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CONSUMER PROTECTION PROGRAMS: COMPARATIVE ANALYSIS

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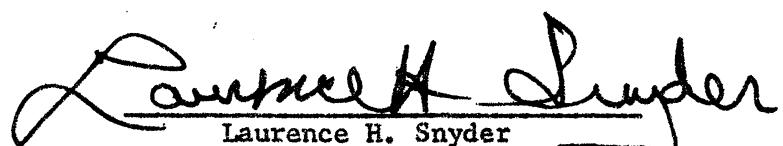
LETTER OF TRANSMITTAL

January 22, 1962

To The House of Representatives,
State of Hawaii:

Transmitted herewith is a report by the Economic Research Center of the University of Hawaii, entitled "Consumer Protection Programs: A Comparative Analysis." It was prepared in response to your request for a study of the problems of consumer protection in the state and elsewhere.

The University is glad to have this opportunity to be of service to the people of this state.


Laurence H. Snyder
President

Economic Research Center Publications Policy

The Economic Research Center was established as an integral part of the University of Hawaii by Act 150 of the 1959 legislative session. Its functions, as prescribed by law, are:

- "1. To evaluate and secure evidence on the economic effects of proposed and enacted legislation.
2. To perform basic economic research necessary for the operations of various government agencies.
3. To perform continuing economic and statistical research for the welfare of the community as a whole.
4. To evaluate the effects of national legislation and national and international developments on the economy of Hawaii.
5. To promote understanding of our economy."

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FOREWORD

It may seem somewhat paradoxical that in a private enterprise system, where presumably "the consumer is king", there should be concern over how he might best be protected. But in view of the growing technical complexity of consumer goods and services, the wide diversity of disseminating outlets, and the collaborative efforts of special interest groups in our economy, it is not surprising that efforts on behalf of the consumer have been proposed or undertaken.

Voluntary or private consumer movements are not of recent origin in this country; they have ranged from widespread cooperative movements to localized credit unions or buyers' clubs. Consumer protection laws also are not new; both federal and state agencies have been charged with their enforcement for many years.

Relatively more recent have been proposals and programs involving more formal consumer representation in government, ranging from state-sponsored consumer councils to cabinet-status consumer departments. These have been subject to legislative deliberation in Hawaii, one approach to the problem being passed by one body, but filed by the other during the 1961 Session.

This report seeks to provide additional perspective for any further consideration of the problems of consumer protection and representation in Hawaii. It reviews existing federal jurisdiction and the recent status of federal activity and legislation, examines the differing experience of three states in developing consumer protection programs, and devotes attention to the role of private agencies such as the Better Business Bureaus.

The author concludes with a statement of objectives and functions, applicable to state consumer programs generally and indicates some alternative means of realizing these objectives.

It is hoped that this report will contribute not only to a thorough legislative evaluation, but also to active community discussion of consumer problems in this state.

Shelley M. Mark
Director

January, 1962.

CHAPTER I

CONSUMER REPRESENTATION IN GOVERNMENT

The status of the consumer in the market place, the degree of protection afforded by existing laws, and the desirability of consumer representation in government have been the basis for increasing public discussion and government action in recent years. This concern with consumer problems is directed, not so much at the outrageous and obvious violations of law, but at the increasing number of questionable practices which in most cases violate no present law, but which offend the conscience and deprive the buyer of a chance to make an intelligent choice between competing products. Michigan's Secretary of State, James M. Hare, summarizes his position in this way: "Ours is not only a battle to raise marketing and advertising standards or to protect consumers from cheats, food poisoners, and liars; ours is a question of revitalizing basic American honesty and morality."¹

This growing interest in consumer representation in government has been explained as a natural social reaction characterized by the economist John Kenneth Galbraith in his theory of "countervailing power."² According to this interpretation, price competition has diminished on many fronts despite our anti-trust laws. World War I, with its inflationary aftermath, deepened and speeded up the flow of economic activity into non-competitive channels. The National Industrial Recovery Act of 1933 crystallized into Federal law the tendency for trade associations to take on powers to limit price competition between and among their members. With World War II

¹"Notes From the Grass Roots," Consumer Reports, August 1960, p. 437.

²J. K. Galbraith, American Capitalism: The Concept of Countervailing Power, (Boston: Houghton Mifflin Co., 1952).

and its necessary concomitants of price regulation and rationing, trade associations gained still more stature and significance as spokesmen for industry before the Office of Price Administration and other wartime boards and agencies. Recent developments which have had the effect of diverting sellers of consumer goods away from price competition include: the widespread substitution of promotional rivalry for price competition, the spread of consumer-credit selling, the drive toward built-in obsolescence, the emphasis on style and annual model changes as a form of non-price competition, a rash of mergers consolidating big units in many industries, and the growing significance of the administered price --- a price set not by competition but by inner-industry planning.³ This historical chain of events has been cited by those who would advocate more active consumer representation in government.

Other consumer proponents would base their arguments on the waste, fraud, and inefficiency which results from various schemes directed against the consumer. District attorneys in some states suggest that some fraudulent sales schemes may be the work of highly organized national and international cartels of the underworld, operating schools for salesmen and running mobile units directed by regional control centers.⁴ The prevalence of such schemes has been presented as justification for increased measures by the government to protect consumers.

The urgency of this movement to establish consumer offices in the government at both the Federal and State level is not, of course, felt by all. Many elements of the business world express concern over unnecessary interference by government and the regulation of legitimate business practices.

³"Department of Consumers in Washington, D.C." Consumer Reports, June 1959, pp. 276-278.

⁴Wall Street Journal (Pacific Coast Edition), November 11, 1960.

In opposition to the Federal plan for a Consumer Counsel, the U.S. Chamber of Commerce has commented that adding another agency to those that already are heard by regulatory authorities would simply compound the problem of delays in decision-making.⁵ The National Association of Manufacturers attacks the proposal by stating that "...it not only seems to challenge the ability of both the legislative and executive branches to represent properly the public at large, but also suggests that the nation substitute the judgment of a Federal agency to evaluate the nation's goods and services for the free choice of consumers in the market place."⁶

In Hawaii the issue was joined in the 1961 legislative session by the introduction and subsequent filing of House Bill 32 (A BILL FOR AN ACT TO PROVIDE FOR A CONSUMER COUNSEL). H.B. 32 was introduced for a first reading in the House of Representatives on February 16, 1961. It was then reviewed by the House Committee on Trade and Commerce and the House Committee on Finance. The final draft (H.D. 2) called for the Office of Consumer Counsel to be placed in the Department of the Attorney General. Initially it had been placed in the Department of Treasury and Regulation, and H.D. 1 had placed it in the Office of the Governor. On April 25, 1961, the House of Representatives, with a favorable vote of 28 to 5, approved the measure for passage.

Strong opposition was encountered as the Bill reached the Senate. In a report submitted by the Senate Committee on Economic Development, Tourism and Transportation, it was claimed that the proposed Office would duplicate

⁵"Special Voice for Consumers?" Business Week, April 8, 1961, p. 70.

⁶Wall Street Journal (Pacific Coast Edition), November 11, 1960.

the functions which are carried out by private individuals and agencies without cost to the State. H.B. 32 failed to find the necessary support in the Senate and was filed May 12, 1961.

