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PUBLIC HEARING

before

SENATE LAW, PUBLIC SAFETY, AND DEFENSE COMMITTEE

on

SENATE BILL 1445

(Requires Item Pricing of Items or Goods Sold in Grocery Stores)

Held:
August 29, 1984
Burch Auditorium
Essex County College
Newark, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Frank X. Graves (Chairman)
Senator John P. Caufield
Senator Joseph Bubba

ALSO PRESENT:

Frances M. Marchetta, Research Assistant
Office of Legislative Services
Committee Aide, Senate Law, Public Safety & Defense

New Jersey State Library

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SENATE, No. 1445

STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1984

By Senator PALLONE

Referred to Committee on Law, Public Safety and Defense

AN ACT to require item pricing of certain consumer commodities in certain circumstances and amending P. L. 1973, c. 308 and supplementing P. L. 1960, c. 39 (C. 56:8-1 et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. (New section) As used in this act:

2 a. "Consumer commodity" means any merchandise, wares, arti-
3 cle, product, comestible or commodity of any kind or class sold,
4 attempted to be sold or offered for sale at retail at a food store or
5 grocery department of a general merchandise store for consumption
6 by individuals or for use by individuals for purposes of personal
7 care or in the performance of services rendered within the house-
8 hold, and which is consumed or expended in the course of such use.

8 b. "Director" means the Director of the Division of Consumer
9 Affairs in the Department of Law and Public Safety.

10 c. "Person" means any natural person, partnership, corporation
11 or other organization engaged in selling, attempting to sell or
12 offering for sale consumer commodities at retail from one or more
13 food stores or grocery departments of general merchandise stores
14 whose combined total floor area exceeds 4,000 square feet or whose
15 combined total annual gross receipts from the sale of consumer
16 commodities in the preceding year exceed \$2,000,000.00.

1 2. (New section) It shall be an unlawful practice for any person
2 to sell, attempt to sell or offer for sale at retail any consumer
3 commodity, except as specifically exempted in accordance with
4 section 3 of this act, unless the selling price shall be conspicuously,

Matter printed in italics thus is new matter.

5 clearly and plainly marked, stamped, tagged, or affixed in arabic
6 numbers on the consumer commodity.

1 3. (New section) The following consumer commodities need not
2 be item priced as required in section 2 of this act:

3 a. Identical items within a multi-item package that is properly
4 price marked;

5 b. Consumer commodities which are under three cubic inches in
6 size, weigh less than three ounces, and are priced under 30 cents,
7 provided that the sale price is clearly indicated to the consumer
8 by a conspicuous sign at the point where the consumer commodity
9 is offered for sale;

10 c. Items sold through a vending machine, provided that the
11 sale price is clearly indicated to the consumer by a conspicuous sign
12 at the point where the consumer commodity is offered for sale;

13 d. Food sold for consumption on the premises, provided that the
14 sale price is clearly indicated to the consumer by a conspicuous
15 sign at the point where the consumer commodity is offered for sale;

16 e. Snack foods such as cakes, gum, candies, chips and nuts offered
17 for sale in single packages and weighing five ounces or less, pro-
18 vided that the sale price is clearly indicated to the consumer by a
19 conspicuous sign at the point where the consumer commodity is
20 offered for sale;

21 f. Cigarettes, cigars, tobacco and tobacco products, provided that
22 the sale price is clearly indicated to the consumer by a conspicuous
23 sign at the point where the consumer commodity is offered for sale;

24 g. Milk, eggs and unpackaged bulk or fresh produce, provided
25 that the price is clearly indicated to the consumer by a conspicuous
26 sign at the point where the produce is offered for sale;

27 h. Consumer commodities offered for a period of not more than
28 seven days on sale in good faith at a price below the price such
29 commodities are usually sold for by the person, provided that the
30 sale price is clearly indicated to the consumer by a conspicuous
31 sign at the point where the consumer commodity is offered for
32 sale; or

33 i. Any consumer commodity which the director by regulation
34 exempts from complying with the provisions of this act.

1 4. (New section) a. Any person who violates any provision of
2 this act shall be subject to the applicable penalties and remedies
3 provided by P. L. 1960, c. 39 (C. 56:8-1 et seq.) except that the
4 director shall notify the offending person of the specific elements
5 of the violation and shall permit the person 30 days in which to
6 correct the violation. If the violation is corrected not later than
7 30 days after the notification, no penalty shall be imposed.

8 For purposes of this act, failure to have a clearly readable price
 9 indicated on 12 identical items of the same consumer commodity
 10 shall be considered a violation of this act; except, however, that
 11 improper item pricing caused by unintentional technical error
 12 shall not constitute a violation.

13 b. Each additional group of 12 identical units not item priced or
 14 improperly priced shall constitute a violation.

15 c. Each group of less than 12 identical units not item priced or
 16 improperly priced shall constitute a violation if the group is dis-
 17 played alone.

18 d. Each day a violation is continued shall constitute a separate
 19 violation.

1 5. (New section) The director may promulgate rules and regu-
 2 lations necessary to effectuate the purposes of this act.

1 6. Section 1 of P. L. 1973, c. 308 (C. 56:8-2.5) is amended to
 2 read as follows:

3 1. It shall be an unlawful practice for any person to sell, attempt
 4 to sell or offer for sale any merchandise at retail unless the total
 5 selling price of such merchandise is plainly marked by a stamp,
 6 tag, label or sign either affixed to the merchandise or located at
 7 the point where the merchandise is offered for sale; *except as*
 8 *otherwise provided by P. L. , c. (C.) (now pending*
 9 *before the Legislature as Senate Bill No. 1445 of 1984.)*

1 7. This act shall take effect on the ninetieth day following
 2 enactment.

STATEMENT

As the use of laser scanning devices at checkout counters of grocery stores has increased and the use of individual price markings on items sold in grocery stores has decreased, it has become increasingly difficult for consumers to check the totals of their food bills. Although scanners are very accurate, the prices entered in the scanner's computer are not necessarily those advertised, reflected in the unit price disclosures or marked on the items.

This bill requires item pricing of items or goods sold in grocery stores, with certain exceptions, to protect consumers. Item pricing in these circumstances provides indispensable consumer information.

SENATOR FRANK X. GRAVES, JR.(Chairman): The public hearing is now open. We will now take testimony on Senate Bill 1445, for the 18th time. Senator, where did we leave off the last time?

SENATOR FRANK PALLONE: I want to thank Senator Graves for having this public hearing, and coming down here with the other two Senators, Senator Caufield and Senator Bubba. This is an extraordinary opportunity, and we appreciate your letting us air all our different views on this bill. I know we have had discussion on this subject, and people have wanted to comment on it, but they haven't had the opportunity to do so thus far. So, thank you once again.

Just briefly, I want to say that the bill is a response, really, to the advent of scanners and scanner policy within the State. A survey done by the Division of Consumer Affairs last year estimates that as of the end of last year, there were over 100 supermarkets in the State of New Jersey that switched to scanning devices, and in those supermarkets less than 30 percent of the items were individually priced.

