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IDENTIFICATION MARK FOR GOLD AND SILVER ARTICLES

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HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON

INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 5442

A BILL TO FACILITATE THE PROTECTION OF CONSUMERS
OF ARTICLES OF MERCHANDISE COMPOSED IN WHOLE OR
IN PART OF GOLD OR SILVER FROM FRAUDULENT MIS-
REPRESENTATION CONCERNING THE QUALITY THEREOF,
AND FOR OTHER PURPOSES

—
AUGUST 17, 1961
—

Printed for the use of the
Committee on Interstate and Foreign Commerce



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IDENTIFICATION MARK FOR
GOLD AND SILVER ARTICLES

HEARING

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IDENTIFICATION MARK FOR GOLD AND SILVER ARTICLES

THURSDAY, AUGUST 17, 1961

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

The subcommittee met at 10 a.m., pursuant to recess, in room 1334, New House Office Building, Hon. Peter F. Mack, Jr., presiding.

Mr. MACK. The committee will be in order.

The Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce is meeting this morning to hear testimony with respect to H.R. 5442, a bill which I introduced providing for an amendment to the act of June 13, 1906, entitled "An Act forbidding the importation, exportation, or carriage in interstate commerce of falsely stamped articles of merchandise made of gold or silver or their alloys, and for other purposes."

This act forbids the importation, exportation, or shipment in interstate commerce of gold or silver articles or their alloys which are falsely or spuriously stamped.

The bill would require that whenever a gold or silver article, made in the United States or imported and intended for sale or customarily sold as a complete product to consumers, is marked to indicate its quality, a trademark of the registered name of the manufacturer or importer must be applied to the article.

A copy of H.R. 5442 together with agency reports thereon will be made a part of the record at this point.

(The bill and reports referred to follow:)

[H.R. 5442, 87th Cong., 1st sess.]

A BILL To facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4 of the Act entitled "An Act for bidding the importation, exportation, or carriage in interstate commerce of falsely stamped articles of merchandise made of gold or silver or their alloys, and for other purposes", approved June 13, 1906 (34 Stat. 261; 15 U.S.C. 297), is amended by—

(1) inserting therein, immediately after the section number "SEC. 4.", the subsection designation "(a)"; and

(2) adding at the end thereof the following new subsection:

"(b) Whenever any person, firm, corporation, or association—

"(1) applies or causes to be applied to any article of merchandise intended for sale or customarily sold as a complete product to consumers within the United States or any of its possessions, by stamping, branding, engraving, or otherwise, any quality mark or stamp indicating or purporting to indicate that such article is made in whole or in part of gold or silver or of an alloy of either such metal; or

"(2) imports into the United States or any of its possessions any such article of merchandise bearing any such quality mark or stamp which indicates or purports to indicate that such article is made in whole or in part of gold or or silver or of an alloy of either such metal,

such person, firm, corporation, or association shall before depositing such article in the United States mails or causing such article to be distributed within the United States or any of its possessions—

"(A) apply or cause to be applied to that article a trademark of such person, firm, corporation, or association duly registered or applied for within thirty days after an article bearing the trademark is placed in commerce or imported under the laws of the United States or the name of such person, firm, corporation, or association; and

"(B) if such article of merchandise is composed of two or more parts which are complete in themselves but which are not identical in quality, and any one of such parts bears such a quality mark or stamp, apply or cause to be applied to each other part of that article of merchandise a quality mark or stamp of like pattern and size disclosing the quality of that other part.

Each identifying trademark or name applied to any article of merchandise in compliance with clause (A) of this section shall be applied to that article by the same means as that used in applying the quality mark or stamp appearing thereon, in type or lettering at least as large as that used in such quality mark or stamp, and in a position as close as possible to that quality mark or stamp."

(b) The amendments made by this Act shall take effect on the first day of the third month beginning after the date of enactment of this Act.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 5, 1961.

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

MY DEAR MR. CHAIRMAN: This is in reply to your letter of March 17, 1961, requesting the views of the Bureau of the Budget with respect to H.R. 5442, a bill to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation, concerning the quality thereof, and for other purposes.

The requirements which would be imposed by the bill may be expected in some degree to increase protection to consumers against fraudulent and deceptive practices. On the other hand, the Federal Trade Commission and Department of State have questioned the reasonableness of the proposed requirements and their consistency, in certain cases, with the policies incorporated in article IX of the General Agreement on Tariffs and Trade (GATT).

If additional measures to protect purchasers of gold and silver articles are found by your committee to be warranted and desirable, the Bureau of the Budget will have no objection to their enactment.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF STATE,
June 21, 1961.

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

DEAR MR. CHAIRMAN: This report on H.R. 5442, a bill to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes, is submitted in response to your letter of March 17, 1961, which was acknowledged by my letter of March 21, 1961.

This bill would require that articles of gold or silver, or alloys of those metals, bearing a quality mark, also carry either the trademark, duly registered or applied for in the United States, or the name of the person, firm, corporation, or association applying a quality mark to the article or importing the article bearing the quality mark.

Although the Department is in sympathy with the intent of H.R. 5442 to protect purchasers of gold or silver articles from fraudulent or deceptive use of quality marks, it questions the need for the additional marking requirements contained in this bill. It is the Department's understanding that few cases arise involving fraudulent quality marks, and in those cases which do arise, the problem of identifying the person or firm applying the fraudulent mark has been negligible.

The Department opposes unnecessary marking requirements which may act to hinder or limit international trade. This is in accord with the U.S. policy of seeking to promote and facilitate international trade through such means as the simplification of administrative requirements which may indirectly hinder trade. This policy has been implemented through such legislation as the Customs Simplification Acts of 1953, 1954, and 1956. Article IX(4) of the General Agreement on Tariffs and Trade (GATT), to which the United States is a party, states that marking requirements for imported products shall be such as to permit compliance without seriously damaging the products, or materially reducing their value, or unreasonably increasing their cost.