Because of the inconclusive treatment of the bill in the 1961 session it is conceivable that the issue may be raised again in future sessions, By considering the problem in the broader perspective of the experience of Federal and other state governments, this study seeks to present alternative ways of dealing with the consumer problem within this State.

CHAPTER II

FEDERAL CONCERN WITH CONSUMER PROTECTION

In his campaign for the presidency, John F. Kennedy declared his intention to be the "lobbyist for the consumer" during his term in office.⁷ A plank from the Democratic Platform suggested a similar approach:

"In an age of mass production, distribution, and advertising, consumers require effective Government representation and protection.

"We propose a (Federal) consumer counsel, backed by a suitable staff, to speak for consumers in the formulation of Government policies and (to) represent consumers in administrative proceedings."⁸

The movement towards increased consumer protection and representation at the Federal level is not new. Consumer advisory groups were established in New Deal days. Even more significant have been the legislation and activities of various Federal agencies on behalf of the consumer. Recently the House Intergovernmental Relations Subcommittee prepared a report (House Report No. 1241) entitled "Consumer Protection Activities of Federal Departments and Agencies."⁹ In this report 296 different consumer activities in 33 separate departments and agencies, are systematically examined. Activities are classified according to those which: (1) directly protect consumer interest, (2) directly advance consumer interests, (3) indirectly protect or advance consumer interests.

⁷"Lobbyist for the Consumer," Sales Management, January 20, 1961, pp. 33-37.

⁸ "Key to the Economy: Restoring Consumer Confidence," Consumer Reports, January 1961, pp. 38-40

⁹U. S., Congress, House, Subcommittee on the Committee on Government Operations, Consumer Protection Activities of Federal Departments and Agencies, 87th Cong., 1st Sess., 1961, H. Rept. 1241.

Among activities of the first type are: inspection of meat and poultry products by the Agriculture Department, regulation of air carrier rates by the Civil Aeronautics Board, prevention of false advertising by the Federal Trade Commission, regulation of food and color additives by the Food and Drug Administration, prosecution of mail fraud violations by the Justice Department, registration of securities to prevent fraud by the Securities and Exchange Commission, and prevention of reuse of liquor bottles by the Treasury Department. Activities of the second type include: provision of low cost electric power by the Tennessee Valley Authority, consumer education services by the Office of Education, and making of loans to low income farmers by the Farmers Home Administration. Examples of activities of the third type are: marketing research by the Agriculture Department, subsidies to airlines by the Civil Aeronautics Board, standardization of weights and measures by the Bureau of Standards, establishment of margin requirements by the Federal Reserve Board, stockpiling of essential raw materials by the General Services Administration, and control of counterfeiting by the Treasury Department.¹⁰

This citation of the numerous different consumer activities now being carried out by the Federal government does not, in the minds of many legislators, rule out the need for a Federal Office of Consumer Counsel.

¹⁰The report distinguishes between "protection" and "advancement" as follows: "protection" is used to describe activities which guard consumers against specific dangers to their health, safety, or economic welfare; "advancement" is used to describe activities which tend to improve the health, safety, or economic welfare of consumers, but are not aimed at specific dangers.

They contend that as the government is now organized, even though there may be a department, agency, commission or board concerned with a given consumer complaint, the search for the right place to lodge the complaint can be lengthy and frustrating.¹¹ The formation of a central consumer office would act as the necessary focal point and clearing house for all consumer activities. Others have argued that the absence of such an office or department constitutes a missing link in the government, since business interests are represented by the Department of Commerce, workers by the Department of Labor, and farmers by the Department of Agriculture.¹²

Senator Estes Kefauver (Democrat) of Tennessee, with 23 co-sponsors from both political parties, introduced a bill to establish a Department of Consumers.¹³ This Senate bill (1571), cited as the "Consumers Act of 1959," would have established an office to be headed by a Secretary of Consumers, who would have cabinet status. The bill would transfer from other governmental departments certain agencies already engaged in functions that are directly tied to consumer welfare--agencies such as the Food and Drug Administration (now in the Department of Health, Education and Welfare); the Division of Prices and Cost of Living of the Bureau of Labor

¹¹"Department of Consumers in Washington, D.C.," Consumer Reports, June 1959, pp. 276-278.

¹²Christian Science Monitor (Boston), March 27, 1961, p. 2.

¹³Christian Science Monitor (Boston), April 6, 1961, p. 5.

Statistics (now in the Department of Labor); the Home Economics Research Branch and the Human Nutrition Research Branch of the Agricultural Research Service (now in the U. S. Department of Agriculture); and those parts of the National Bureau of Standards (now in the Department of Commerce) which are engaged primarily in research on articles intended for use by consumers.¹⁴ Its purpose would be to protect and promote the interest of the people as consumers, to present their point of view in government councils, and to hold an annual national consumer conference.¹⁵

The Kefauver bill was strongly supported at the 1960 AFL-CIO executive council session. But the U.S. Chamber of Commerce opposed the move, arguing that it would overlap the responsibilities of existing regulatory agencies.¹⁶ Consistent opposition to the bill has proven sufficient to prevent its passage, but discussion of the bill continues.

Senator Kenneth B. Keating (Republican) of New York introduced, in the 1961 legislative session, a bill to establish in the Executive Office of the President an Office of Consumer Counsel (S. 2323).¹⁷ The Office would be headed by a Consumer Counsel, appointed by the President, without regard to civil service requirements and without Senate confirmation. He would be provided with such professional and supporting staff assistance

¹⁴ Consumer Reports, June 1959, Op. cit.

¹⁵ Christian Science Monitor, March 27, 1961, Op. cit.

¹⁶ Christian Science Monitor, April 6, 1961, Op. cit.

¹⁷ U. S., Congressional Record - Senate, 87th Cong., 1st. Sess., 1961, pp. 12643-12645.

as the President might determine and would be authorized to appoint consultants and advisory groups of citizens, as necessary.

As regards the Congress, the Consumer Counsel would be authorized to recommend legislative measures for consideration by Congress through the normal channels of the executive branch. Similarly, he would review proposed legislation from the standpoint of the general consumer interest. When legislation dealing with consumer problems was the subject of congressional hearings, he would be expected to appear and testify in the same manner as do other members of the President's official family.

The Consumer Counsel would be authorized to enter in and appear at any proceeding, hearing, or investigation of any agency of the executive branch, for the purpose of representing the consuming public. As a continuing responsibility, he would seek to maintain liaison with the principal agencies affecting the general consumer interest, and would thereby help to achieve more effective coordination of efforts in behalf of the consumer. He would also maintain liaison with the state consumer counsels and would cooperate with the Department of State in studying and developing relationships with official consumer organizations of other nations.