The concern, therefore, is that with the advent of, and the increasing option to install scanning devices in supermarkets in the State, less and less items are individually item priced. The concern we have with this is that without the opportunity to have individual items priced, it is very difficult for the consumer, when going through the check-out counter and looking up at the scanner, to check the price of each item, or to know whether or not that price is accurate without having the opportunity to see it on the individual can or package.

The Division of Consumer Affairs did a study which estimated that the problem with scanners is, because of the lack of item pricing, they were costing the consumers in this State about \$13 million a year. On the average, 27 cents of every \$100 spent represented an overcharge to the consumers, and the only way to correct the situation was to require, or mandate, item pricing.

Actually, you asked me the question, "Where were we the last time?" and if I remember the last time, at the last Committee session, Jim Barry, who is here today — he is the next speaker — indicated that he wanted to make certain amendments that would tighten up the

bill, eliminate some exemptions, add other exemptions, and elucidate on some statements regarding the tendency for violations and how to proceed with those. Also, and I think most importantly, the exemption for sale items should be eliminated because we have found through the survey that many mistakes are found on the sale items, and we would like to take out the provision that exempts sale items.

I will let him go into the details regarding the amendments. I just wanted to reiterate that I do support those amendments. I think they will improve the bill. I guess there will probably be more comments about that, so I will just stop here and say thank you again for letting us speak on this matter. I know there are a number of people here who would like to address the bill and the amendments.

SENATOR GRAVES: Commissioner?

COMMISSIONER JAMES BARRY: Thank you, Mr. Chairman and members of the Committee. I will make very brief comments today because I was given an opportunity after the last Committee meeting to go into more detail on some of the points we hope to raise concerning the various amendments that we are very happy to have before the Senate.

I wanted to restate my position that item pricing for New Jersey's consumers is a very important subject and one that has been talked about for many months by a number of people. The Division of Consumer Affairs conducted surveys. The local Office of Consumer Affairs has also conducted surveys in order to get the opinion of the public: "Is item pricing desirable? Do consumers use item pricing? Do they want it? Do they want to see it continued?" The answers have consistently been, "Yes, we use it, we like it, and we want it."

We recently -- in the past two weeks -- conducted another survey to determine to what extent item pricing is being used currently, and to what extent item pricing is being used properly. Those who chose not to use item pricing, or to be locked into a requirement to have item pricing, suggest that we can rely entirely on the shelf price. The shelf price is generally what we call the unit price label, which is supposed to be on the shelf of the product.

We surveyed 24 supermarkets in 10 counties. Twenty-four hundred items were surveyed to determine how many of those items were

properly marked. The vast majority of those items are item priced. The cans of soup had the price on the item. The other products are marked individually. Unfortunately, 135 of those items had no unit price label, which they are required to have. The shelf price was not properly affixed. Certainly, we were concerned about that. For 90 years the Division has considered, to some extent at least, compliance with the unit price regulation to be an obligation that would be policed essentially by the industry. That is something that was discussed back in early 1980/1981, and it is something that has to go on, to continue. We have not gone out and vigorously cited supermarkets for their lack of pricing on a regular basis. However, we have enforced unit pricing, and we will continue to do that.

I mention this requirement to you to show that currently item pricing is being used. For as long as we can remember, it was used by the food industry and it was needed by the food industry. They had to price the items so the individual checker could check the customers out as they went through the line. Now, an increased number of scanners is being considered essential to the food industry, but item pricing is nonetheless still important, and to many people it is considered to be essential for the shopper.

So, we are here asking the Legislature not to do anything that is drastic today, and that they do not consider a radical change. We are not asking the Legislature to do something that will set the industry on its ears. We are simply asking the Legislature to recognize that the consumer in New Jersey desires item pricing. They would like to see it continued. They don't want to see anything new. They don't want to see some strange change, and they are not asking the Legislature to react to the pricing. Right now, most stores are using item pricing. We only ask that the Legislature agree with many of our New Jersey residents — many of whom are here today — that it is desirable to continue item pricing. We only ask that you allow that practice to continue.

I have nothing further to add at this point. I would much rather remand any time I have left to me, to all those others who have appeared here today.

SENATOR GRAVES: Okay, before you leave the stand, Commissioner, I would like to ask Senator Caufield if he has any questions.

SENATOR CAUFIELD: Yes, just one. You said you want to allow the practice to continue?

COMMISSIONER BARRY: By that I mean we are concerned that five or ten years from now, when more and more stores are scanner-equipped, there will be absolutely no need for item pricing as far as the stores are concerned. That position can be stated by the food industry today. Those stores that are currently scanner equipped will very readily say, "We don't need item pricing." There is no reason to prevent that chain, or that store, to simply pull all prices off the items and no longer provide a price, letting the consumer go through the check-out line trying to remember the price on the shelf, and not really having too much concern about the consumer's need to have the price to refer to at a later date.

So, by adopting, or passing and supporting this legislation, we will simply be saying to the industry that they will only be required to continue the practice they are now engaged in, the practice of item pricing, so that two, three, or four years down the line they won't simply say, "We are going to stop pricing items," and not offer item pricing any longer.

SENATOR CAUFIELD: As far as scanners are concerned, do you see them as a help or a hindrance to the shopper?

COMMISSIONER BARRY: I think scanners are a help to the shopper, because if they do nothing else, they do speed the consumer through the check-out line and that is very important.

I think I mentioned at our last meeting that consumers in our recent national survey said that the one thing they want more than anything else is to get off that check-out line faster, and scanners do that for them. So, we do believe that while there are some errors attributed to scanning, those issues can be addressed. Perhaps the benefits of scanning are presently here. We see it as a benefit to the consumer and certainly to the industry.

SENATOR GRAVES: Thank you. Senator Bubba?

SENATOR CAUFIELD: Do you feel that the advent of scanners will eliminate item pricing?

COMMISSIONER BARRY: I don't believe I said it will eliminate it; I think there is a potential for--

SENATOR BUBBA: (interrupting) That's what I thought you said. I just wanted to make that clear.

SENATOR GRAVES: Okay. Who wants to be next? Who is next to testify, Fran?

MRS. MARCHETTA: The National Alliance of Supermarket Shoppers, Martin Sloan and Lorraine Yoder.

SENATOR GRAVES: If you have been at the previous hearings, please do not repeat what has already been said. Please introduce yourself, sir.

MARTIN SLOANE: I am Martin Sloane. I am the Chairman of the National Alliance of Supermarket Shoppers, which is a nonprofit consumer group that, among other things, presently serves as the consultant to the New York State Attorney General on the \$8 million milk anti-trust case.

I just concluded a project where I was showing public assistance families how to save money at the supermarket, and we are, as I said, a nonprofit group that is very much concerned with item pricing.

This is one of the few issues-- I am familiar with the supermarket industry. I run a syndicated newspaper column that appears in about 400 daily newspapers across the United States, which are read by approximately 20 million people. I have been studying this item pricing issue for about seven years.