In certain cases, H.R. 5442 could be inconsistent with this policy. An importer buying readymade, quality-marked gold or silver articles abroad would be required to apply a trademark or trade name to the article at an additional cost, making the imported article less competitive with domestic articles in price. In certain cases the application of a trademark, and still more the trade name of a person, firm, corporation, or association, in type or lettering at least as large as that used in the quality stamp might be impractical or impossible because of the size or nature of the article.

Further, it would appear that under this bill a firm which only wanted to use a trademark and not a trade name on quality-marked articles would be prevented from distributing such articles if (1) it applied for registration of its trademark and the application were refused, or (2) after having obtained a trademark registration, the registration was subsequently canceled or revoked by the Patent Office or the courts.

As the Department understands the bill, a U.S. importer of quality-marked articles would be required to apply its trademark or name to the article even though the trademark or name of the foreign manufacturer might already have been applied to the article. This appears to be a burdensome, unnecessary requirement which might also be considered inconsistent with article III of the GATT. Article III(4) obligates the contracting parties to accord imported articles "treatment no less favorable than that accorded to like products of national origin in respect to all laws, regulations, and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution, or use." It could be maintained that the requirements of H.R. 5442 constitute less favorable treatment for an imported article in view of the second identification which would be required in cases where a foreign manufacturer had applied an appropriate identification to the article.

The Department notes that in paragraph (b)(A) of the bill, as drafted, it is not clear that the phrase "under the laws of the United States" applies to the registration of or application for a trademark, and suggests the insertion of a comma after the word "for" in line 1 of page 3 and after the word "imported" on line 3 of page 3 in order to make this certain.

The Department does not believe that the legislation is either necessary or desirable but will not oppose its enactment.

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

Sincerely yours,

BROOKS HAYS,
Assistant Secretary
(For the Secretary of State).

FEDERAL TRADE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, June 6, 1961.

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

DEAR MR. CHAIRMAN: This is in response to your request of March 17, 1961, for comment upon H.R. 5442, 87th Congress, 1st session, a bill to facilitate the

protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes.

The bill would amend the National Stamping Act (15 U.S.C. 294-300), to require (1) that any person who applies a quality mark to any article of gold or silver composition, or who imports into the United States any article bearing such a mark, must apply also to the article either his trademark duly registered or applied for, or his name, and (2) that if an article is composed of two or more parts which are complete in themselves, but which are not identical in quality, and any one of the parts bears a quality mark, the other part or parts must also contain a mark or stamp of like pattern and size disclosing the quality of the other part or parts.

The National Stamping Act is in the form of a criminal statute enforceable by the Department of Justice and prescribes the maximum allowable variations of gold or silver content permitted in the case of persons who represent the gold or silver quality of their merchandise.

The Federal Trade Commission, although it does not enforce the National Stamping Act, has proceeded administratively, under its general authority over unfair methods of competition and unfair and deceptive acts and practices, with regard to representations as to the quality of gold and silver products and has, in such matters, applied the tolerances expressed in the National Stamping Act.

The Commission believes, in connection with the first requirement of this bill, that the presence on a product of the trademark or name of the person responsible for representations as to gold and silver quality of the product would be useful from an investigative standpoint to furnish a ready means of identifying such person. It might also have the effect of deterring some persons who otherwise would be disposed to misbranding such articles.

The second requirement, that of stamping different parts of the article with the quality mark, may prevent persons from being deceived into the belief that the mark carries over to, or is descriptive of, another part of the merchandise which differs in quality. Thus, it is consistent with a Commission objective under section 5 of the Federal Trade Commission Act of preventing deception.

We suggest that there may be questions concerning the reasonableness of the proposed requirements on such points as to whether the articles involved are always of sufficient size to enable the vendor to place his name thereon and whether the description of the quality of each complete component part of a product can, as a practical matter, be applied to that part by stamp of like pattern and size as the quality mark appearing on any other part.

As already noted, however, the National Stamping Act is enforceable by the Department of Justice. The Commission, therefore, defers to the judgment of that Department as to the desirability of the proposed legislation and with respect to the form of the proposal.

By direction of the Commission:

PAUL RAND DIXON, *Chairman*.

N.B.—Pursuant to regulations, this report was submitted to the Bureau of the Budget on May 5, 1961, and on June 5, 1961, the Bureau of the Budget advised that there is no objection from the standpoint of the administration to the submission of the proposed report.

JOSEPH W. SHEA, *Secretary*.

TREASURY DEPARTMENT,
June 16, 1961.

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

DEAR MR. CHAIRMAN: Reference is made to your letter of March 17, 1961, requesting the views of this Department on H.R. 5442, to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes.

The proposed legislation would amend section 4 of the act entitled, "An act for bidding the importation, exportation, or carriage in interstate commerce of falsely stamped articles of merchandise made of gold or silver or their alloys, and for other purposes," approved June 13, 1906 (34 Stat. 261; 15 U.S.C. 297), to impose additional marking requirements on dealers in articles composed in whole or part of gold or silver or their alloys.

The new requirements which the bill would impose do not appear to arise in connection with the importation of such articles or affect other matters directly within this Department's jurisdiction. However, to the extent that this Department may be called upon to participate in the enforcement of the bill, if enacted, no unusual administrative difficulties are anticipated.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT, *General Counsel.*

THE SECRETARY OF COMMERCE,
Washington, D.C., June 30, 1961.

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

DEAR MR. CHAIRMAN: This letter is in reply to your request dated March 17, 1961, for the views of this Department with respect to H.R. 5442, a bill to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes.

H.R. 5442 would amend the National Stamping Act of 1906 (15 U.S.C. 297, sec. 4) to require that jewelry and similar articles in interstate commerce, when stamped, branded, engraved, etc., with a quality mark indicating the fineness of gold or silver content, shall also carry a similar identification of the trademark of the party affixing the quality mark. The requirement would apply to both domestic and imported articles.