Although President Kennedy has declared his intention to take some action on the consumer's behalf, exactly what his action will be is difficult to predict. A number of alternatives are apparently being considered by the executive branch. One would be the establishment of

a small staff in the Council of Economic Advisers to coordinate already existing consumer functions in the various federal departments, act as adviser to regulatory agencies, the Justice Department and the President, and testify before Congressional committees. Carrying out this job, the Consumer Counsel would consult with consumer groups outside the government but probably would not have a formal organization.¹⁸

A second alternative would be the establishment of a new Federal Consumer Counsel Office whose principal function would be to achieve some sort of coordination between consumer policy and the Administration's general economic policy. Although such areas as deceptive advertising and packaging, where the Federal Trade Commission already has authority, would be outside the counsel's jurisdiction, the Counsel might bring such problems to F.T.C.'s attention. However, the Counsel very well might take stands on such emerging issues as consumer credit legislation and control that do not fall into existing government agencies. It is not contemplated that the Consumer Counsel would get involved in wage negotiations, even though consumer prices may be directly affected.¹⁹

The Federal Trade Commission is now in the midst of, or has recently completed, a precedent-setting series of cases concerning business malpractice. These suggest an increasing awareness of responsibilities to consumers as well as to business. But the F.T.C. is not yet equipped to receive and to handle a free flow of consumer complaints.²⁰

¹⁸"Special Voice For Consumers?" Business Week, April 8, 1961, p. 70.

¹⁹ Ibid.

²⁰ Consumer Report January 1961, Op. cit.

In 1960 the F.T.C. received 44% more complaints, carried out nearly twice as many antitrust actions, and handled 28% more cases dealing with false advertising and other deceptive practices than 1959. The staff was increased by 6%, but the proportionate workload grew faster than its capacity to handle it.²¹ It should also be noted that the F.T.C. has no office in Hawaii, with the closest one being in San Francisco.

Another alternative then would be a strengthening of the F.T.C., as well as other regulatory agencies. Just what can be expected from Washington is very difficult to determine at this time.

²¹ Annual Report of the Federal Trade Commission 1960 (Washington: U. S. Government Printing Office, 1960).

CHAPTER III

STATE CONSUMER PROTECTION PROGRAMS

The greater amount of attention centered on the consumer segment of our society at the national level is also becoming increasingly common among the separate states. At the start of last year, it was reported that at least 14 states had either organized special consumer offices or were actively planning the same.²² Consumer programs at the state level fall generally into three categories, and the cases of New York, Massachusetts, and California have been singled out for special attention as leading examples of each type.

A. NEW YORK

In January of 1955 New York's Governor, Averell Harriman, created the first state Office of Consumer Counsel. He appointed Dr. Persia Campbell, a foremost consumer economist, to the head post, gave her cabinet status, and assigned her broad responsibilities. She was to "understand the problems of the consumer" and "defend and advance the interests of consumers on every front and at every level." Thus, her field of interest seemingly was almost as broad as government itself.²³

But the newly-formed office proved short-lived. Mrs. Campbell's job was eliminated by the newly-elected governor of New York, Nelson A. Rockefeller, who turned over the function of the Counsel to the Bureau of Consumer Frauds under the control of the Attorney General.²⁴ Nevertheless, the experience of this short-lived office has contributed

²²Wall Street Journal, November 11, 1960, Op. cit.

²³"Consumer Representation in Government," Consumer Reports, November 1958, pp. 600-603.

²⁴Business Week, April 8, 1961, Op. cit.

heavily to the current movement by other states to take governmental action on behalf of the consumer.²⁵ It would be useful in this deliberation to take a look at the activities of the New York Office of Consumer Counsel when it was in operation.

One of the major functions of the office was to promote favorable legislation in the interest of the consuming public of New York. A summary of those laws passed in New York under the sponsorship of the Consumer Counsel is given in Appendix A of this report. The Counsel undertook a watchdog role toward all legislation, to the end that the public welfare aspects of any proposed bill would be called to the attention of both the legislature and the Governor. Sometimes this meant opposing, in whole or in part, legislation backed by the lobbies of special interest groups.

To cite one example, in 1957 the Consumer Counsel succeeded in having the legislature enact an "all goods bill." This new law for the first time systematically established many types of protection for the consumer. It makes mandatory a full disclosure, not only of the cost of the item that is being purchased, but also of all additional charges.²⁶

In addition to promoting legislative measures, Dr. Campbell accepted the responsibility of assisting in the development or amendment of some programs by other departments which had a special consumer significance.

The forum method was employed to get the facts and opinions of both the consumer and the expert. Three different conference levels were

²⁵ Christian Science Monitor (Boston), January 9, 1961, p. 3.

²⁶ Senate Subcommittee on the Committee on Banking and Currency, Consumer Credit Labeling Hearings, 1960, p. 104 and 113.

established: (1) a State Consumer Advisory Committee; (2) a Governor's Conference to which representatives of various economic groups (producers, distributors, merchants, advertising and media representatives, as well as consumers) were invited; and (3) community conferences in different localities throughout the State. The information obtained in these ways was not only used in the Office of Consumer Counsel but was also passed on to other state regulatory agencies.

Soon after the new office had become established, it became apparent that an active research program was needed. Besides guiding the formulation of legislative proposals and compiling new statistical information, research efforts provided material for a large consumer education program. When Dr. Campbell's progress report was published in 1958, nearly a million pieces of literature had been distributed. Dramatic skits had been made available to schools and clubs. Radio and television broadcasts were conducted, and some 200 speaking engagements had been fulfilled.

Dr. Campbell also emphasized that one of the principal responsibilities of her office was to coordinate and strengthen the consumer services already being performed by existing agencies and departments of the New York State government. Even though the scope was broad, and many other state agencies had already been assigned to areas of consumer interest, she felt that the Consumer Counsel in no sense competed with, or infringed upon, these other jurisdictions.²⁷ Instead, she stressed that it was the function of the consumer office to broaden existing consumer-welfare

²⁷Consumer Reports, November 1958, Op. cit.

programs and to provide the meeting ground for inter-agency cooperation on problems of mutual concern.

Several lessons were learned by New York in this experience. It was found that consumer representation in government would not work if delegated to any agency concerned with the problems of any particular segment of the population. Another point was that consumer representation will not be effective unless it is given rank in the governmental hierarchy and support from the executive office. Still another, and even more important one, is that no consumer spokesman can long speak effectively without advice from and contact with consumers themselves.²⁸

It is significant to note that when Nelson Rockefeller abolished the Office of Consumer Counsel, he did not eliminate the still active Bureau of Consumer Frauds. As a matter of fact, many of the responsibilities previously assigned to the Consumer Counsel were transferred to the Bureau of Consumer Frauds. This agency is located in the Attorney General's Office, and its membership includes various assistants, investigators, and statisticians. It has been granted the power to issue subpoenas and investigate, to issue injunctions in "bait advertising" cases, to issue injunction in persistent business fraud cases, and to obtain a temporary injunction pending decisions in quo warranto matters.²⁹

Fraudulent selling practices have been the chief target of the New York Bureau's activities. And the promulgation of codes for specialized groups has been the corrective measure most frequently attempted--

²⁸Ibid.

