely difficult for the roaster to comply.

Since the countries of origin will vary from period to period within a year because of the different cup characteristics of the green coffees the names on the outside of the coffee container would have to be changed five to six times per year. For economy's sake we purchase our coffee containers in the hundreds of thousands. Since we do not necessarily know beforehand what countries we will be purchasing coffee from we could not have the countries names printed on our packages in advance. This could mean an increased cost to us and other roasters of approximately 1½ to 2 cents per pound.

We strongly urge that you give this problem your consideration.

Sincerely,

J. R. GEHLERT, *President.*

R. C. BIGELOW, INC.,
April 4, 1960.

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

SIR: It has come to our attention that the U.S. Senate is considering a bill, namely, package marking bill H.R. 5054, the rules of which would be extremely difficult, if not impossible, for tea companies to conform with.

This law, as we understand it, would require that all merchandise imported in the United States which is taken out of the original carton and repacked must have on the new packages a listing of the countries of origin.

First of all, as pointed out by the tea association, all teas sold in the United States are blends from many different countries. These blends change periodically as growing conditions in various countries differ and whereas, at one time, a blend might comprise teas from India and Ceylon, at another time it might be wholly India, at another wholly Ceylon, at another India and Indonesia, etc., etc., etc., etc.

We would be hopelessly lost attempting to constantly change the countries of origin on our packages.

Were we to restrict ourselves to one or two countries of original origin, the American public would suffer from inferior products.

Were we to attempt to adhere strictly to the law, the packaging costs would be absolutely fantastic.

We can see absolutely no reason for a law such as this. I defy anyone to explain who would benefit from such a regulation.

Sincerely,

DAVID C. BIGELOW,
Executive Vice President.

DUNCAN COFFEE CO.,
Houston, March 28, 1960.

Re H.R. 5054, package marking bill.

Hon. RALPH W. YARBOROUGH,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: We are very much concerned about added burden involving both labor and expense, which would be placed on our coffee roasting business by the requirements of H.R. 5054, the package marking bill. It is obvious that the coffee industry of the United States would be subjected to material hardship by this bill.

Practically all roasted coffees consumed in this country are necessarily blended from a variety of green coffees imported from many foreign countries. The coffee produced in each area imparts its own attribute to the finished result. However, as in the case of all agricultural products, these attributes are not invariably stable but are subject to a constant and continuing variation which makes it necessary for the coffee roaster to employ a continuous testing and tasting procedure in order to blend these numerous varieties into uniform cup quality result as his finished product.

It is utterly impossible to predetermine with preciseness either the proportions or the actual country of origin, of the great variety of coffees from which a U.S. coffee roaster's product will be blended from day to day. Therefore, the only means by which the country of origin can be shown on the label upon each can, jar or package of coffee as processed and distributed in this country, would necessitate a continuing revision of such information as this bill requires to be shown on the label. For example, the actual coffees composing some of our own blends may well undergo changes in the course of a single days operation at a single plant. Moreover, the proportions of the various types and characteristics of coffee beans composing the aggregate blend can be determined only at the conclusion of the testing and tasting process. This bill if applied to coffee roasters whose processing and manufacturing is performed in the United States, could very well have the effect of requiring a change in the label of the roasted coffee container several times in the course of a single day. You can easily see what tremendous complexity, added cost and difficulties would result by trying to provide containers with a blank space for the laborious and wholly impracticable insertion of such information as would be required by this bill.

The same situation confronts us with respect to the blending and packaging of teas.

It occurs to us that as applied to coffees and teas, this bill is utterly unreasonable in that, it serves no useful purpose whatsoever but it saddles the coffee roaster and the tea packager with most illogical and impracticable increased costs and production complications. It would be almost impossible of feasible accomplishment. Since Food and Drug Administration together with acutely aggressive competitive factors fairly well take care of the quaifty and grade requirements, we are unable to find any justification whatever for the application of the effects of this bill to the coffee and tea processor and packager of the United States.

We hope that you can find it appropriate to vigorously oppose this measure in the Senate Finance Committee, as well as on the floor, if it should get that far. We do not often get steamed up about a matter of this kind, but this is one situation that we cannot afford to let pass without our realistic effort to prevent its becoming applicable to coffees and teas as processed and distributed by our industry in this country.