The Department of Commerce would interpose no objection to favorable consideration of H.R. 5442.

It is common practice with domestic manufacturers of these types of articles to indelibly stamp or engrave quality marks, and a large percentage of manufacturers now identify their products either with trademarks or company name. It would not appear to impose substantial hardship for the companies that do not do so now, to identify themselves along with the quality mark in the future, as proposed.

In the import trade, jewelry and articles having a high gold or silver content are usually made up on a special order basis, and it would appear that the name or trademark of the United States importer or distributor could be stamped or affixed to the article abroad in the course of manufacture.

There may be certain situations in which the method proposed, of identifying the originator of the quality mark, would not be practicable. No doubt, hearings on the bill would indicate if there are any such instances which might warrant special consideration.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 13, 1961.

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

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 5442, a bill to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes.

The bill would amend section 4 of the act of July 13, 1906 (34 Stat. 261; 15 U.S.C. 297), which in substance prohibits the importation, exportation, or participation in interstate transportation of falsely stamped articles or merchandise made of gold or silver, or alloys of either. It would require that whenever a gold- or

silver-containing article made domestically or imported into the United States or its possessions and intended for sale or customarily sold as a complete product to consumers is marked to indicate quality, the trademark, duly registered or to be applied for, or the registered name of the manufacturer or importer thereof must be applied to the article. Such application must be by the same means as that used in applying the quality mark, in type or lettering at least as large as that used in the quality mark, and in a position as close as possible to the quality mark. Also, if such an article is composed of two or more parts which are complete in themselves but which are not identical in quality, and any one of such parts bears a quality mark, each other part of that article must contain a quality mark and the trademark or name of the manufacturer.

The Department does not have any objection to enactment of legislation of this type. However, attention is directed to certain features of the bill.

It is assumed that the "quality mark or stamp" referred to in section 4 of the act as proposed to be amended by H.R. 5442 is intended to mean the same thing as the type of mark referred to in section 1 of the act (15 U.S.C. 294); that is, a mark or word indicating that the gold or silver or alloy of either of the metals in an article is of a certain degree of fineness. If this assumption is correct, it would be preferable to use the same or similar language in both sections, or to refer to section 1 in the amendatory language.

The scope of coverage of H.R. 5442, where transactions within the United States not involving the use of the mails are concerned, is not certain. Though the constitutional basis for the legislation (other than the postal power) is apparently the commerce clause, H.R. 5442 merely refers to articles "intended for sale or customarily sold * * * to consumers within the United States. * * *" It would appear that, as set forth in section 1 of the act, it would be desirable to spell out the intended scope of the legislation in terms of relation to interstate commerce.

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

Sincerely yours,

BYRON R. WHITE,
Deputy Attorney General.

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., June 8, 1961.

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

DEAR MR. CHAIRMAN: We reply to your request for a report on H.R. 5442 which concerns the transporting by mail of falsely stamped articles of merchandise made of gold or silver, or their alloys.

H.R. 5442 would change present law (15 U.S.C. 297) to require placement of a trade or quality mark on such merchandise before mailing. At the present time, the Department is not required by law to see whether proper quality mark stamping has been made before accepting the merchandise for mailing purposes, and the proposed amendment does not suggest such a requirement. It is presumed, however, than on complaint by a recipient of improperly marked merchandise, the Department would present the complaint and supporting evidence to the Department of Justice for possible prosecution under section 5 of the act of June 13, 1906 (15 U.S.C. 298).

For reason that the measure will have no substantial effect on the operation of the postal service, the Department has no suggestion or recommendation to make concerning its enactment.

We have been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the presentation of this report to the committee.

Sincerely yours,

J. EDWARD DAY,
Postmaster General.

Mr. MACK. Our witness this morning is Mr. Irving Grinberg, executive vice chairman of the Jewelers Vigilance Committee, 15 West 44th Street, New York City.

He is accompanied by Mr. Robert Krementz of Krementz & Co., New Jersey.

Mr. Grinberg, you may proceed.

STATEMENT OF P. IRVING GRINBERG, EXECUTIVE VICE CHAIRMAN, JEWELERS VIGILANCE COMMITTEE, NEW YORK CITY; ACCOMPANIED BY ROBERT M. KREMENTZ OF KREMENTZ & CO., NEWARK, N.J.

Mr. GRINBERG. My name is P. Irving Grinberg.

My position is that of executive vice chairman of the Jewelers Vigilance Committee, with offices at 15 West 44th Street, New York City.

I am appearing in behalf of H.R. 5442 which was introduced by Hon. Peter F. Mack, Jr.

Accompanying me is Mr. Robert M. Krementz of Krementz & Co., Newark, N.J., one of our important jewelry manufacturers which also exports and imports items affected by the proposed legislation. He is a director of the Manufacturers & Silversmiths Association. Mr. Krementz will be glad to answer any questions.

The committee, which was founded in 1913, represents the entire jewelry industry, including manufacturers, importers, wholesalers, and retailers throughout the country who produce and deal in all types of jewelry, watches, silverware, et cetera, and their component parts.

One of its most important functions is to protect the buying public by endeavoring to keep representations as to merchandise true and not misleading.

In its efforts to accomplish this end, the Jewelers Vigilance Committee works closely with the Federal Trade Commission. Comments of the various Government agencies have interposed no objection to the proposed amendment; those immediately concerned have expressed approval.

This petition is being presented in behalf of the Jewelers Vigilance Committee and is joined specifically by the Manufacturing Jewelers and Silversmiths of America, Retail Jewelers of America, National Wholesale Jewelers' Association, American Gem Society, and the Sterling Silversmiths' Guild, the leading national associations in the jewelry industry.