²⁹Paul L. Adams, Report of Attorney General's Conference on Consumer Frauds, (State of Michigan, September 23, 1960), p. 9.

codes of ethics plus court cases. The Attorney General, Louis J. Lefkowitz, has, as an aid to his consumer program, an organized committee of one hundred housewives which serves as a voluntary advisory group.³⁰

New Jersey, on June 9, 1960, set up a similar office in the State Attorney General's Office. In the first six months of operation, Mr. Frank A. Verga, deputy attorney general in charge of the Consumer Frauds Bureau, estimated that he had secured the refund of more than eleven thousand dollars to consumers who had reported and substantiated their charges of fraud before his Bureau. The new office is ready to give consumers legal help and advice, but seeks to avoid the tendency to treat consumers as if they were clients of social workers or objects of charity, unable to take any intelligent or effective action for themselves.³¹

B. MASSACHUSETTS

Another approach toward giving official representation to the consuming public is that of the Commonwealth of Massachusetts. In 1958 the Attorney General, Edward J. McCormack, Jr., decided to use the inherent powers of his office to set up an advisory consumer council, made up of 15 university professors who serve on a voluntary basis. Financing of this group comes out of the regular attorney general's budget because the legislature has not allotted any appropriations to this activity. McCormack assigned two salaried assistant attorney generals to work with the council, but the chairmanship is in the hands of Rev. Robert J. McEwen of Boston College. The members of the council are appointed by the

³⁰ Consumer Reports, August, 1960, Op. cit.

³¹ "New Jersey's New Consumer Frauds Bureau," Consumer Bulletin, April, 1961, pp. 32-33.

attorney general with the aim of obtaining specialists in all the different fields that a consumer council might be called upon to investigate. Meetings are held once a month, and according to Rev. McEwen, there is a "very close relationship with the Better Business Bureaus and similar groups."³²

Since the time that the advisory consumer council was organized, a number of bills have been introduced to set up a permanent agency to be attached to the governor's office. Even before this time similar bills were being heard, but until 1950 no such proposal passed in either house, partially because this agency was to be granted supeona powers to get the records of business concerns. In 1958, however, the bill was radically changed and the subpoena powers were omitted. As a result, the bill managed a narrow passage in the House, but was subsequently defeated in the Senate.

A closer look at the broad principles underlying the Massachusetts approach to formal consumer organization should prove useful. Two alternative structures are recognized. The first would resemble California in that there would be one chief officer with a subordinate advisory council. The second possibility is to have a small council, acting as a group, direct the activities and functions of the consumer agency. This would involve giving the council subordinate officers for legal, secretarial, and research assistance. It is the consensus of the present council that the second structure is preferable for Massachusetts.

³² Letter from Rev. Robert J. McEwen, Chairman of the Massachusetts Advisory Consumer Council, Boston, Massachusetts, November 9, 1961.

The budget for the council could be an extremely modest one involving secretarial and research salaries for those assistants and certain allowances for the publication of reports. Up to now the operation of the present council in the attorney general's office has shown that much good work can be accomplished at a relatively trifling cost. The universities have been glad to contribute the talent of their men and women to this type of public service on a completely voluntary basis. Rev. McEwen felt very strongly that political and university collaboration in the fields of consumer education and protection was one of the most important virtues of the present bill.

Rev. McEwen continued by stating that most agencies have a tendency to stray from their original consumer protection purpose. This occurrence usually stems from the eventual take over by the special interest groups. Any agency, including the consumer council, can be "stacked" and consequently thwarted if the appointing officials or the executive agents so desire. With this thought in mind, he warned that the citizens should never delude themselves that once a consumer council is officially established all their problems are solved.

The functions of the proposed council can generally be broken down into five categories: (1) The very difficult job of economic analysis to diagnose the true welfare of the consuming public in the area under discussion; (2) Representation before courts and regulatory agencies stating the position of the consumer council on issues before those bodies; (3) Education and organization of consumers. Specifically this would mean a very small consumer council should work with a large group, or third layer, of consumer organizations and other public service groups.

Various periodic conferences would be held; (4) Coordination of official state activities for consumers; (5) The remaining function of the council, which in a way depends on the other four, is that of advice and suggestion to the executive and legislative branches of the Government. This could concern new laws needed, old laws to be enforced or discarded, and recommendations on consumer complaints.

Since 1958, the council has successfully opposed milk price fixing and unwarranted curtailment of railroad commuter service. It has spoken for the consumer in hearings on automobile insurance rates and attacked fraudulent food-freezer plans, price-fixing arrangements, and deceptive advertising.

To give additional support for his stand in favor of a state-sponsored consumer council, Attorney General McCormack urged the cooperation of the business community, particularly the Better Business Bureaus. He said: "Deceit, dishonesty, and deception used against the consumer is a vital concern of government. Unwarranted increases in the cost of living must be stopped."³³

McCormack feels that in order for the advisory consumer council to operate effectively, it must have statutory authority. The Boston Chamber of Commerce, on the other hand, charged the bill would be "back-door socialism." William F. Mulloy, spokesman for the Chamber, warned that the legislation could hurt businesses engaged in interstate commerce.³⁴

³³ Christian Science Monitor, (Boston), May 12, 1961, p. 6.

³⁴ Ibid.

C. CALIFORNIA

California today is the only state in the Union with an active state-sponsored Consumer Counsel. A thorough analysis of the California office in action should supply us with an insight as to what role a similar form of consumer counsel might play in this state.

At the opening of the 1959 legislative session, California's governor, Edmond G. Brown, called for the establishment of the Office of Consumer Counsel. Following legislative approval, the office was established and on October 2, 1959, Helen Ewing Nelson³⁵ was sworn in as the first California Consumer Counsel.

The legislation creating the office spelled out its functions as follows:³⁶

1. Advise the Governor as to all matters affecting the interests of the people as consumers;
2. Recommend to the Governor and to the Legislature legislation deemed necessary to protect and promote the interests of the people as consumers;
3. Make studies deemed necessary and render reports thereon to the people; and
4. Appear before governmental commissions, departments, and agencies to represent and be heard on behalf of consumers' interests.

³⁵Mrs. Nelson received her undergraduate degree in Economics in the state of Colorado. After a fellowship at Mills College in California, she went to Berkeley for graduate study under Dr. Emily H. Huntington. There she became an expert on unemployment insurance as it affects the living standards of the unemployed, and probed family budget matters on the staff of the Heller Foundation. Later Mrs. Nelson worked in the price division in the Bureau of Labor Statistics, helping to assemble and understand the "market basket" prices which were to lead to the periodic cost-of-living indexes. During the war she helped work out rent control plans for defense areas, and more recently she was called upon to organize the industrial relations section of the California Division of Labor Statistics.

³⁶Letter from Mrs. Helen E. Nelson, California Consumer Counsel, Sacramento, California, September 19, 1961.

In carrying out these functions, Mrs. Nelson was authorized to enlist the cooperation of other state agencies, officers, and employees. She was also empowered to establish an advisory committee to assist her office. The members of such a group receive no compensation for their services, except amounts necessary to cover expenses incurred in the discharge of their duties.

In general terms, the job, as Governor Brown saw it and as Mrs. Nelson sees it, is to give the public a spokesman on matters where legislators and business interests must reach joint decisions that affect the consumer interest.³⁷

The following is a brief outline of the consumer laws that have had legislative approval under the sponsorship of the Consumer Counsel:

1. To maintain food quality, she --
 - (a) Helped stop the Federal government's plan to suspend grading of lamb and is now fighting to secure grade labeling of pork products.
 - (b) Fought successfully to ban watering ham and short-weighting frozen foods.
 - (c) Urged tightening of controls of pesticidal residues on food and feed.
 - (d) Campaigned to have labels on canned and frozen fruits and vegetables show size and grade.
2. To curb fraud, she --
 - (a) Waged a cleanup campaign that virtually wiped out referral sales rackets.
 - (b) Pressed for regulation of health and dance studios to outlaw lifetime contracts.