This is one of the few issues where consumers are diametrically opposed to the supermarket industry. I think it was back in 1978, the supermarket industry itself financed a study -- it is now called the Michigan State Study -- and it is a study they wish they never had any part of, because that study showed the first concrete evidence we have that when you take the prices off the boxes, the bottles, and the cans, consumers become less price sensitive.

If I pick up a package of frozen peas in aisle two and throw them into my basket, when I get to aisle four and I see canned peas, I

look at the price and try to compare the frozen peas with the canned peas, and I have no way of remembering, out of the 40 items in my basket, how much the frozen peas were. I can't comparison shop effectively.

We have already heard about the problems at the cash register. You can't spot the mistakes if the items don't have prices. So, not to repeat what I said, but consumers have a vested interest; they have a stake in seeing that prices continue to be put on the items.

Now, let's look at the supermarket industry's side. Why are they arguing so hard against consumers? The typical supermarket can save \$30 thousand a year by taking the prices off all their items, and if one assumes that the typical supermarket has six thousand customers, they would save \$5 per year, per customer. Now, I have yet to meet a consumer who is shopping every week in that store who would say to me, "For \$5 a year take the prices off; I don't care."

Now, why don't the supermarkets, especially the chains -- the big chains that are here today -- listen to this plea? It is very simple. If you have 100 stores in New Jersey and you can save \$30 thousand a store, you can add \$3 million to your profits. So, the arithmetic from their point of view is very simple. For \$3 million they are not willing to listen to the consumers who can't read the shelf labels, can't see the shelf labels, and who will become detrimentally impacted if we don't price the items.

So, there is the conflict that we see today, and this is the reason why we ask that you-- Normally you have item pricing. For years consumers have been protected. There is no reason why the residents of the State of New Jersey should not be similarly protected.

SENATOR GRAVES: Are there any questions from the Committee? Senator Bubba?

SENATOR BUBBA: Mr. Sloan, you represent that one of the main reasons why the supermarkets do not item price is the fact that they would save a considerable amount of money; in your terms it is \$30 thousand a year.

MR. SLOANE: Yes. That is the nature of the impact, the economic impact it would have.

SENATOR BUBBA: What does a scanner device cost?

MR. SLOANE: Senator, scanners came in when Wiganins in Rochester, New York first put them in, I guess in 1978. At that time it cost maybe \$700 thousand to equip a store.

SENATOR BUBBA: What does it cost today?

MR. SLOANE: Each year that has gone down.

SENATOR BUBBA: What does it cost today?

MR. SLOANE: Today we are talking about \$150 thousand, and next year it will probably cost \$125 thousand to equip a store. Now, we have no fight with the scanners, sir.

SENATOR BUBBA: Well, you do have a fight with scanners. What you would like to see is item pricing becoming a law in the State of New Jersey. We know it is not a law now.

MR. SLOANE: That's right, sir.

SENATOR BUBBA: We would like it to become a law and the criteria you are using is that the scanner is a device which causes a process where the consumer does not gain his full right, or that in some way the supermarkets make undue profits which they really shouldn't make.

I have done some investigation with respect to the cost of the scanning devices. Scanning devices in an average store would cost in the neighborhood of \$225 thousand. So, using your analogy of \$30 thousand and \$5 cost per shopper, if there were 6,000 shoppers at a given location they would save \$5 per shopper, but it would cost them, in effect, \$38 per shopper to put a scanning device in. If I had stock in that company and that criteria was the criteria that would make or break them, I might say to them that they are bad businessmen.

MR. SLOANE: Senator, I ask you to consider that among the benefits the supermarket chain realizes from scanning, ripping the prices off the items is only a small benefit, a benefit that represents, in total cost to the industry, less than \$1 out of \$5 in the benefits they gain.

When you take a warehouse, a huge warehouse that supplies these stores—

SENATOR BUBBA: (interrupting) I am aware of that.

MR. SLOANE: (continuing) Through the use of scanners you can reduce your inventory because of better purchasing.

SENATOR BUBBA: All right, I am aware of that.

MR. SLOANE: It isn't the dollars they save. If you are trying to say to me that this law is going to prevent stores from having scanners, I would say to you, sir, "no way in the world."

SENATOR BUBBA: No, I am not saying that at all. What I am saying to you is that you made a presentation and your presentation centered around a \$30 thousand cost factor. My comment to you was that it cost \$225 thousand to install. My point, very succinctly, was going to be that they are not putting the scanners into supermarkets in order to eliminate item pricing. That is not the purpose of the supermarkets—

MR. SLOANE: (interrupts and attempts to make a retort)

SENATOR BUBBA: Let me finish. (continuing) —because they cannot effectively save enough money to support the cost of the scanner. The real purpose of the scanner is inventory control. It is management control. It is the computer base for a high technology operation.

So, item pricing does not directly relate to the use or the non-use of scanners.

MR. SLOANE: Absolutely.

SENATOR BUBBA: But the thrust has been, up to this point, that the scanners will eliminate item pricing, and I think that is a foolish premise. I will tell you why. As I know the shoppers, at least in my district and certainly in the State of New Jersey, particularly with respect to coupons, I marvel at the way consumers walk into a store. They are their own computer. They have coupons by alphabetical order and by date. They are meticulous in the way they shop. If item pricing is a criteria equal to coupons, or similar to coupons, and if there are two stores, one with item pricing and one without item pricing, I can assure you that those people who spend that much time to clip coupons and select the store they are going to shop in, because they can save money, would then select the store that has the item pricing.

That is the message I am trying to give to you and the three people — three — who called me at my office from Wayne. Each of those people who called me from Wayne said to me: "I understand you are trying to repeal the item pricing law in the State of New Jersey." They didn't use the word repeal, but that is what they were saying. I said to these people, "Do you understand that there is no law in New Jersey that requires item pricing?" Each of them said to me, "Gee, I didn't know that; I thought there was a law." Well, there isn't, and without a law the supermarkets have item priced, and the supermarkets have unit priced.

MR. SLOANE: Senator, you are talking about the vote with your feet argument.

SENATOR BUBBA: A what?

MR. SLOANE: That is what we call the vote with their feet argument.

SENATOR BUBBA: Who are you talking about, the people who called me?

MR. SLOANE: No. What you are saying is that consumers will—

SENATOR BUBBA: (interrupting) You are talking about me?

MR. SLOANE: (continuing) —go to another store that has item pricing. You are saying they can vote with their feet.

In St. Louis when the two largest chains installed scanners, six months later they removed all the prices from the items in half the supermarkets in St. Louis.

SENATOR BUBBA: Yes, but please, we are in New Jersey.

MR. SLOANE: Well, consumers have no choice. There is no choice. As a practical matter, the consumers go to stores that are most convenient to them. In New Jersey, especially in the central areas, they walk to the nearest store. They have no choice whatsoever.

SENATOR BUBBA: Consumers don't shop on the basis of coupons, they shop on the basis of convenience, is that what you are saying?

MR. SLOANE: Well, a substantial number of shoppers will shop at a store that is convenient.

