

exported from the State or the territory in which it is grown. The question of what local use means is one of the key questions. In the legislative history, as I read it and as it has been interpreted to us, and as demonstrated by the riders that were put on the appropriation bills dating back to 1905 and from then through 1926—and the Secretary of Agriculture has a letter in the files stating what the purposes of these acts were—is that local use was considered to be the need within the State for building material for their homes in the State, for railroads in the State, for fences, for telegraph poles, for fuel wood, and for other developmental needs in the State or territory. We have not had an interpretation that this goes to manufacture of material in sawmills for export out of the State.

The key question here, as I see it, and as our attorneys have advised us, is that if you rely on this authority you have to prohibit the export to other States as well as to other countries. This is why I ask the committee to be well advised to review this conflicting opinion, because I think it is a key to a lot of the things you are talking about.

We had a court case, a lawsuit a few years ago, in which a timber operator in northern California tried to rely on this 1926 act to get us to prohibit the export of saw logs from northern California across the Oregon line to the Medford area, because the logs were needed for the sawmills in northern California. We felt that that would have been a distortion of the law. He was relying on the interpretation that if the timber was needed for the mills there, even though they are exporting to an eastern market, that we should put a fence on the northern California-southern Oregon line and stop the export, and this is the trap that you are going to fall into, I am afraid, if you rely on the 1926 act. At least that is what our legal counsel tell us.

Senator HATFIELD. In reference to the 1926 act which your solicitor general, I believe, has interpreted for you that we are now going to have findings in the record, I think the local-use question that you raise is a very valid one, because I believe in that they describe local use as for fuel, shelter, trading, and similar purposes where forest products are consumed locally in contrast to being used as a raw material for processing into products; is this not correct?

Mr. CLIFF. That is right.

Senator HATFIELD. Then let me ask you do you know whether or not your Solicitor General took into consideration the 1936 statement found in the Federal Register, Saturday, August 15, on page 1092?

Mr. CLIFF. I am sure he did.

Senator HATFIELD. Did he take into that this language:

The Secretary of Agriculture will also issue such instructions as may be necessary in specific cases to insure an adequate and permanent supply of forest products for local requirements, or for established industries dependent upon national forest timber or to promote the welfare of local communities dependent upon national forest operations for employment.

It sounds to me, and again I would like you, Mr. Cliff, I am not an attorney, but it does sound to me that in this Secretary of Agriculture comment and regulation that the 1926 act certainly was not to be interpreted that narrowly, that here we are talking about employment and industries in local community, and surely any stretch of the imagination would not say that employment only had to do with those mills which produced only for the consumption of that local industry or that local community.