³⁷Christian Science Monitor, January 9, 1961, Op. cit.

- (c) Conducted information programs to alert law enforcement agencies and citizens against fraudulent sales schemes.
- 3. The office published and distributed a folder, entitled "Credit Costs Money," showing how to translate commonly quoted credit charges into true annual interest rates.
- 4. To protect family health, she --
 - (a) Urged repeal of sales tax on prescription drugs.
 - (b) Led the campaign against adulterated or misbranded cosmetics.
 - (c) Won legislation requiring warning labels on hazardous household substances.

Appendix B presents more detail on consumer protection laws passed in the 1961 session of the California legislature.

The sheer number of additional consumer protection laws that enter the books each year is not the only measure by which to evaluate the California consumer program. Helen Nelson has accepted many other responsibilities and engages in a wide scope of activities. If her office is unqualified to meet a consumer problem, she is aware of the more specialized state, or even private, agencies that can meet the requirement. For instance, she served to inform the public, through Alexander Grendon, State Coordinator of Atomic Energy Development and Radiation Protection, that there is no appreciable danger in the present content of Strontium-90 in milk. In this regard, the office has cooperated with and helped to coordinate the activities of various State agencies (such as the Consumer Fraud Division of the Attorney General's Office, Contractors Licensing Board, Division of Corporations, Franchise Tax Board) and local law

enforcement agencies and legislative committees.³⁸

The operating budget for the Office of Consumer Counsel in the fiscal year of 1960-61 ran very close to \$75,000. Mrs. Nelson receives a salary of \$15,750 and maintains a small staff, including a special field man who earns \$10,602.³⁹ Her educational background qualifies her as an economist and statistician, and she feels an additional background in Home Economics and Law would have been very beneficial to her.⁴⁰ In addition to a staff of four, she has a 15-member advisory committee which serves without pay.⁴¹ In short, the services of the Consumer Counsel office last year cost every California consumer less than one half of one penny.⁴² But it must also be pointed out that California has a population of nearly 16,000,000 or over 26 times the population of Hawaii.

It should be noted that the Consumer Counsel has no law-enforcement authority in the strictest terms. Besides exposing fraud, Mrs. Nelson does have available a number of methods to present what she believes is the consumer's point of view on a wide variety of matters. She testifies frequently before legislative hearings. Based on her office's investigations,

³⁸ Highlights of the First Year, Office of Consumer Counsel October 2, 1959 - October 2, 1960 (Sacramento: California Office of Consumer Counsel, October 7, 1960), p. 2.

³⁹ Business Week, April 8, 1961, Op. cit.

⁴⁰ Christian Science Monitor, Januray 9, 1961, Op. cit.

⁴¹ "New Consumer Protection-The California Way," Good Housekeeping, May, 1961, p. 148.

⁴² Highlights of the First Year, Office of Consumer Counsel October 2, 1959 - October 2, 1960, Op. cit.

she has suggested ways, including new laws, to curb various rackets aimed at the consumer. In such investigations, she also has tried to help coordinate law-enforcement activities against rackets when more than one government agency is concerned. She is a frequent speaker at conventions and meetings of business, labor, women's and professional groups. And she has organized meetings in various parts of the state to discuss and to help find solutions to widespread consumer problems.⁴³

As with other new agencies of this type, opposition has been expressed to the California program. There are those in California who do not agree with what the Counsel has done on particular issues, and there are some who oppose the whole concept of a state-sponsored consumer protection program. A fiscal expert for the state legislature was opposed to any great increases in the budget appropriation for the office, and one assemblyman introduced a bill at the last legislature to abolish the office completely.⁴⁴ Certain **critics** of the office feel that it has done little to help the consumer that proper enforcement of existing laws would not have accomplished. They say that the public, in any role, is well represented by the usual elected officials and regular law-enforcement authorities. Such critics feel that the OCC can only lead to additional and unnecessary regulation of business.⁴⁵

The Republican State Central Committee considers the Consumer Counsel an extravagance which ought to be abolished. During its recent annual meeting, the committee made doing away with the position one of its targets

⁴³Good Housekeeping, May, 1961, Op. cit.

⁴⁴Business Week, April 8, 1961, Op. cit.

⁴⁵Good Housekeeping, May, 1961, Op. cit.

for 1962. "It has failed to fulfill its intended purpose and is used as a political tool of the Brown administration."⁴⁶

According to a special task force, consisting of five well-known California executives reporting to the Governor,⁴⁷ the general business view of the Consumer Counsel job is not unfavorable, and community respect for Mrs. Nelson is rapidly growing. They did report that a small minority of the California businessmen, who uphold a motto of "let the buyer beware," definitely have expressed their dislike of the Office and the person. Also among responsible business elements they noted the criticism that in some cases the Consumer Counsel has caused antagonism by speaking out against certain business practices in the press without first discussing them with representatives of the business concerned. Further, the "unconvinced majority" of California businessmen tend to think that their own voluntary programs for hewing to ethical codes are the best answer to the need. Four of the five man investigating committee agreed that the newly established consumer office performs "a unique and valuable service." The remaining member dissented and took the stand that it overlaps other established agencies and should be abolished. The report submitted, nevertheless, expressed to Governor Brown a growing appreciation that Mrs. Nelson's office has filled a void of concern by working to eliminate rackets and to disseminate information of value to all consumers.⁴⁸

⁴⁶ Christian Science Monitor (Boston), March 17, 1961, p. 1.

⁴⁷ Members of the Special Task Force include: Roger Boas, President, Boas Pontiac, San Francisco (Chairman); Norman Houston, President, Golden State Mutual Life Insurance Company, Los Angeles; Lucy Ritter, Second Vice President and Assistant Treasurer, California Western States Life Insurance Co., Sacramento; Leonard Straus, President, Thrifty Drug Stores, Inc., Los Angeles; and Col. H.S. Smith, President and Publisher, Herald American Newspapers, Compton.

⁴⁸ The Governor's Business Advisory Council, Attitudes in the Business Community Toward the Office of Consumer Counsel, A report to Governor by members of a special task force (Sacramento: The Governor's Business Advisory Council, March, 1961).

CHAPTER IV

THE ROLE OF BETTER BUSINESS BUREAUS IN AFFORDING CONSUMER PROTECTION

One of the principal stands taken in opposition to a state-sponsored consumer protection program is that this organization would only duplicate those functions that are already carried out by private non-profit agencies at no cost to the state -- namely the Better Business Bureau. The purpose of this section will be to examine the validity of this argument, and to see generally what role the Better Business Bureau plays in behalf of the consumer.

The B.B.B. is a leader among organized societies for the prevention of business malpractice. Last year alone the Bureaus attempted to handle 2.6 million complaints, and it is reported that this figure is increasing annually. In 1960, over 100,000 firms paid \$5 million to maintain the many offices throughout the nation.⁴⁹

The Better Business Bureaus were established and still exist to protect businessmen against themselves and stand today as an example of self-regulation in a free enterprise economy. One objective of the organization's operations admittedly is to ward off more government control of and intervention in business.⁵⁰ Generally speaking, the B.B.B., through the power of moral persuasion, endeavors to bring about amicable settlement of disputes in the interest of fair practices.