SENATOR BUBBA: Well, I think the word "substantial" should be replaced by the word "some." I think some shoppers shop on the basis of convenience. I think the overwhelming majority of shoppers shop on the basis of price; shop on the basis of double coupons; shop on the basis of coupons; and shop on the basis of a store that might carry certain products. So, I think your analogies are bad.

MR. SLOANE: If they, for instance, eliminated item pricing in the store and they saved \$30 thousand, wouldn't they be able to, with that \$30 thousand, undercut the competition?

SENATOR BUBBA: I think that the supermarkets' job — what they are placed on this earth for — is to make money, and the way they price their items, and create their discounts, and create their coupons, and offer double coupons, is to entice people to come into their stores. If they save \$30 on some operation and they wanted customers to come into their stores, they would translate that, I am sure, to the shelves. That is the nature of business.

I don't think the supermarkets get up in the morning— I seem to be taking, for benefit of the rest of the audience, a supermarket position. I am not employed by a supermarket. I don't know any supermarkets. I have visited them as a result of this bill in order to find out a little bit more about their operation. All I am talking about is pure logic. They are in the business to make money, and they are going to draw customers into their place any way they can. If that means that I am going to sell milk in my supermarket three cents cheaper than Frank Graves is going to sell milk for in his supermarket, and if I can beat Frank Graves out of all the milk business, I am going to do it. That is what I am in business for.

MR. SLOANE: Senator, one question — pure logic, absolutely pure logic — when supermarket "A" installs the scanners and it removes the prices and saves the \$30 thousand, in order for supermarket "B" to compete with them, isn't it pure logic that they are going to have to do the same exact thing? Isn't that pure logic?

SENATOR BUBBA: No, I don't think it is because supermarket "B" must come up with \$225 in order to buy the scanner. I might say I will take \$30 less in profit to compete with them, if it doesn't cost me \$225 thousand up front.

MR. SLOANE: Yes, but--

SENATOR GRAVES: (interrupting) Okay. That's it. I think we have all learned something. Senator Caufield?

SENATOR CAUFIELD: Do you think item pricing is important at the register?

MR. SLOANE: Sir, it is very important at the register. When that checker is moving those boxes across that electronic register, if you do not have anything to compare those numbers that are on that little screen with--

SENATOR CAUFIELD: (interrupting) What are you comparing? When a can is going through, or whatever, what are you comparing?

MR. SLOANE: Okay. You can see, on the top of the can, a little paper label which says 79 cents.

SENATOR CAUFIELD: Really?

MR. SLOANE: Yes.

SENATOR CAUFIELD: I am not much of a shopper, but when I have been in the supermarkets and I have watched things going through that scanner, it just appears to me that it is virtually impossible to check.

MR. SLOANE: Well, when you are putting the items on the counter, you can notice the prices on the items. But, even more than that, sir, when you get home and you line your items up on the counter in your kitchen, you can hold that tape up in your hand and go down that list. Sir, what are you looking at? There is a can of peaches. The tape says, peaches, 29 cents, but what is on that can to tell you whether the 29 cents is really 29 cents or not? You are blind, totally blind.

SENATOR CAUFIELD: Well, the question was about being at the register.

MR. SLOANE: But, sir, once again it is a dimensional tool, because people tell me everyday, people who are in this situation, that they are shopping with a blindfold on.

SENATOR CAUFIELD: And when they lay those items down when they go home do they find errors?

(audience response is yes)

MR. SLOANE: Sir, yes. It happens. Yes.

SENATOR CAUFIELD: I assume they find them both ways, right?
I assume they find errors in their favor and some against them?

MR. SLOANE: Well--

SENATOR CAUFIELD: And, when they find them in their favor,
they return it?

MR. SLOANE: The worst problem with that kind of computer
error occurs when a supermarket puts something on sale and the sale
price is never really entered in. That is the most common error, and,
sir, that is an error against the consumer. I don't think there is
anybody-- You know, that is what the studies show; that is the most
common error, when one buys something and he or she didn't get the sale
price that was promised. In the newspaper it said from 39 cents to
29 cents, but they never keyed it in, and it is 39 cents when you go
home with it.

SENATOR CAUFIELD: That makes sense. All right, thank you.

MR. SLOANE: Thank you, sir.

SENATOR GRAVES: Please call the next witness.

MRS. MARCHETTA: Is anyone here from the Essex County
Executive Office?

SENATOR GRAVES: Peter Shapiro's office.

MRS. MARCHETTA: Peter Shapiro's office? (affirmative
response)

SENATOR GRAVES: Please come forward.

ROBERT RUSSO: Good morning.

SENATOR GRAVES: Again, let me caution those who will be
testifying not to be repetitious.

MR. RUSSO: Senator, I am Bob Russo, the Essex County
Consumer Affairs Director. Peter Shapiro was not able to make it
today, so I am going to speak both for myself and for him. In our
county of Essex we have numerous senior citizens. Many seniors are
here today and they can speak for themselves. Our major concern in the
Essex County Consumer Office is the complaints we get from seniors who
say they cannot shop in a comparison way without prices on the items.
When they get to that check-out counter, Senator, they have the problem
you spoke about -- about being able to see and compare what is going up

on the scanner with what is on the can, or the jar, or the box. When they get home and try to check this out -- because every penny counts for the seniors particularly -- the problem will be their inability to compare the item with the check-out list.

This is a serious issue in our office. I can only speak from our experience. We have a number of seniors who call us. We have a special grant from the Division on Aging, which helped us to hire one individual who happens to be 65 years old and who works. She is here today. Her name is Esther Churnofski. Esther and her partner, both on the grant, help senior citizens with these complaints. The complaints are numerous today. They are not complaints that we put into a file and investigate; they are just verbal complaints. People call up and say, "Esther or Bob, can you help us with supermarket "A" or "B", and can you tell them that they have to do something about these prices?" So, they are crying now for help from us, and we want to communicate to you that this is an issue which affects the senior citizens especially, but it also affects young couples in Essex county -- and I am sure in other counties. They have to have prices on items as they shop, and this is something that we hear everyday from them.

We just want to make clear to you that our County Office is concerned that this bill gets passed; that you vote it out of Committee; and that you support item pricing in New Jersey. Thank you.

SENATOR GRAVES: Thank you.

MRS. MARCHETTA: Frank Herbert.

SENATOR GRAVES: Good afternoon, Senator.

FRANCIS X. HERBERT: Good afternoon, Senator. Senators, thank you very much for having this hearing so close to our homes. As you know, other people have come a long way to be here. I know you have a heavy agenda.

SENATOR GRAVES: After a survey with Bubba, Caufield, and Graves, we feel the same way.

MR. HERBERT: Okay. I am Francis X. Herbert. I am the Director of the Office of Consumer Affairs in Bergen County.

Senators, in looking at this bill before you, there are four reasons why I think the bill should be supported.

First of all, consumers want item pricing.

Second, item pricing will be a protection for the consumer.

Third, item pricing will reduce consumer frustration and confusion, not only at the point of selection of the item, but at the exit point.