My remarks are directed to United States Code, title 15, chapter 8, sections 294-300, which became effective on June 13, 1906, commercially known as the Federal stamping law.

This law pertains to the stamping of quality marks on articles made of gold and silver, and states the required percentages of the precious metals and corresponding descriptive terms, et cetera.

The law does not require that articles must be stamped with a quality mark nor does it require that if a quality mark is applied, it must be accompanied by a trademark or other identification of the manufacturer or distributor responsible for the stated quality.

It is requested that the law be amended to require that whenever a quality mark is applied or affixed to an article now covered by the Federal stamping law, such quality mark must be accompanied by the trademark or other means of identification of the domestic manufacturer or distributor.

This amendment would be constructive and helpful in identifying those responsible for placing quality marks on such items, thus giving the buying public greater protection against misrepresentation. The requirement of identification should also act as a deterrent to unscrupulous manufacturers and distributors, some of whom do not hesitate under the law as presently in effect to stamp jewelry falsely (indicating far finer quality, such as greater gold content than the article actually contains).

Stamping accompanied by proper identification would aid in eliminating the capacity and tendency of promoting confusion and deception, and also protect the reputable jeweler from unfair competition.

The Manufacturing Jewelers and Silversmiths of America and the Jewelers Vigilance Committee have frequently been faced with serious and baffling problems in identifying the manufacturer or distributor of items which on being tested have been found to be under the quality stamped on the article.

The administration of such an amendment would entail little, if any, expense; to the contrary, it would simplify tracing those responsible for falsely stamped, underquality merchandise, and should tend to cause unscrupulous manufacturers or dealers to hesitate to place a false stamp on such products.

In view of the above facts, the plea is earnestly made that in order to further fair competition and guard against unscrupulous acts, and, even more important, to protect the buying public, this amendment be adopted at the earliest possible moment.

It is requested that a letter of the Jewelers Vigilance Committee dated July 24, 1961, addressed to Hon. Brooks Hays, Assistant Secretary of the Department of State, commenting on certain statements contained in the report of that Department relative to S. 1186, an identical bill with H.R. 5442, be placed on the record, notwithstanding the fact that the report of the State Department concluded as follows:

The Department does not believe that the legislation is either necessary or desirable but will not oppose its enactment.

And we ask that in addition to the letter and its attendant information, there be inserted in the record the copy of the Foreign Service dispatch, dated June 24, 1960, from Rome to the Department of State, the first paragraph of which reads:

Foreign goldware is required to be marked by the local importer to show the identifying mark of the importer and the degree of fineness of the gold. The identifying mark of the importer is composed of a mark and progressive number assigned by each Italian province—there are 90 provinces in Italy—to each manufacturer and importer of goldware within its jurisdiction.

Also, we ask that the résumé of the German law pertaining to marking be made part of the record. The reason for this request is that the Department of State raised certain questions as to the requirements in foreign countries and we, in our reply, have covered Great Britain, Switzerland, Canada, Mexico, France; to show that in all of these countries the requirements for shipping items of this character into those countries are more stringent, if anything, than the present suggested requirement here.

In fact, in England you cannot stamp yours, you must send the article to the assay office where they stamp it. They stamp the quality on and assay it themselves.

Here, as you know, it is the privilege of any manufacturer to put on the mark as he sees it.

Mr. MACK. Without objection, the matter referred to will be included at this point in the record.

(The material referred to follows:)

JEWELERS VIGILANCE COMMITTEE, INC.,
New York, N.Y., July 24, 1961.

Hon. BROOKS HAYS,
Assistant Secretary, Department of State,
Washington, D.C.

SIR: Your attention is called to certain statements contained in the report of the Department of State, dated July 12, 1961, concerning S. 1186 and identical bill H.R. 5442.

Paragraph 3.—Both the Manufacturing Jewelers and Silversmiths of America and the Jewelers Vigilance Committee (one of whose important functions is to protect the buying public) have been faced with numerous baffling problems in connection with identifying the manufacturer or distributor of items which when tested have been found to be under the quality stamped on the article. Close cooperation is maintained with the Federal Trade Commission, which states in its report on these bills, dated April 28, 1961:

"The Commission believes * * * that the presence on a product of the trademark or name of the person responsible for representations as to gold and silver quality of the product, would be useful from an investigation standpoint to furnish a ready means of identifying such person. It might also have the effect of deterring some persons who otherwise would be disposed to misbranding of such articles."

Paragraph 4.—The requirements of the United Kingdom, Switzerland, France, Canada, and Mexico are respectfully brought to your attention (attached hereto). Also herewith is statement of Mr. H. D. Simpson of Kremenz & Co. (large jewelry manufacturers) who with other jewelers recently visited a number of European markets. Please note that in all cases the requirements on imports into those countries are more stringent than those contained in the proposed amendment.

In addition to the above statement with regard to paragraph 3, it should be noted that in no way do the provisions of the proposed amendment differentiate between foreign and domestically produced articles. Quoting from report on these bills by the Department of Commerce, dated June 23, 1961:

"It is the common practice with domestic manufacturers of these types of articles to indelibly stamp or engrave quality marks, and a large percentage of manufacturers now identify their products either with trademarks or company name. It would not appear to impose substantial hardship for the companies that do not do so now, to identify themselves along with the quality mark in the future, as proposed.

"In the import trade, jewelry and articles having a high gold or silver content are usually made up on a special order basis, and it would appear that the name or trademark of the U.S. importer or distributor could be stamped or affixed to the article abroad in the course of manufacture."