In this state, the Better Business Bureau of Hawaii carries out a very active program. In the 1960-61 operating year, ending last June, the Honolulu office received 14,400 inquiries. According to Mr. Donald Billam-Walker, manager of the Honolulu office, a successful lid

⁴⁹ Wall Street Journal (Pacific Coast Edition), November 8, 1960, p. 1.

⁵⁰ Ibid.

can be placed on questionable business practices here in Honolulu if around 14,000 inquiries are processed a year. Many times the first complaint received is sufficient to get action directed at a particular case of business malpractice. Further complaints on this case only tend to be repetitious and add very little to correcting the situation. Acknowledging such additional complaints is very time consuming and expensive. For this reason, the B.B.B. points out, publicity is held to a minimum in an effort to quietly resolve the problems encountered day to day.

This argument for keeping out of the public eye, in an effort to diminish the unproductive workload, seems valid. But the question might be raised as to the educational value lost by not publicly exposing certain consumer problems as they arise. When restricted to a limited budget, as the B.B.B. certainly is, any organization must define its objectives. In this instance the B.B.B. has chosen to emphasize an ability to resolve a consumer dissatisfaction quietly. They support this stand with a record of resolving, with some degree of satisfaction, 95% of the legitimate complaints received by their office. ⁵¹

The Better Business Bureau, nationally, publishes the bulk of all consumer education pamphlets that are distributed by the local bureaus. Before these "Facts" booklets are released a check is made by the separate bureaus for conformity to different local laws. The Honolulu bureau restricts the greater amount of its locally published or written material to members only. Mr. Billam-Walker does carry out an extensive

⁵¹ It should be noted that in the year 1960-61 the B.B.B. received 10 inquiries to every one complaint. Of course there were cases in which an inquiry later turned into a complaint.

program of public speaking in which he maintains a personal contact with the public. He sponsors various informative press releases in an effort to utilize the local newspapers, but there recently has been a policy of staying away from radio and television. The B.B.B. of Hawaii would like to expand its educational program, but lack of funds has limited any serious movement in this direction.

The question of overlap between a private organization, such as the B.B.B., and a governmentally-sponsored program is essentially a question of whether "two heads are better than one" or do "too many cooks spoil the broth."⁵² Mr. Billam-Walker, and the B.B.B. in general, would tend to claim the latter. They cite these arguments against a state Consumer Counsel:

1. Businessmen would hesitate to place their confidence in a public agency when they already sponsor such an agency on their own. This would indicate that the B.B.B. and a Consumer Counsel would fail to have a close working relationship.
2. Most cases of business malpractice, regardless of whether they are illegal or only unethical, are very difficult to correct by an outside agency. The Bureau is a private policing agency within business itself and is not always held down by the fine letter of the law. It can look beyond the law when and if the necessity arises.
3. The Better Business Bureau attributes a share of its success to the fact that it is a national, as well as an international organization. Universal team-work among the many offices has

⁵² Interview with Donald Billam-Walker, Manager, Honolulu Better Business Bureau, Fall, 1961.

proven to be essential to an effective program of curbing fraudulent sales schemes that are not confined to one geographical location. It is suspected that a state office of Consumer Counsel would be unable to enjoy such economies of scale.

4. A private consumer organization is more assured of a comparatively stable staff and organization. A higher turnover of personnel could be expected in a state office of Consumer Counsel due to the changing administrations and partisan politics.
5. To set up a specific agency to recommend the enactment of legislation deemed necessary to promote and protect the interest of the people would appear to usurp the prerogative of each member of the legislature. These officials are elected to office to represent the people.
6. And finally, the most basic point for opposition to a state office of Consumer Counsel is that it creates an adverse climate for perpetuating the ideal of self regulation. The responsibility for fair play in business must not be delegated to others, but must surely come from within.

In the author's view, this general line of thought exposes a basic point of popular misunderstanding as to the functions of a state Consumer Counsel. If the state-sponsored consumer office were to be identical or even similar in its functions with those functions of the

B.B.B., the above points for opposition would be more meaningful. The discussion of the California Consumer Counsel set-up has pointed out that the office was not intended to compete with the role already carried out by the Better Business Bureau. True, the two organizations are established to aid the consumer, but the means used to achieve this end are widely separated. To support this statement it is necessary to once again look at the four established functions of the California office and to make the required comparisons. (Refer to pg. 20)

In summary, the Consumer Counsel was assigned the responsibility to advise the governor, to recommend to the legislature, and to appear before governmental commissions, departments, and agencies to represent and be heard on behalf of the consumers' interest.

Mrs. Helen Nelson of California thinks the essence of the matter is this: "The Consumer Counsel operates in the halls of Government. The Better Business Bureaus as a matter of policy eschew any governmental activity. The Better Business Bureaus do not make recommendations to the Governor; they do not appear before governmental agencies advocating the position of the consumer; they do not appear before legislative committees advocating legislation. In our experience in California, the Office of Consumer Counsel cooperates with Better Business Bureaus. It certainly does not duplicate their activities, nor do they duplicate ours."⁵³

Advocates of official consumer representation point out that

⁵³Letter from Mrs. Helen E. Nelson, California Consumer Counsel, Sacramento, California, January 2, 1962.

the Better Business Bureau of Hawaii has not taken and will not take, nor should it take, an active part in lobbying for the consumer. Reasons given: "Has not" because it was set up as a policing agency rather than a legislative body. "Will not" because it does not feel it has any right to force upon the legislature the views held by the Bureau. And "should not" because no effective consumer representative should be sponsored by any one particular interest group. It is not valid to assume that the B.B.B. will not appear at legislative hearings, but in the past this generally has taken place only after a formal request had been previously submitted.

It appears to this writer that the California Better Business Bureaus and the Consumer Counsel have a very close working relationship. Mrs. Nelson has made reference many times to the support she has received from the B.B.B. For instance, speaking before the Assembly Interim Committee, she cited a case where the San Francisco and San Diego Better Business Bureaus assisted in obtaining a ticket refund for an airline passenger. She went on to say "Thank goodness for the Better Business Bureaus. The Better Business Bureau in this --- as in thousands of other --- instances was of great help to the individual. But no one should have to go through the Bureau or through court proceedings for a simple refund."⁵⁴

In summary, the Better Business Bureaus provide a necessary link between the consumer and the producer. The previously discussed state and federal consumer programs, on the other hand, provide a link

⁵⁴Statement by Helen Ewing Nelson, California Consumer Counsel, to the Assembly Interim Committee on Public Utilities and Corporations (Fresno: October 7, 1960).

between the consumer and the government. The basic question which then remains within this State is not one of duplication. The more urgent question here is whether a sufficient gap in communication does exist, and how this gap might eventually be filled. The following, and final, section will take up this question.

CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

It is the considered opinion of the author that the State of Hawaii and its many citizens can benefit from a well-defined consumer program. The term "well-defined" remains essential to the whole question and will be described more fully in the body of this section. But it should be noted that the discussion is directed toward a state consumer program generally and not toward any specific legislative proposal.