Four, scanners are -- and they certainly should be -- uncannily accurate, but they are only as accurate as the information programmed into them by a human agent.

Consumers want item pricing for many reasons. We did a survey through the Office of Consumer Affairs in Morris County, which participated in a poll of shoppers selected at random throughout northern New Jersey.

The question was: "On the food items you purchase, do you want to see the prices on all the items?" Ninety-five percent of the consumers said "yes."

"Do you think item prices on individual items should be required by law in New Jersey?" Seventy-eight percent of the consumers said "yes."

I believe the survey is available to the Senators through the Office of Consumers Affairs in Morris County, so I won't read the whole thing.

I shop at the local Shop Rite in my area. One has scanners; the other one does not. I have a dog, and I buy Alpo Dog Food beef chunks for 47¢ in the can. My Shop Rite in Ramsey had that item on sale for 39¢ a can, so I went to buy a case. On the shelf -- that store does not have scanners, by the way -- the items had 47¢ on them. Each individual item was priced 47¢. I went to the manager; he excused himself and changed the price. Now, if I had been in a scanner store, I would have said, "Here is my Alpo Dog Food. There is no price on the item." Not until I started to exit would the scanner then say 47¢, the regular price; and, unless I was alert, I would pay 47¢ a can for that dog food.

In the second store, I was shopping in a store with a scanner. They should have the shelf price near the item. Senator Bubba talks about people with coupons. I have a wallet full of coupons myself, right here. I had a coupon for Seven Up -- 30¢ off. Well,

Seven Up sells for anywhere from 99¢ to \$1.49 for a two-liter bottle. I found the aisle for soda, looked at the Seven Up bottle, and there was no item price. I looked for the shelf price, and there was no shelf price. I didn't know whether that bottle was \$1.49, \$1.09, or what. Do you know what I did? I didn't buy it, and the stores should realize that. I was not going to wait until I reached the scanner to wait for the scanning of that price. Item pricing would have helped me there, and certainly would have reduced my frustration and confusion.

I think the supermarkets ought to realize that if they have item pricing it will help them in the long run. I have spoken to other consumers. If they are not certain of the price at the point of selection, they usually do not select it.

Now, there seems to be a rumor and some of you might be getting mad, that somehow we are opposed to scanners. Nothing could be further from the truth. The benefits of scanners have already been gone over, and certainly we, as consumers, love the scanners because we get out of the store faster.

So, if you are receiving mail that this bill is opposing the implementation and installation of scanners, please be assured that we as consumer protection agents absolutely like the scanners. We would love to work not only with the scanners but also with item pricing.

Gentlemen, your vote to release this bill, and your support tssured that we, as consumer protection agents, absolutely like the scanners. We would love to work not only with the scanners but also with item pricing.

Gentlemen, your vote to release this bill, and your support for it on the floor of the Senate, would be a benefit to all your constituents, young and old, and a step forward for consumer rights in New Jersey.

Mr. Chairman, I solicit your support for the bill.

SENATOR GRAVES: Senator Bubba?

SENATOR BUBBA: Yes. Thank you, Senator Herbert, for your comments. Your presentation was very concise and to the point.

I would like to relate an experience to you. I shop for items other than foodstuff, so I go to Rickels or Channel, and I can

recall a number of different times— I don't really look at the brochure. I just go in and buy the item I want. I can recall a number of times when I picked up an item, one that may have been marked \$49 — as was the case with a vacuum cleaner unit I bought — but when I got to the check-out counter, it was \$35 — which I was very happy about. But, I said to myself, "Why would they want to tell me?" It is really not their magnificent fervor to advise me on how to save money; it happens that that is the way the machine works. Once a sale is placed into the computer it is going to come up and you are going to be charged the lower price.

That is, in my opinion, how scanners stop the problem you had. I went through the process of finding out how the scanning device works and what the computer backup is. When the sale item gets to the store, it is punched into the computer. No matter what the price on the shelf is, the computer is going to give you the sale price. That is their procedure. That is the way things work.

(speaking to audience) Whoever shouted out, if you want to speak, come to the microphone.

That is the way the procedure works. With that in mind, I believe that, generally speaking, the wide majority of people are going to be better served if this operation continues the way it is going.

Now, you indicated that you did not buy the item, and that is an exact repeat of a woman who was here from the Attorney General's office last week, or the last time we met, which I think is great. That is exactly what my point is. You are not going to shop at a store that you feel is not giving you a fair deal, and you are not going to shop at a store where you feel you are going to be taken advantage of.

I think that is the issue. Why would we want to burden an industry, whose profit margins are extremely low, with regulations that will, in effect, cost us more money? That is my point.

MR. HERBERT: Senator, that is a lovely store and I love shopping in it. The last thing in the world I wanted to do was to get that man into trouble. There is a law on the books that he is supposed to have a shelf price. Shelf pricing can be changed by vandals, or, as often happens — this happened to me when I purchased a jar of olives

once — the item can be picked up by another shopper and placed in the wrong section of the shopping area. You look at the shelf price and it says 45 cents, so you pick it up. There is no price on it, and not until you reach the scanner do you realize a mistake has been made.

It takes careful shopping. Many of our senior citizens cannot read the tickets on the shelf. They are really hard to decipher unless you have very good eyes. Many of them are kind of short, naturally, and it is the supermarket's problem to put those on the shelf in as concise a manner as possible.

But, the last thing in the world the consumers want is to run down to the Office of Consumer Protection and cite some store owner because some kid has come along and taken the price off the shelf. Item pricing protects the consumer against that.

May I say too, regarding your experience, that it is a good experience to have an item marked higher and find out that the scanner charges a lower price. In Jim Barry's office, his survey shows that 63 percent of the errors were against the consumer, but the other remaining 33 percent were in favor of the consumer. So, the scanner does make errors against the consumer -- the majority are against the consumer — but it also makes errors in favor of the consumer.

SENATOR GRAVES: Senator Caufield?

SENATOR CAUFIELD: Frank, you make it very difficult for me not to go along 100 percent with your thinking because I know that your philosophy and my thinking, if they are not identical, are very close to it. During your term in the Senate, I don't think we ever voted on opposite sides of any bill, and sometimes we were only two of the four or five who were voting against those bills; so, you do make it very difficult for me.

Frank, on the fourth reason you gave — you did run through four reasons — your scanners are not infallible. Of course, they are not, but is there anything infallible about the guy who looks into a book and sets up a stamp, setting it up correctly and making sure he hits the right cans?

MR. HERBERT: You are absolutely correct there, Senator. That is a problem for management, I would think. But, at least the

consumer, at the point of selection, can pick up the can and see it, and if there is an error, I am sure management will try to work it out.

We had a case where a woman selected a six-pack of Coca-Cola, and it was mismarked. When it went through the scanner, the scanner charged her a higher price. She had selected, I think, four six-packs. I guess that would be a case. The manager, seeing that the error was made by one of his clerks, charged her that price for only one, and she was upset. He settled it amicably. But, you are absolutely correct.