Paragraph 5.—Referring to the impracticability of stamping trademark, etc., "because of the size or nature of the article"—

"As to 'these requirements may impose a substantial burden on importers * * *,' the Manufacturing Jewelers & Silversmiths of America states: 'The association recognizes that, in rare instances, the size and form of some articles will make them difficult, but not impossible, to stamp. We recognize that, because of some merchandizing practices within the industry, new arrangements must be made between the maker and distributor in regard to stamped identification; in rare instances this may involve some inconvenience. It is the considered judgment of the association, after close examination of the proposed amendment and its practicality, that the benefits far outweigh the rare instances of slight inconvenience and expense that a few manufacturers, importers, or distributors may incur.'

"That proposed requirements would not 'impose an unreasonable burden' on the importer nor would it give the domestic manufacturer any advantage. The buying public should be as fully protected as possible. The present opportunity for fraud should be minimized, and restraint should be put upon those firms who now mark their merchandise with higher gold or silver content than the articles actually contain."

Paragraph 6.—To prevent protection of the buying public because a trademark may be refused or canceled (assuming refusal or cancellation was for good and sufficient reason) seems to be lending aid to possibility of fraud.

Paragraph 7.—See comments relative to paragraph 4.

If the trademark or other means of identification on articles stamped with a quality mark is that of a foreign manufacturer or distributor, there would be no redress. Again, in order to protect the buying public, the responsibility for stamping must be placed on a manufacturer or importer of the United States.

It is appreciated that while the State "Department does not believe that the legislation is either necessary or desirable" it "will not oppose its enactment."

Sincerely,

P. IRVING GRINBERG,
Executive Vice Chairman.

UNITED KINGDOM

Following is taken from pamphlet of the World Trade Information Service, U.S. Department of Commerce, entitled "Marking and Labeling Requirements of the United Kingdom," which was prepared by Deane M. Black, British Commonwealth Division, Office of Economic Affairs, dated July 1957:

"Articles of gold and silver.—A large number of goods made of gold and silver are required by law to be assayed and *hallmarked* on importation, and a considerable number of other gold and silver articles are by custom sent to the assay offices voluntarily in order to establish and maintain a reputation for high quality."

SWITZERLAND

Following is statement furnished by the Department of Commerce, Bureau of Foreign Commerce, European Division, dated May 5, 1960:

"Swiss law requires that imported precious metal products meet the legal precious metal content standard applicable to the sale of the same products on the domestic market. Precious metals must carry an indication of the proportion of the metal to the alloy and must be hallmarked by the 'Bureau Fédéral des Matières d'Or d'Argent,' Bern."

FRANCE

Following is statement furnished by Department of Commerce, Bureau of Foreign Commerce, European Division, dated July 1, 1960:

"The French Customs Code indicates that articles of gold and silver may be imported into France only when they meet the legal requirements of standard content required for similar articles of French manufacture intended for domestic use. The proportion of gold metal to alloy must be 920, 840, or 750 (tolerance: 3 milliemmes); for silver 950 and 800 milliemmes (tolerance: 10 milliemmes). Following customs clearance, such articles must be sent under seal and bond to the 'Service de la Garantie des Matières d'Or, de Platine et d'Argent,' 14 rue Pée, Paris, to be assayed and stamped. Upon payment of the assay fees the articles are then turned over to the importer."

CANADA

Excerpt from letter of Department of Trade and Commerce, Canada, dated February 19, 1959, addressed to Manufacturing Jewelers & Silversmiths of America, Providence, R.I.:

"We are very interested in the proposed amendment to the National Stamping Act as the principle involved is one of the main bases of our own act. I enclose a copy of this and direct your attention to section 6(3).

"As you will read, all quality marks must be accompanied by a trademark which is registered, or applied for, in Canada. This places the responsibility for the stated quality upon the party who is registered as the owner of the trademark. It should be noted that a firm name (unless registered as a trademark) is not sufficient identification because of the possibility of confusing similar firm names that may be found in various parts of the country.

"This provision has not placed any particular difficulty or hardship upon the Canadian manufacturer, but has been of great benefit to the ethical firms by assuring the maintenance of the quality as stamped."

Excerpts from Canadian stamping law

Chapter 215. An Act respecting the Marking of Articles containing Gold, Silver, or Platinum, 1946.

3. (1) This Act applies to gold articles, silver articles, platinum articles, palladium articles and plated articles made or sold in Canada or imported or otherwise brought into Canada by dealers.

Chapter 22. An Act to amend the Precious Metals Marking Act, 1955.

1. Subsection (3) or section 6 of the Precious Metals Marking Act, chapter 215 of the Revised Statutes of Canada, is repealed and the following substituted therefor:

"(3) A gold article, silver article, platinum article or palladium article that has applied to it a quality mark shall also have applied to it a trademark registered under the Unfair Competition Act or registered under the Trade Marks Act, or a trademark in respect of which application for registration has been made under either of the said Acts, and, where the quality mark is stamped, branded, engraved or imprinted upon the article, such trademark shall also be stamped, branded, engraved or imprinted upon the article."

MEXICO

Statement contained in June 15, 1960, issue of *The Jewelers' Outlook* (a trade publication): "The Mexican Ministry of Industry & Commerce appointed a committee in 1959 to administer a decree which had been issued to regulate production and enforce trademark regulations for silver articles. One objective of this decree: to prevent articles of doubtful quality from being offered on the market."

FOREIGN SERVICE DESPATCH

Despatch No. 1238.

Date: June 24, 1960.

From: Rome.

To: The Department of State, Washington, for Commerce.

Reference: Department of State Instruction A-326, May 12, 1960.

Subject: Italian hallmarking requirements.

Foreign goldware is required to be marked by the local importer to show the identifying mark of the importer and the degree of fineness of the gold. The identifying mark of the importer is composed of the mark and progressive number assigned by each Italian Province (there are 90 Provinces in Italy) to each manufacturer and importer of goldware within its jurisdiction.