With our kindest regards and best wishes, I am

Cordially,

SAMUEL H. PEAK.

WILMETTE, ILL.,
April 6, 1960.

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

DEAR SENATOR BYRD: We understand bill H.R. 5054 is now up for study before the Senate Finance Committee. It is our opinion that this may possibly be one of the more important bills up for consideration at the present time. We trust that a study of this bill, on your part, will merit your giving it your full support.

With folks to whom I talked, there seems to be a growing conviction that it wouldn't be too difficult for our country to lose its position as a solid bulwark of the free world. Much of this concern is due to the fact that we are trying to be the main support, militarily and economically, for the free world while still letting foreign imports take over much of our economy.

This can be particularly bad, as well as very unfair, when these imports lose their foreign identity.

I am hoping you will give package-marking bill H.R. 5054 your very vigorous support.

Very truly yours,

A. C. BROHOLM.

FORAN SPICE CO.,
Milwaukee, Wis., April 11, 1960.

Senator HARRY BYRD,
Chairman, Senate Finance Committee,
Washington, D.C.

DEAR SENATOR BYRD: Recently the House of Representatives passed a bill identified as H.R. 5054 requiring that when an imported article is removed from the original container and repackaged, the new packaging must show the country of origin.

Senator, if this bill is passed it should include to exempt any article that is ground, mixed, blended or commingled with any other foreign or domestic article, or is processed in the United States in accordance with customary and established trade practices; such processing to be interpreted to include the cleaning or any other treatment of whole spices, seeds or herbs, prior to repackaging, none of which shall be for the purpose of concealing the foreign country of origin of such articles.

I realize you are well aware of what heavy burdens and extra costs it would put upon the spice industry and the consumer to meet the original requirements of the bill.

We here at Foran Spice Co., as well as all spice processors, are definitely against such action unless an amendment is added to the proposed bill.

I believe that this letter of protest is justified with the information given above and that we will have your vote when this bill comes up before the Senate Finance Committee.

Very truly yours,

J. D. FORAN.

TEA PACK CO., INC.,
Carle Place, N.Y., April 15, 1960.

Hon. HARRY F. BYRD,
U.S. Senate, Washington, D.C.

HONORABLE SIR: We are writing to you with reference to package marking bill H.R. 5054 to call certain facts to your attention. We feel that the passage of this bill would create an undue hardship on us as well as on the tea industry for the following reasons:

First, the commodity tea is not in competition with any domestic agricultural tea interests; all tea is imported.

Secondly, almost all tea sold in the United States is a blend of teas from many different countries, including India, Ceylon, Indonesia, Uganda, Tanganyika, Nyasaland, Formosa, Japan, and others. All blends vary frequently and it would be impractical to change the packages of all brands of tea each time the blends change.

Thirdly, were all tea firms to try to conform to a regulation requiring that all countries of origin appear on all packages, the result would be to add greatly to the packaging costs and consequently to the cost the consumer must pay.

Fourth, once tea from various countries has been blended it is for all practical purposes impossible for even a tea expert to identify the countries of origin. The information would have no meaning to the public since the name of the country has absolutely nothing to do with the quality of the tea.

Fifth, under the terms of the Tea Act of 1897, all tea imported into the United States is now inspected by the Food and Drug Administration for quality, a measure which protects the public now from substandard tea, which is the proper and desirable protection.

Sixth, it is a provision of the Tariff Act of 1930, section 304B, that tea is excluded from the provisions of that act. This, of course, is because as we have previously stated, all tea is imported; there is no tea grown in this country.

For all of the above reasons, without taking any position on the overall merits of package marking bill H.R. 5054 we strongly urge that an exclusion be specifically made for tea.

Respectfully,

MAX MARGOLIES, *President.*

DENVER, COLO., *May 10, 1960.*

Hon GORDON ALLOTT,
Senate Office Building, Washington, D.C.:

The Colorado Fuel & Iron Corp., as you know, is very much concerned about the problem of imports and its effect on the steel business. Our corporation is suffering severely as a result of imports. We believe that the passage of H.R. 5054 which is presently before the Senate Finance Committee would help in dealing with this problem.