Our problem is that quite often it is not until you get home, look at the tape, and compare it with your item that you realize a mistake was made. A lot of people, for 13 cents or 9 cents or 10 cents, are not going to go back to the store. But, I think the point was made and made well by previous speakers that the amount of money involved here -- 10 cents here and 10 cents there -- can get them for an awful lot of money.

SENATOR CAUFIELD: Yes, it means a lot to certain people, particularly senior citizens.

MR. HERBERT: Of course.

SENATOR CAUFIELD: You said before when the question was asked, "Do you want item pricing?" that practically everybody said yes. I think that is almost a loaded question. If you asked the senior citizen, "Do you want item pricing, but it is going to cost you somewhere in the area of \$5 a year?" do you think that would have made a difference in the answer?

MR. HERBERT: I don't know, and perhaps you are right. Perhaps the question should not have been couched in those terms. I think NASS, in their communication with the consumers -- as the speaker has indicated -- should ask "for the convenience involved," and I think a lot of people might say "yes" to that question also, Senator.

SENATOR CAUFIELD: All right. Thank you.

SENATOR GRAVES: Thank you.

MRS. MARCHETTA: Barbara McConnell.

BARBARA MCCONNELL: Senator Graves, members of the Law & Public Safety Committee, my name is Barbara McConnell, president of the New Jersey

Food Council. We represent supermarkets, convenience stores, food manufacturing companies and others engaged in the retail food industry of New Jersey.

We appreciate the opportunity to comment on S-1445, mandatory item pricing legislation, sponsored by Senator Pallone.

The New Jersey Food Council is opposed to this legislation for the following reasons:

There is no valid, established need for this additional layer of regulation;

It would deter the growth of scanning in New Jersey, which is both beneficial to the consumer and the food industry;

Current pricing practices of our industry and the price awareness available to the consumers make this legislation unnecessary;

It would increase costs to our industry and the consumer;

And, it would only exacerbate the issue of price discrepancy.

In addition, the issue of mandatory item pricing does not seem to be a burning, priority issue in the nation since only seven states presently have such laws.

As presently written, S-1445 is one of the most restrictive in the nation, and the amendments that have been suggested are even more restrictive and onerous.

This legislation has been before this Committee at least five times and I have yet to hear any compelling reason why this legislation is necessary.

The proponents have stated on one hand their support of scanners and yet have called them into question and alarmed the consumer on the other hand.

The proponents have talked about the Attorney General's investigation through the Division of Consumer Affairs into scanners, overcharges, etc., but at no time have they shown how the study was conducted, or whether their findings were compared against the accuracy and efficiency of traditional cash register systems, nor have they proven with any logic that mandatory item pricing legislation would be the solution to human errors, which result in an overcharge or undercharge, known as price discrepancy to the consumer.

Jim Barry testified just a few minutes ago that as a result of a survey they did of 2400 items, he admitted that the vast majority of these items were priced in the grocery store. He also said that 135 items did not have a unit price sign. I suggest to you that this legislation would do nothing to correct the unit pricing problem, but rather it addresses enforcement in an area where our industry makes every effort to keep the unit pricing signs in order.

Also, Senator Frank Herbert has told you about the survey that was conducted in Morris County, asking the consumers, "Do you want item pricing?" Well, I would suggest if you asked that question of any individual, the answer would be yes because every consumer wants price information. But, had they asked at what price do you want item pricing on every item in the supermarket, those results might have been different. In fact, those results remind me of the country preacher who said to his congregation, "How many of you want to go to heaven?" and everybody raised their hand; then he said, "How many of you want to die?" and nobody raised his hand. So, depending on how you ask the question will determine the results you get.

Proponents of this bill have stated, on the one hand, that they support scanners and yet, they have called them into question and have alarmed the consumer on the other hand.

The proponents have talked about the Attorney General's investigation through the Division of Consumer Affairs on the scanners overcharging, etc., but at no time have they shown how the study was conducted or whether their findings were compared against the accuracy and efficiency of the traditional cash register system, nor have they proven with any logic that mandatory item pricing legislation would be the solution to the few errors which result in an overcharge or an undercharge known as price discrepancy to the consumer.

For instance, the items cited for price discrepancy by the Director of Consumer Affairs in the spring issue of Consumer Update were items that were already marked with a price, or were items such as sale items, frozen foods, and fresh produce, which traditionally have not been item priced in food stores and would be exempt under the language of this legislation.

So I ask you, would this legislation solve the issue of price discrepancy? Absolutely not; it would only aggravate it. Our industry is aware that human error exists. We neither condone it nor excuse it, but, rather, we work diligently to eliminate those errors of human inaccuracy, and to implement pricing integrity programs that always give the consumer the advantage.

The computerized check-out system -- known as scanners -- used in supermarkets, whereby a beam of light "reads" the vertical bar lines, or Universal Product Code -- UPC --and with the help of an in-store computer translates them into an item and price, has been shown to be a faster, more accurate, and more efficient system than the conventional cash register method. It has enabled the industry to increase their productivity and reduce supermarket operating costs through better inventory control, product availability, stock movement, and more accurate collection of sales tax on taxable items.

In addition, scanning aids the consumer by speeding up the check-out process, providing more accurate check-outs, providing a detailed record of purchases, and allowing the supermarket to tailor its product mix and services for its particular customers.

The first scanners were introduced in 1974. By the beginning of 1980, more than 2000 stores, nationwide, had converted to this system. In New Jersey there are approximately 127 scanning stores, with several more scheduled to go on line in the near future.

One of the original concepts of the system was to remove individually marked prices from products in order to save costs. However, this has not happened nationwide, nor has it happened on any wide-scale basis in New Jersey. There have only been certain items in a food store that did not bear individual prices, but which always displayed shelf or sign prices. This practice should be allowed to continue if the marketplace permits because the competitive nature of our industry will serve to protect the consumer. Requiring item pricing by law will deprive the consumer of the full benefit of the savings attributable to scanning technology, and will discourage additional stores from introducing scanning into their operations.

The real issue involved is whether the consumer has adequate price information upon which to base his shopping decisions. The only rationale for passage of a mandatory price law is that it is the only way for the consumer to make a valid, in-store comparison. This is certainly not the case in New Jersey.

Under the Consumer Fraud Act, the prices of all merchandise must be clearly visible to the consumer, either on item, the shelf, or on display near the product. This regulatory measure ensures that the customer has accurate pricing information for every product on display. In addition, New Jersey has a unit pricing law which provides the name of the product, size, and unit price, which is displayed in clear, easy-to-read graphics. In our opinion, this information is actually of more benefit in price comparison to the shopper than individual price stickers alone.

In addition, a significant advantage the scanner provides is that at the time of purchase the customer will receive a detailed register tape. The printout will indicate the name of the item purchased, the size of the item, and the price paid. The typed printout will enable a customer to compare prices that have been paid, not just over the life span of a can on the consumer's shelf, but instead over the time period which these detailed printouts are retained.

Given the highly competitive nature of the food industry, adverse customer reaction to elimination of prices will cause prices to be marked on products. After all, if prices are removed and customers are not attracted by lower prices or otherwise satisfied with the system, they will undoubtedly switch to competitors. Just as Senator Frank Herbert did when there was no price on the soft drink, he simply didn't buy it.