The figure indicating the degree of fineness is expressed in thousandths of pure gold. Italian legal standards which are required to be used in marking gold of any color are 750, 585, 500, and 333 representing, respectively, $\frac{750}{1000}$, $\frac{585}{1000}$, $\frac{500}{1000}$, and $\frac{333}{1000}$ of pure gold. Allowed tolerance is $\frac{3}{1000}$ less than the indicated degree of fineness. Goldware with a degree of fineness greater than $\frac{750}{1000}$ is allowed to be marked with the figure indicating the actual degree of fineness.

Italian law prohibits markings of the degree of fineness as indicated above on other than precious metals, even if they are gold plated or gold filled. This prohibition applies also to goldware inside of which there is lead or "mastic" (a pasty cement).

The identifying mark which is required to be shown on goldware is assigned upon application by the interested importer to *Ufficio Metrico e del Saggio e Marchi di Metalli Preziosi* (Office of Measure and Weights and for Assaying and Marking of Precious Metals) of the Province having jurisdiction over the place where such importer is domiciled. The stamp allowed for marking goldware as above is solely that which is made and furnished by the State Mint. The State Mint keeps the matrix of each stamp so that replicas of such a stamp can be obtained at any time.

There are no other special regulations governing the advertising or description of gold-bearing products except general principles of Italian law prohibiting fraudulent descriptions and markings of merchandise.

Sources for the above information were: *Ufficio Metrico e del Saggio e Marchi di Metalli Preziosi*, Rome; Law No. 306 of February 5, 1954; Decree-

Law No. 2393 of December 27, 1934; and Articles 515 and 517 of the Italian Penal Code.

For the Ambassador.

GEORGE T. FILIMAN,
Commercial Attaché.

Approved.

VINCENT M. BARNETT, JR.,
Counselor of Embassy for Economic Affairs.

RÉSUMÉ OF THE MOST RECENT GERMAN LAW RELATING TO MARKING GOLD AND SILVER WARE, DATED JULY 16, 1884 (REICHSGESETZBLATT I 1884, P. 120)

Section I. 1. Gold and silver ware may be manufactured or offered for sale in any degree of fineness, only as indicated according to the following conditions:

2. The degree of fineness of gold articles must be at least 585 parts per thousand (equal to U.S. 14 kt.). The degree of fineness of silver articles must be at least 800 parts per thousand (U.S. sterling silver has 925, coin silver 900).

Section II. Refers to permitted tolerances, allowing 5 parts per thousand in the case of goldware and 8 parts per thousand in the case of silverware.

Section III. The indication of the degree of fineness of gold and silver articles shall be made with a stamp showing the fineness in thousandths and the firm name of the concern for which the stamping has been effected. The form of the stamp shall be decided by the Federal Council. (This Federal stamp is akin to national stamps used in a number of countries such as Great Britain and Canada.)

Section IV. Requires that the stamping of gold and silver watch cases shall conform to the requirements of sections II and III (above).

Section V. Refers to ornaments of gold and silver whose fineness shall be indicated in thousandths. The tolerances allowed for these articles are 10 parts per thousand, and because of this greater tolerance the Federal stamp referred to in section III (above) may not be used.

Section VI. Refers to gold and silver articles imported from foreign countries and provides that these articles must have a stamp corresponding to the provisions of this law.

Section VII. Provides that the seller or the person or business for whom the stamping is performed shall be responsible and liable for the fineness as so indicated.

Section VIII. States that the degree of fineness shall not be indicated on gold-filled items, nor those made of gold or silver which are reinforced by other metals. In determining the degree of fineness, all metals differ in appearance from that to be stamped shall be disregarded.

Section IX. Contains the penal provisions.

Mr. GRINBERG. Now, may I state that we concur with the suggestions for clarification contained in report on H.R. 5542 of the Department of Justice, and request that to carry out these suggestions the following minor changes which do not affect the intent of the proposed amendment be made.

On page 2, the words, "intended for sale or customarily sold as a complete product to consumers within the United States or any of its possessions," be deleted and that there be inserted the following which is taken verbatim from the code:

To be imported or exported or caused to be imported into or exported from the United States for the purpose of selling or disposing of the same or to deposit or cause to be deposited in the United States mails for transmission thereby, or to deliver or cause to be delivered to any common carrier for transportation from one State, territory, or possession of the United States or the District of Columbia to any other State, territory, or possession of the United States or to said District in interstate commerce or to transport or cause to be transported from one State, territory, or possession of the United States or from the District of Columbia to any other State, territory, or possession of the United States or to said District in interstate commerce.

It was the feeling of the Department of Justice that there might be some confusion in the short sentence which was originally put into the act and it is their suggestion that this be replaced.

I say it is their suggestion in their letter, in their report on the bill. They make the suggestion there. And furthermore, on page 2 of the bill, line 11, page 2, line 17, and on page 3, line 9, in each instance, after the word, "stamp", there shall be added the words, "as defined in section 1 of this Act."

We feel that these proposed amendments will satisfy the suggestions made by the Department of Justice.

Gentlemen, I thank you very much.

Mr. MACK. Your amendments are only to clarify the bill?

Mr. GRINBERG. That is all. They change no intent whatsoever. It is simply almost what one would call a play on words. The report of the Department of Justice raised the question that there might be some ambiguity as to what is being covered as far as interstate commerce is concerned and it was their suggestion that the words as used in the code be inserted in the bill in place of the short sentence.

But there is no change at all of the intent or of the statement contained in the bill as proposed.

Mr. MACK. Do these articles carry any kind of a stamp or trade-mark in England?

Mr. GRINBERG. In England—Bob, do you want to answer that as to what the rules are there?

Mr. KREMENTZ. Mr. Chairman, the rule in England is that articles made of gold shall carry three marks; one is called the King's mark which came into being somewhere in the 1100's.

Mr. CURTIN. The what mark?

Mr. KREMENTZ. The King's mark, which gives the date, roughly, of the King's reign at which time this particular piece was made.

The second mark is a so-called hallmark of the actual jeweler or goldsmith making that piece.