F. S. JONES,
Vice President, the Colorado Fuel & Iron Corp.

NEW YORK, N.Y., *May 18, 1960.*

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

Rubber Trade Association of New York, Inc., opposes the package-marking bill H.R. 5054 since it could place a heavy burden and extra costs on industry with no commensurate benefits to anyone. Passage of this bill could increase the retail cost of a product to the consumer in this country.

RUBBER TRADE ASSOCIATION OF NEW YORK, INC.,
A. J. GARRY, *Secretary.*

SAXONBURG CERAMICS, INC.,
Saxonburg, Pa., June 6, 1960.

Hon. HARRY F. BYRD,
Senate Office Building, Washington, D.C.

DEAR MR. BYRD: I am writing you regarding the package marketing bill H.R. 5054 which we believe will control imported goods that are repackaged and sold but are not marked with the name of the country of origin. Certainly, this will be a step forward to halt the teriffic amount of imports which are threatening quite a number of our industries; notably, the pottery industry. We know of quite a few plants which are out of business because of Japanese imports.

I understand that other people in the electronic industry are also being pushed by cheap transistors, etc., coming in from foreign countries. Anything you can do for us would certainly be appreciated.

Very truly yours,

GEORGE ADERHOLD, *President.*

NATIONAL COFFEE ASSOCIATION,
New York, N.Y., June 17, 1960.

Hon. HARRY BYRD,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR BYRD: Mrs. Elizabeth Springer, the chief clerk of the Senate Committee on Finance has sent me a copy of Mr. Flues' letter of April 15, 1960, to you interpreting the effect of H.R. 5054 on coffee imports.

From the interpretation of the Commissioner of Customs which was attached to the Acting Secretary of the Treasury's letter, I understand that the "ultimate" purchaser of green coffee for marking purposes is the manufacturer or processor. Thusly, as coffee is substantially processed, the marking law has no application on the resultant finished product or its package. The Commissioner of Customs reiterates this interpretation in a paragraph which reads thusly:

If the imported article undergoes a processing in the United States which results in a substantial transformation or a new or different article, the containers of the resultant product would not be subject to the proposed law.

The Commissioner specifically refers to coffee beans and later states that—

Green coffee beans are imported in bags destined to a roaster and grinder who will produce ground coffee which will be sold to consumers. The manufacturer who produces the ground coffee is the ultimate consumer.

In view of this interpretation and my telephone conversation of June 16 with Mrs. Springer, I have been assured that the provisions of H.R. 5054 will not affect coffee and, therefore, I will not usurp the valuable time of your good self and your committee by attending. However, our legal counsel, Mr. Thomas W. Kelly of Breed, Abbott & Morgan is scheduled to appear on behalf of coffee and several other commodities. In addition, I would thank you to include in the records the attached statement wherein I, on behalf of the National Coffee Association, respectfully urge that this bill, H.R. 5054, be so worded that it cannot cause fruitless activities to the coffee industry of the United States, and unnecessary expense for U.S. coffee consumers.

Very truly yours,

JOHN F. MCKIERNAN.

STATEMENT OF THE NATIONAL COFFEE ASSOCIATION, NEW YORK, N.Y.

Mr. Chairman and gentlemen of the Senate Finance Committee, I respectfully bring to your attention one of the provisions of H.R. 5054, referred to as the package marking bill. This provision states that:

(c) When any imported article, the container of which is required to be marked under the provisions of subsection (b) is removed from such container by the importer, or by a jobber, distributor, dealer, retailer, or other person, repackaged, and offered for sale in the new package, such new package shall be marked in such manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of such article. Any article offered for sale in violation of the provisions of this subsection shall be subject to seizure and forfeiture.

To my knowledge there is not a single pound of coffee grown in the mainland of the United States for commercial purposes. There were 58,400 bags of coffee exported from Hawaii and 19,800 bags from Puerto Rico which is equivalent to 0.0018 of 1 percent of total world exports in 1959.