A change as small as two to three percent of customers would have a devastating effect on a high-volume, low-profit oriented operation.

Since there has been no proof that supermarkets are tearing through through their stores, taking prices off every item in New Jersey, I find this legislation unnecessary. Since the consumer has,

under existing law as well as voluntary store policy, adequate price information, I see no need for another layer of regulatory burden through this bill. Since it has been shown in study after study that scanning is more accurate, efficient, and cost-effective than traditional systems, it would be counterproductive to discourage the growth of this technology by passage of this legislation. Since the issue of price discrepancy or human error can only be aggravated by this type of legislation, I urge this Committee to oppose S-1445.

If there is a question and a concern about the efficiency and integrity of supermarket technology, perhaps this Committee would like to ask our State University -- Rutgers -- to conduct a study along these lines to determine whether scanners improve efficiency of service to the consumer, to determine whether scanners are more or less accurate than the traditional check-out methods, and whether the prices recorded by the scanner are the same as the price marked on the shelf, the display, or the product.

This Committee has certainly been fair and deliberate in dealing with this legislation, and I commend you for not rushing to judgment without weighing all of the facts. Certainly those facts should not be limited to a study or investigation conducted in the main by proponents of a predetermined point of view. If legislation is to be enacted in the name of consumer protection, we first determine its need, its cost, and whether or not the solution fits the problem. It is our position that there is no compelling need for S-1445 and that the solution does not fit the problem.

Thank you, Mr. Chairman and members of the Committee.

SENATOR GRAVES: Okay. It is exactly twenty-five after twelve, or thereabouts. We are going to take a five-minute break. We are not going to leave the auditorium. After we finish with Barbara, we will take a break and then each side will have 15 minutes to give input. There are only three members present and one of us has to go somewhere, so it will automatically end at that time. Therefore, in fairness to both sides, get together and talk about who your main people will be to give testimony, and then select one or two of the speakers to give testimony so that repetition doesn't keep going on.

So, after the two Senators are finished asking questions, we take a five-minute break within the auditorium, then we will come back and each side can take 15 minutes.

Senator Caufield.

SENATOR CAUFIELD: Barbara, one question that occurs to me right away is, if most of the supermarkets are already doing item pricing then why are you opposed to it being mandatory?

MS. McCONNELL: For several reasons. One, we think this kind of policy will place a regulatory burden on us. For instance, if there is a human error and an investigator finds one item that does not have an item price on it, under the Consumer Fraud Act, we could technically be fined up to \$2,000 for one item, and \$5,000 for the second item.

Also, we would like to have discretion on certain items, such as sale items or those items that traditionally have never been priced. We would like to continue that policy if our customers permit and the marketplace allows.

SENATOR CAUFIELD: Do you think that the scanners are going to be more and more prevalent? There is no question in my mind about that. Are they going to lead to the elimination of unit pricing?

MS. McCONNELL: We have seen scanners in this country for about ten years now, and as I have testified, there has been no evidence of price removal in this country on a widespread basis.

There are a couple of supermarket chains in the Washington/Baltimore area that have removed the prices, but I don't see any evidence of this in New Jersey because the consumer wants the price information.

SENATOR CAUFIELD: Yes. I think that is the one thing that disturbs me. To get back to Frank Herbert. He gets home now and he has a big list, but if the items aren't priced, how does he do a valid comparison? There is no way, that I can see.

I am not concerned about the register, because I really don't believe people can check at the register. I have watched those items going by, and you would have to be pretty sharp in order to check there. But, you can't check when you get home.

MS. McCONNELL: Well, to get back to your question regarding what is going to happen, why enact legislation today based upon a projection of what might happen in the future?

Director Jim Barry testified that in all of the supermarkets the vast majority of items are item priced. So, what are we talking about? Where is the need, where is the proof, and where is the logic to this legislation at this particular time?

SENATOR CAUFIELD: I guess what you are saying is that if we find out that item pricing does disappear, you can always make a new law.

MS. McCONNELL: Yes, if the consumer is not getting the proper information. Senator, I don't think you will find that need because under existing law we are required to provide that information already. It is just logic that item pricing will continue in this State and across the nation.

SENATOR CAUFIELD: Thank you.

MS. McCONNEL: Senator Graves?

SENATOR GRAVES: Yes?

MS. McCONNELL: With all due respect to you, you said each side would be allowed 15 minutes?

SENATOR GRAVES: Yes.

MS. McCONNELL: We think the proponents of this legislation had a great deal of time. We have three speakers and I think that it is very important that their message is presented.

SENATOR GRAVES: Each one has a different message?

MS. McCONNELL: Yes.

SENATOR GRAVES: Okay. We will take a five-minute break and then we will come back.

MS. McCONNELL: Thank you.

(Five Minute Break)

AFTER BREAK:

SENATOR GRAVES: Please be seated. Okay, Commissioner Barry, I understand you are the first part of their 15 minutes.

COMMISSIONER BARRY: I believe we are going to have a number of speakers who will come forward and comment very briefly on item pricing and unit pricing.

I would like to clarify one point. I think I made a statement that could have confused the issue. I said, during my comments, that item pricing is generally used in the stores in New Jersey today, and that is correct. Stores are using item pricing. However, if you recount every store in the State, there are some that are currently cutting back on the number of items they are marking individually. So, while we can say today that most stores are item pricing, we can also look at a chain, or a group of stores, that, for various reasons -- generally for their own purposes -- have decided they will reduce the number of items which will be marked individually.

Our concern is that more and more stores will be reducing the number of items that are marked individually and the great advantage that consumers have -- the great advantage that item pricing presents -- will be removed and they will no longer have the benefit of item pricing, at least they will not have it without the support and passage of this important piece of consumer legislation.

So, I appreciate your letting me come back to clarify that one point. I will leave now and allow the others to speak. Thank you very much.

SENATOR GRAVES: Please introduce yourself, sir.

ROBERT CAMPANELLI: I am Bob Campanelli. I am representing the Attorney General. The Attorney General, as you know from the last meeting, is very much in favor of item pricing. I will make my remarks brief, as we have agreed to.

I would first like to point out that this entire issue boils down to whether or not the option not to item price should exist in the future. That seems to be where we are heading, because right now they have the option to unit price or to put the price on the item.

I think at this point we should ask the question, if most stores are already item pricing at this moment, and we are told they will continue to do so, then why is the option that necessary?

As Senator Caufield has already pointed out, why oppose item pricing when they are doing it already? I assume the reason is to keep that option available for sometime in the future. It is the Attorney General's position that we should preclude them from having that option in the future in order to protect the public, because it appears to be a common sense issue. All consumers are entitled to have the items they purchase clearly marked for their own protection. They should be able to ensure, to their own satisfaction, that they have not been overcharged, or that they have been charged the proper price. I think that is the essence of this entire argument.

I won't take up any more of your time. I will go on record and yield to the next speaker.