The third mark is the assay mark which is the parts per thousands of fine gold in the piece, and, in some cases, there is even a fourth mark which indicates the province or locality in England where this piece was made.

This hallmarking system dates back to the 1100's and goes up into the 1800's. It is rather interesting, historical background but, as Mr. Grinberg stated, there is a further requirement that any piece that is stamped with a hallmark must, before it is finished, be sent to the Assay Office, the Government Assay Office.

They will determine the fineness of the article and will place their stamp of fineness on the piece, return it to the manufacturer and he will finish his work on the piece and then offer it for sale.

Now, in the case—

Mr. MACK. Could I interrupt you there? Is that each individual piece?

Mr. KREMENTZ. Yes. Now, they might not in a lot of, say a hundred pieces assay every one. They might spotcheck through. They stamp every one. Every one is stamped.

Now, in the case of articles imported into Great Britain, this same process must be gone through.

Mr. MACK. We have no similar procedure here, do we?

Mr. KREMENTZ. No, we do not. Our system is very much easier. The manufacturer puts his carat mark on it and up until now that is all that has been required.

We ask here that that manufacturer who has put the stamp on, identify himself.

Mr. MACK. Any questions?

Mr. HEMPHILL. Would this help the domestic trade, do you feel?

Mr. KREMENTZ. Will this help domestic trade?

Mr. HEMPHILL. Yes.

Mr. KREMENTZ. Infinitely. I feel that it will make everyone aware that the carat gold of an article is stood behind by the manufacturer or distributor of that article, and that the purchaser has recourse to the person who has caused that stamp to be applied to the article; that if a man is proud of what he makes, he should be willing to stand up and be counted.

Mr. HEMPHILL. I would hope that the purchaser would be proud to purchase in America. That is something I was thinking about because I have a textile situation in which through the policies of the State Department downtown here my people are suffering, and I wondered if you would suffer the same way from the State Department policies. Maybe you do not want to say.

Mr. KREMENTZ. Our State Department, as far as trade itself is concerned—this is getting a little far afield—would enter, perhaps, into the GATT situation, but I think that is apart from the stamping of the trademarks.

We are asking for nothing here that is not asked for by countries from whom we import. Most of the gold jewelry imported into America comes from Italy. As a matter of fact, my company, for quite a few years, has imported some jewelry from Italy.

From a point of view of getting designs, getting consumer acceptance, perhaps trying to rejuvenate some of our design practices, it has been somewhat successful; but in each instance we have gone beyond the scope of our stamping law and have voluntarily instructed our seller of orders in Italy that they must apply our trademark to the pieces that we offer for sale in this country.

In other words, we are willing to stand behind something that we even buy as a product because we know what it is. We have it assayed before it is sold. But as far as asking for something that is not done by other countries, we are not.

As Mr. Grinberg stated in the first sentence of the Italian regulation, they do even more than we are asking to do to limit their products coming into their country and to maintain the quality.

Mr. HEMPHILL. Thank you very much.

Mr. MACK. Any other questions? Mr. Glenn.

Mr. GLENN. You mentioned that there are four kinds of marks that are used in England. Which is the one that is legally required?

Mr. KREMENTZ. All three are required. The first three are required; the fourth, I believe, is optional.

The first is the King's mark, the second the hallmark, the third the assay mark, the quality mark. But the manufacturer, you see, by the hallmark is identified with the quality mark of the piece.

Mr. GLENN. Do we have any such requirement, legal requirements, in this country?

Mr. KREMENTZ. No, sir. At present, we only have the requirement that if a karat mark, which is quality mark, is applied to a piece, that piece shall fall within certain limited tolerances of fineness of gold. That is where the law stops.

Now, this request that we make is to extend this law to apply the hallmark as well as the quality mark.

Mr. GRINBERG. The hallmark being the identification mark of the manufacturer or distributor.

Mr. GLENN. Do our manufacturers in some instances do that now?

Mr. KREMENTZ. We do it on every piece we make. We do it voluntarily.

Mr. MACK. Under this proposal, if the quality mark is used, then you would also have to use the trademark?

Mr. KREMENTZ. Yes.

Mr. MACK. All you are doing is you are identifying the person who is classifying the material?

Mr. KREMENTZ. Correct, sir.

Mr. MACK. Mr. Curtin.

Mr. CURTIN. On what grades of jewelry is the quality mark presently required?

Mr. KREMENTZ. The quality mark is not required to be stamped on any grade of jewelry.

Mr. CURTIN. Under the present state of the law, is there any kind of mark required to be placed on jewelry?

Mr. KREMENTZ. No, sir.

Mr. GRINBERG. The manufacturer has the choice but a manufacturer who produces an article in carat gold has an advantage to stamp it carat gold because otherwise it would be offered without any indication of the quality. The same thing applies to sterling. Most people, when they go into the store to buy a piece of silver, look for the mark "Sterling" because it gives them confidence that the piece is of a certain quality.

The manufacturer who produces a piece of silver which is 925 parts in a thousand silver, which is the requirement for sterling, he naturally would put the "Sterling" on it because it assists him in the sale of it; but our request goes one step further, that where a manufacturer might stamp a thing "Sterling" and it would not be up to the required standard, with the amendment passed he would have to identify himself and in that way could be easily traced.

Mr. CURTIN. How many types of mark are you recommending?

Mr. GRINBERG. One. It is a simple recommendation. If a manufacturer puts a quality mark on an article and he is not required to do so if he does not wish to do so, then he must accompany that quality mark by a trademark or other means of identification.

That is all. And there is no hardship in doing it because if he stamps it with one stamp, the other stamp can be applied immediately.

Mr. GLENN. That is all.

Mr. MACK. Any other questions?

Thank you very much.

Mr. GRINBERG. We thank you very much, Mr. Chairman.

Mr. MACK. That concludes the hearing on H.R. 5442.