Coffee, as it is commercially distributed in the United States, is customarily a blend of coffees from many countries, oftentimes as many as 6 or even more countries of origin being involved from the

more than 20 coffee producing countries. The purpose of the blend is to provide a uniform flavor, which each particular company feels meets the desires of its consumers.

Coffee blending is an art, based upon the sense of taste and smell. Coffee being an agricultural commodity, it varies greatly in taste, depending upon many factors such as soil conditions, fertilizers, altitude, climate and, in addition, is affected materially by the conditions under which it is harvested. Consequently, even coffee produced in a given section will vary from year to year and season to season. There are also coffees produced in various countries in the world which have very similar characteristics. As a result, the coffee blender depends upon his sense of taste and smell of the coffees available more than he does upon the origin of the coffee.

Because of these variations, if a roaster always used coffees from the same areas the year around, the flavor of his finished product would vary to such an extent that it might not match the flavor and quality expected of his particular trademark. Furthermore, certain coffees are available only during certain periods of the year and it is necessary for the blender to substitute coffees from other areas of the world in his blend. There are also periods when, for economic reasons, the roaster may substitute with other growths of similar characteristics.

To reiterate: Supplies are constantly in flux. The coffee blender concerns himself with producing a flavor, typical of his brand. It must be recognized that the objective of the coffee blender is to obtain a constantly uniform end product. Therefore, he must often make changes for reasons of type disappearance or when the available type does not come up to his quality expectations. If he has to include the country of origin of his coffee on his label, this means revamping his label to accommodate the change and he must continually reprint these labels and also relithograph cans and bags, at very high cost.

For this reason it would work a considerable hardship on the coffee industry as a whole and would serve no good office for the consumer to have a changing list of coffees marked on the packages. We do not see where any useful purpose could be served by informing the consumer, for example, in June that she is drinking coffees produced in Brazil, Colombia, and Guatemala, and in October inform her that her blend is now composed of coffees from Brazil, Venezuela, Costa Rica, and British East Africa.

It is presumed that the purpose of this bill is to protect the consumer. Having the countries of origin of coffees used in a particular brand appear on the package provides absolutely no protection to the consumer, as the country of origin has little to do with the quality of the finished, blended product. All coffee producing countries produce numerous grades and qualities, with a variance in value, as well as in flavors. Consequently, such marking of a coffee container is of absolutely no value to the consumer, nor is she interested. In this country consumers buy by brand name and not by country of origin.

One other important point that should merit diplomatic attention is the fact that within the very sensitive coffee world—so vital to our foreign relations—there is always the possibility of "slight" by advertised preference for some countries over others. The widespread publications of such a "slight" on labels seen nationally would not endear us to the countries whose growths have been omitted from

the label. Coffee is the second largest import, dollarwise, into the United States and contributes the major part of the dollar exchange required to finance Latin America's imports of U.S. produced articles.

It is significant that the Tariff Act of 1930 does require some packaging identification for certain goods, but it recognized the problems on some items and made them exempt—one of which was coffee. To now eliminate this exemption would produce severe hardship of tremendous gravity, and undoubtedly it would substantially deteriorate the important relationship that the United States has built up over the years as being the principal consumer of the coffees produced by our Latin neighbors and to a lesser extent, by our friends and allies in Africa.

Packaging materials, as you no doubt know, have to be bought in large supplies to be bought economically, and the same applies with reference to printing on containers such as cans, glass jars or paper. If we were forced by the passage of this bill to put on each package of coffee the country of origin, we would be faced with the problem of changing the printing on the package perhaps as often as once a month. As stated previously, the very nature of the coffee business dictates that we buy coffee from various sources during the course of the season. We would be forced to the difficult and costly task of naming the countries of origins of each type of coffee we have in each blend. A change, for example, in a vacuum can could take 6 to 9 months before the can could be put into distribution.

We are in favor of any bill which protects the consumer from fraud. However, we do not feel that this bill as it applies to the coffee industry would do any of these things. The consumer will not be protected or helped in any way. On the contrary, she could be adversly affected because increased production costs would be passed on to her.

Therefore, we respectfully urge that this bill, H.R 5054, be so revised that it will not cause fruitless activities to the industry and unnecessary expense to the U.S. consumer of coffee or to any other commodity similarily affected.

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