H.B. 32, introduced in the 1961 legislative session, provides for an Office of Consumer Counsel similar in organization to that office in California. The California office has had an impressive record by most standards, the author believes, and many of the enemies Mrs. Nelson has made have only contributed to her increased public respect. But partisan opposition to her post, whether it be justified or not, cannot be ignored. The New York Office of Consumer Counsel was disbanded with the first change in the State administration. California has yet to pass this crucial test. A state consumer office in this state can only function properly if it has the support of the people in general, and without regard to interest groups or particular political parties.

When one observes what other states have done to advance the position of their consumers, it becomes apparent that conformity to any one set pattern has not been the rule. In addition to this, no state program has truly passed the test of time. With this information in mind, plus an acceptance that the geographic location, size, population, and economic structure of this state are in a sense unique, it is

necessary to examine all possible alternatives.

FUNCTIONS OF A STATE CONSUMER PROGRAM

Fundamental and preliminary to any consideration of consumer legislation would be a clear-cut definition of objectives and functions of a state consumer program. The following points should be considered:

1. The program would have to be justified on the grounds that despite existing laws and activities of existing agencies, a major gap remains in the way our economy serves the consumer interest. Proponents of more consumer representation have argued that whenever the consumer's interest is in question, a suitable specialist, representing the best interest of the consuming public, should be available to at least challenge the well-constructed line of argument submitted by a special interest group. The fact that all people are both producers and consumers does not offer any guarantee that the consumer side will receive adequate coverage. They conclude that a lobbyist for the consumer is needed at every level of government --- whether it be a legislative debate, or an appearance before governmental commissions, departments or agencies.
2. Coordination of the various existing, more specialized, consumer responsibilities, now assigned to numerous separate State departments and offices, would promote a more efficient and effective overall state consumer program.

3. This would necessarily involve closer attention to the proper administration of, and necessary surveillance over, existing consumer laws.
4. Ideally, the best way to protect an individual is to give him the tools to protect himself. The best tool for protecting the consumer, without interfering with his free choice is education. By educating the public to the art of buying, a premium would be placed on customer satisfaction, rather than on different degrees of customer misinformation and/or manipulation. This is no small task for one organization, or for a number of organizations. Thus, consumer education would be a central feature of any state-sponsored program.⁵⁵
5. An active research program would be necessary to insure objective reporting on behalf of the consumers. The resultant studies, along with a yearly progress report, should be made available to the general public as well as to the governor and the legislature.
6. And lastly, experience has shown that no consumer spokesman can long speak effectively without advice from and contact with the people he represents. Certain states hold different levels of consumer conferences and workshops. Many also employ the use of advisory consumer councils --- a volunteer body

⁵⁵It might be significant to note that the Honolulu B.B.B., according to Billam-Walker, is considering a plan to establish and direct a consumer council of its own. As it looks at this time, the body of the planned organization would consist of 30-40 volunteer housewives working in an effort to inform and educate other consumers in wise buying practices. As of yet, no action has been taken in this direction.

whose membership might vary anywhere from housewives to university professors. A sufficient supply of untapped interest and ability in this state would indicate the success of such a council here.

These recommended features of a consumer program for this State are not intended to suggest the structure of any office set up for the purpose, but they do suggest a seemingly valid area under which a State office might well justify its existence. The specific structure and organization of such a state-sponsored office must remain the prerogative of the State's legislative and administrative bodies. California has experienced a degree of success with its Office of Consumer Counsel, directly under the Governor. Certain other states have established Consumer Frauds Bureaus. Still others have developed effective forms of consumer councils. A careful analysis of what the other states have done, as a whole or in part, may very well offer a clue to what might be done in Hawaii. Appendix C presents one possible alternative program that was designed by the author and is only included in this study as a point for discussion.

A hasty unsuccessful attempt, by this State, to establish an inappropriate consumer office may hold back the development of a successful state program for years. Additional research is at this time necessary in these suggested areas:

1. A study should be made to ascertain the extent and nature of existing State consumer protection activities. Every

governmental department and agency within the State, having responsibility for protecting the consumer, should account for such activities. Also, a selected group of state agencies with licensing and regulatory power should be asked, at the same time, to comment on the number of complaints received from consumers, the type of actions taken, and the need for laws or resources not now existing. And lastly, a general comment should be included by those agencies with related consumer activities which would indicate the effectiveness of those procedures utilized to coordinate these activities.

2. Those charged with establishment of a state consumer program should be encouraged to travel to California, and possibly to other states as well, for a closer, more thorough, examination of the different state consumer programs.
3. As was mentioned previously, educating the consumer plays a major role in the protection of his best interest. The author believes a greater responsibility here should be accepted by the schools. The wise spending of a limited pay check has much to do with determining one's standard of living. A survey among the various schools would determine, for the purpose of analysis, the existing percentage of the basic curriculum, if any, that is designed to instruct in the art of intelligent buying.
4. And finally, it might prove useful to run a test to determine the degree of public interest within the state. If such a

test indicates much available talent and a growing interest in consumer problems, the action taken by the State would necessarily be much different than if there were no significant response.

It is clear that the State does have an obligation to its consuming public. The increasing complexity of our society's consumer goods and services has, in many cases, rendered even the most prudent consumer helpless. As a result, the need for governmental assistance has increased and will continue to do so. Just how this State might best meet its consumer obligation remains to be seen. Consumer fraud and neglect can be significantly reduced, but any action toward this goal must be carefully planned and organized.

APPENDIX A.

CONSUMER LAWS PASSED IN NEW YORK

The first progress report submitted by Dr. Campbell was printed and ready for distribution in the late summer of 1958. In this report she listed the new laws passed under the sponsorship of her office of Consumer Counsel. A brief summary of those laws is described below. Source: Consumer Reports, November 1958, pp. 600-603.

1. Protection for car buyers, including a prohibition against hidden "extra" charges and against excessive insurance charges, together with a legal limitation on carrying charges: \$7 per \$100 a year on a new car; \$10 per \$100 a year on a used car of the current year or the two previous years; \$13 per \$100 a year for all other used cars.
2. Amendment to the Vehicle and Traffic Law, providing that a violation of the time-buying provisions of the automobile sales law will constitute grounds for rescinding an automobile dealer's license.
3. Control over sales-finance companies---previously unregulated, and important to consumers since these particular financial agencies frequently take over consumer installment sales contracts from merchants.
4. Limitations (\$10 per \$100 a year) on carrying charges in all installment sales contracts---previously uncontrolled and sometimes put at extortionate rates. There was also the requirement that each item of cost in an installment contract be separately listed, and a stipulation that contracts signed in blank are illegal.
5. Provision that any consumer may file a complaint with the State Banking Department, which administers the installment sales law, and that he may request a hearing if he believes the law has been violated.
6. Control over credit life insurance and other insurance sales made in connection with installment purchases.
7. Prohibition against the inclusion of wage assignments in installment sales contracts--an abuse that in some areas (jewelry selling at factory gates, for example) was fraudulently used to bind over buyers' wages in payments for goods when they (the buyers) thought they simply were signing sales slips.
8. Prohibition against "bait advertising," the practice of advertising at ridiculously low prices, goods which the merchant has no intention of selling. The device is used to gain entry by salesmen into homes or to lure customers into a store.