(The following correspondence was submitted for the record:)

RETAIL JEWELERS OF AMERICA, INC.,
Washington, D.C., April 5, 1961.

HON. OREN HARRIS,
House of Representatives,
House Office Building, Washington, D.C.

DEAR MR. HARRIS: We would like you to know that Retail Jewelers of America, a national trade association having members in all 50 States, earnestly favors H.R. 5442 now pending before the House Committee on Interstate and Foreign Commerce.

H.R. 5442, which was introduced by Hon. Peter F. Mack, Jr., proposes an amendment to the National Stamping Act which is intended to afford much needed protection to consumers of merchandise composed of gold or silver.

We join with the Jewelers Vigilance Committee, the Manufacturing Jewelers & Silversmiths of America, the National Wholesale Jewelers Association, the Sterling Silversmiths' Guild of America, and the American Gem Society in support of H.R. 5442 and its counterpart in the Senate, S. 1186.

We are confident the retail jewelers in your State will appreciate your support of these measures.

Cordially,

JAMES C. LUCAS,
Executive Vice President.

STERLING SILVERSMITHS GUILD OF AMERICA,
New York, April 27, 1961.

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

DEAR MR. HARRIS: I am writing you in the capacity of executive vice president of the Sterling Silversmiths Guild of America, a trade association whose member companies are:

The Alvin Corp., Providence, R.I.
The Gorham Co., Providence, R.I.
The International Silver Co., Meriden, Conn.
Samuel Kirk & Sons, Inc., Baltimore, Md.
Lunt Silversmiths, Greenfield, Mass.
Oneida Silversmiths, Oneida, N.Y.
Reed & Barton, Taunton, Mass.
The Towle Silversmiths, Newburyport, Mass.
Wallace Silversmiths, Inc., Lancaster, Pa.

At a recent meeting, the Sterling Silversmiths Guild of America members voted unanimously to support House bill H.R. 5442 requiring the quality mark on articles of gold or silver to be accompanied by a name or trademark. Guild members believe that the amendment to the Federal stamping law, which would result from the passage of H.R. 5442, would go a long way toward eliminating misleading or misbranding practices and would be a healthy and encouraging force to the silver industry, as well as a strong protection to the consumer who purchases articles of gold or silver.

We, therefore, strongly urge the support of you and your committee for H.R. 5442.

Sincerely,

JOHN F. AMBROSE,
Executive Vice President.

MANUFACTURING JEWELERS &
SILVERSMITHS OF AMERICA, INC.,
Providence, R.I., August 21, 1961.

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

MY DEAR CONGRESSMAN HARRIS: We wish to urge your support of House bill H.R. 5442, a bill to help the jewelry industry curb deceptive practices in the marking of its gold and silver products. Specifically, this bill would require that a

trade name or mark of the person responsible for the quality of a piece of jewelry also be stamped on that piece of merchandise. We feel such a bill will enable the industry to assure consumers of jewelry products that the quality indicated is truthful and nondeceptive.

We urge your support of this bill, both on the industry's behalf and on behalf of the consumers of our products.

Very sincerely,

GEORGE R. FRANKOVICH, *Executive Secretary.*

OPTICAL MANUFACTURERS ASSOCIATION,
New York, N.Y., May 8, 1961.

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

DEAR MR. CHAIRMAN: I am writing at the direction of our executive committee to place the Optical Manufacturers Association on record as strongly favoring the enactment of H.R. 5442, entitled "A bill to facilitate the protection of consumers of articles of merchandise composed in whole or in part of gold or silver from fraudulent misrepresentation concerning the quality thereof, and for other purposes."

This association consists of 45 regular members who are manufacturers of spectacle frames and mountings and 25 associate members who are suppliers of materials used in the manufacture of such products.

H.R. 5442 would amend the Federal stamping law of 1906 entitled "An act forbidding the importation, exportation or carriage in interstate commerce of falsely stamped articles of merchandise made of gold or silver or their alloys, and for other purposes" (15 U.S.C. 297). The existing law has to do with quality standards or articles made in whole or in part of gold or silver. The proposed amendment would add to the law the requirement that any person who applies a quality mark to such an article or who imports an article bearing such quality mark must apply, or cause to be applied, to such article the trademark or name of such person. In addition it would provide that if such an article is composed of two or more parts which are not identical in quality and any one of such parts bears a quality mark or stamp the other part or parts shall also be stamped to indicate its or their quality.

The primary purpose of the bill is to require disclosure of the identity of the person, firm, or corporation responsible for the quality mark on such an article. Gold and silver are precious metals having intrinsic value and the greater the precious metal content of an article, the greater its cost and its value. The public is entitled to know the quality of the articles it buys and the identity of the person who stamps an article with a quality mark indicating its precious metal content. That is what this amendment is intended to accomplish.

No one who stamps an honest quality mark on any such article can be in any way prejudiced by this amendment. A substantial number of optical manufacturers make spectacle frames and mountings of gold-filled material and these are stamped with a proper quality mark. For many years it has been the standard practice of these manufacturers to accompany each such quality mark with the manufacturer's name or trademark. Our association conducts a continuing program of periodically assaying a gold-filled product of each optical manufacturer to insure that it is of the quality indicated by the mark stamped thereon. From time to time a product will be found under quality and steps are taken to insure that this condition will be remedied. In the case of articles in this and other industries making precious metal products which bear no name or trademark it is difficult and often impossible to identify the manufacturer or other person responsible for an improper and unlawful quality mark. The proposed amendment would eliminate this difficulty and would give the buying public greater protection in purchasing articles made in whole or in part of gold or silver.

This association respectfully urges that H.R. 5442 be enacted into law.

Respectfully yours,

CHARLES F. ODDY, *Secretary-Treasurer.*

(Whereupon, at 10:30 a.m., the subcommittee adjourned.)

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