Appendix A - continued

9. Extension of the state's major labeling law, previously restricted to food, to cover all merchandise offered for sale.

But there also were failures in Dr. Campbell's legislative program---proposals denied by the legislature. These unpassed bills included:*

1. A bill to increase the maximum limit for "small claims" actions from \$100 to \$200, so that consumers could be given greater opportunity for redress in the courts without becoming involved in lengthy and expensive legal proceedings.

2. A bill to render unlawful various "dishonest, misleading, and deceptive sales practices" and to provide civil remedies to consumers, as well as triple damages if intentional fraud on the part of the seller was proved.

3. A bill to prohibit the use of new chemical additives in or on food unless such additives first were tested and found safe by a responsible state agency. (The last session of Congress passed a Federal chemical additives bill. New York still permits intrastate processors to use chemical additives without determining the safety of such materials and forces the burden of proof of the harmfulness of the additives on state regulatory agencies with their small staffs and limited resources.)

4. A bill to create a permanent state agency in the executive department, to be known as the Consumer Protective Division.

* These four unsuccessful pieces of legislation had not become laws as of 1958.

APPENDIX B.

CONSUMER LAWS PASSED IN CALIFORNIA 1961

Summary of those new consumer protection laws which were passed in the 1961 session of the California legislature. Source: Prepared by Office of Consumer Counsel, Sacramento, California.

SALES TAX REFORMS

Corrects long-standing abuses in sales tax collections by:

1. Establishing for the first time an official sales tax collection schedule.
2. Requiring all taxable items sold in one transaction to be totaled and the sales tax applied to the total, except where taxable and non-taxable items are sold in the same transaction; then the sales tax has to be applied to the total price of the taxable items only if the customer so requests (AB 1769 - Assemblyman Bert Delotto)

Guarantees that all the money you pay as sales tax reaches the State. Requires that if a retailer collects from a customer sales tax on a non-taxable item, the amount so collected shall be returned to the customer if possible or, if not, paid over to the State (AB 2518 - Assemblyman John T. Knox)

MEDICAL CARE COSTS AND INSURANCE

Exempts prescription drugs from the State sales tax, saving you 4¢ on each dollar you spend on prescription drugs (AB 60 - Assemblyman William Byron Rumford; co-author: Senator Hugo Fisher)

Requires each hospital, medical, or surgical insurance policy to contain on its face a complete list of benefits provided. Authorizes the State Insurance Commissioner to establish minimum benefits for such policies and to refuse approval of policies which do not meet the minimum (AB 571 - Assemblyman Ronald Brooks Cameron)

PROTECTION FOR THE HOME BUYER AND THE INVESTOR

Strengthens laws governing second trust deed financing, particularly for subdivisions. Curbs "10% second trust deed" operations. Clarifies the jurisdiction of the Real Estate Commissioner. Requires that each second trust deed be for a specific piece of property (AB 1344 - Assemblyman Richard T. Hanna)

Creates the Governor's Advisory Commission on Housing Problems (AB 814 - Assemblyman George E. Brown)

Appendix B - continued.

PROTECTION IN THE MARKET PLACE

Reinforces the State laws on unfair trade practices and anti-trust actions. The Attorney General has been conducting a vigorous campaign against unfair trade practices, and enactment of these bills gives him the necessary tools to protect consumers from unfair pricing practices (AB 890, 891, 892, 893, 894, 898 - Assemblyman Edwin Z'berg)

Regulates prepaid service, contracts of health and dance studios. Outlaws lifetime contracts. Requires payments to be completed within two years and services to be provided within seven years from the contract date (AB 506 - Assemblyman Edwin L. Z'berg)

Strengthens the 1959 Unruh Retail Credit Sales Act to curb referral sales and other credit sales abuses. The original Unruh Act gave California consumers their first protections when they buy on time, and this new law adds to these protections (AB 2319 - Assemblyman Jesse M. Unruh)

Puts auto warranties under the regulations of the Insurance Commissioner by defining as automobile insurance any contract of warranty or guaranty which promises service, maintenance, parts replacement, repair, money or any other indemnity for loss or damage to a motor vehicle or its parts (AB 1133 - Assemblyman Thomas M. Rees)

Increases the possible penalties for willfully forging or counterfeiting a trade mark (AB 3075 Assemblyman Charles W. Meyers)

Requires poultry meat sold in whole carcasses to be labelled with the name of any spoilage retardant compound added to the poultry to retard or limit spoilage (AB 2237 - Assemblyman James R. Mills)

HEALTH AND SAFETY

Enables the State Department of Public Health to pick up where the Federal Food and Drug Administration leaves off in safeguarding users of cosmetics in California against adulterated or misbranded cosmetics (SB 621 - Senator Fred S. Farr; co-author - Assemblyman John T. Knox)

Requires labels of hazardous household substances to contain the product ingredients and the most effective antidote in case the product is eaten or applied to the skin (AB 266 - Assemblyman Edwin L. Z'berg)

Put California laws regarding color additives in foods and drugs on a par with Federal regulations (SB 412, 413 - Senator Hugo M. Burns)

APPENDIX C.

A PROPOSED CONSUMER COUNCIL FOR HAWAII

1. The consumer council would be a body sponsored by the State of Hawaii and dedicated to the ideals of consumer self protection, representation, and education.
2. The council would be organized under the direction and coordination of a full time director of council activities. A recording and/or corresponding secretary would assist the director in carrying out the duties and responsibilities of the appointed officer. Money necessary to maintain the full time staff would be appropriated by the state and would be in the amount sufficient to attract a director of certain experience and reputation in the field of either Economic or Consumer Problems.
3. The council, itself, would be limited to membership not exceeding 25. These individuals would be carefully selected and would volunteer their services as a service to the community. Appropriations could well be available to members of the council, but these funds would be limited to those costs incurred in carrying out the duties assigned the council and would not be available in the form of salaries.
4. The membership could include:
 - (1) Manager of the Honolulu Better Business Bureau.
 - (2) The State Attorney (or Assistant Attorney) General.
 - (3) Other state officials with consumer responsibilities.
 - (4) A representative from the Honolulu Chamber of Commerce.
 - (5) Economists with specialization in consumer problems.
 - (6) A representative from Legal Aid Society.
 - (7) A representative from Labor.
 - (8) A representative from the Public Utilities Commission.
 - (9) University Home Economists with specialities e.g. textiles, furniture, food marketing, clothing, etc.
 - (10) Responsible, interested housewives of various economic segments of society.
5. Meetings would be held once a month. An agenda would be set up and published for circulation to members in advance of a meeting. Topics for discussion would be submitted in writing or would be heard at the close of each meeting. Guest speakers and specialists would be invited from time to time. A monthly report would be submitted to local newspapers and would serve to inform other citizens as to findings of the council.
6. The council could be administratively located at the University to ensure bipartisanship and complete freedom of thinking on consumer

Appendix C - continued

matters. Use of University facilities would be made available. Many interest groups would be represented in the body of the council, but the council would not represent any interest group other than the consumer in broad terms.

7. The director of consumer activities or a representative from the council's membership could attend legislative hearings. He would speak at such hearings and would convey to the legislators the considered opinion, on matters pertaining to the consumer, of the council.