SENATOR GRAVES: Senator Bubba has a question for you. Just hold on one second.

SENATOR BUBBA: You just stated that right now the supermarkets have the option to unit price or item price, is that correct?

MR. CAMPANELLI: Oh, I am sorry, unit pricing is mandatory.

SENATOR BUBBA: Well, that's what you said.

SENATOR GRAVES: Good afternoon. Please introduce yourself.

EVELYN FRANK: I am Evelyn Frank, and I am President and Director of the Senior Citizens Council of Union County, New Jersey, Inc., organized in 1971, with representation from approximately fifty Union County clubs. I am reading this fast to give you more time, okay? The 1980 census shows that there are 94,309 in our over-60 population.

When scanners began to be installed, we had a presentation made before our Council. The advantages of the scanner were extolled and we were informed that the future would bring about no need for item pricing. We voiced our dissatisfaction at this prospect and have, since that time, kept a watch on the supermarkets for item pricing.

We have continued to recognize that the elimination of prices would be a disservice to all consumers. From time to time, we restated our stand and, in 1981, at our annual convention, we endorsed a resolution insisting that items in the supermarket be clearly priced and began, in a quiet campaign, to seek signatures on a petition. We

have, to date, obtained over 3,000 signatures and with a little effort can obtain many, many more.

New York State has enacted a law mandating item pricing. New York residents, when interviewed as to their opinion of lower costs versus price markings, made it known they wanted price markings. When we ask our senior citizens if they would prefer no pricing to save money, all say they want pricing to continue.

Supermarket shopping is not an easy chore; it is a chore that becomes more difficult for people living on fixed, middle, and low income. Prices seem to have a way of escalating continuously. The Federal government has had an active consumer program to teach people to be wise comparison shoppers. We have an educational program to teach people to be wise comparison shoppers. We have an educational program to explain unit pricing.

Comparison shopping becomes impossible if there are no price markings. To begin with, I would have to assume that the can is on the right shelf. I pick up the can, put it in my basket, and move down the aisle. I see another brand and make note of the cost, and I forget the cost of the first can because I stop to say "hello." I have to go back to where the can probably was. Trial and error. How many times will this happen? And what happens when I finally get to the generic brand? All my shopping skills will not make me a wise consumer.

When I get to the check-out, I certainly will have to rely on the accuracy of the scanner when I have no way to point out any errors. We will not criticize the scanners at this time. They serve a very good purpose for inventory control. When I get home I no longer can compare the purchase with my last purchase of a few months ago. We will absolutely be at the mercy of the supermarkets.

If supermarkets want to be responsive to the customers, let them keep item pricing and accept the law mandating pricings. If supermarkets say they will listen to the customer without a law mandating it, they could have demonstrated this by not eliminating prices. But, unfortunately, this does not seem to be true. Slowly, prices are disappearing. Again and again I have had to go through the

store to the manager's desk and ask for a price. I find I am picking up items I usually might not buy because there is a price on it and there is no price on my usual purchase.

There seems to be some discussion praising the scanner — that the scanner makes fewer mistakes than other systems. The consumer is not advocating the removal of scanners but the mandating of item pricing for all the reasons stated above.

Though the Senior Citizens Council is actively seeking passage of a law, and we know how important comparison shopping is for fixed income senior citizens, we know that families with young growing children need to comparison shop even more than the elderly in order to stretch their dollar. This bill will benefit young families more than the older population, and the retirees have the time to give this consumer concern its full attention.

The Council supports the amendment proposed by James J. Barry, Jr., Director, New Jersey Division of Consumer Affairs, not to exempt eggs and milk from item pricings. We see no reason why eggs and milk should be exempt. Milk and eggs are very important food purchases.

The Council supports the proposed amendment not to exempt sale items. Sale items can be more meaningful for comparison if prices are visible on the item. Most of the complaints about the scanner were on sale priced items.

The present Section 4, relating to violations and penalties, does not seem to have the capability to achieve any constructive method of dealing with the problem. The amendment offered by Mr. Barry might be one of the solutions.

To summarize, the Senior Citizens' Council of Union County has, since the inception of scanners, fought to maintain item pricing. Attached — and I gave you all a copy — is our resolution, dated May 14, 1981; copies of news articles appearing in our Union County Senior News, including a new resolution, dated May 3, 1984; and, we will produce the signatures on our petitions, begun in 1981, upon request.

We regret the short notice for this hearing; we regret the time of day; and we regret the summer season. Notice in the newspaper three days before is not adequate notice for this hearing. We would hope there will be an evening hearing to enable working consumers to attend.

Thank you for this opportunity to testify.

SENATOR GRAVES: Please leave us a copy of that speech so everyone will get a chance to read it.

RENEE BORSTAD: Senators, my name is Renee Borstad, and I traveled three hours — I am a representative of CMCA, which is the County and Municipal Consumer Agency of New Jersey — to support this legislation.

Very briefly, we do not oppose scanners. The main concern we have is that the price is being removed from the items. I can verify that in South Jersey we are beginning to get scanners and the prices are beginning to be removed.

I would like to clarify something. Item pricing is not for comparison; it is for the consumer's knowledge as to how much budgetary money will be expended. On the other hand, unit pricing is for comparison and review. Unit pricing is used strictly for the consumer to make a choice between which product to buy, and at what price.

I would like to point out that CMCA is concerned with the fact that choice might be eliminated, and today the consumer has to have as much choice as possible.

Item pricing is already being used. Continuing its use will still be essential to the community and to the marketplace. Thank you.

CAROL BLADE: We are moving so fast, we are like Keystone cops. My name is Carol Blade. I am the Director of Consumer Affairs for Morris County. I would just like to say a couple of things. Our advisory committee for the county of Morris, which is made up of business, education, civic and Hispanic representatives, and other minorities, has voted unanimously in favor of unit pricing and item pricing legislation. They also recommend that unit pricing be reviewed to update the current need.

I would like to counter some of the statements that Ms. McConnell made. Let me first say that item pricing will not deter the

growth of scanners. Scanners, as stated in all the professional magazines and publications for the food market, are a benefit to the industry, and they will not be removed.

Current pricing has been reduced, as shown in any kind of survey. I will read one statement to you. "If the store you shop in has a scanner, do they have prices on all items or prices on most items?" Some will answer, "They have no prices at all."

Ten percent of the people we have interviewed have said they do not have prices at all, and six percent said that there are prices on only some of the items. So, we are already showing the removal of prices.

Ms. McConnell also stated that there are not many states that have passed pricing legislation. As a member of the National Association of Consumer Issues Administrators, and a Board member, I will combat that by saying that seven states currently have item pricing legislation. There are 18 states where it is now pending, and there are many municipalities that require item pricing.

Ms. McConnell also stated that it would increase the cost. A statement from the Food Council several months ago said that -- and I will read this to you -- "By eliminating item pricing, the retailer can reduce labor cost by about 23 percent of sales." Senator, that comes down to three cents on every \$100 spent in the grocery store.

I am a two-person family, and I spend about \$4,000 a year in the grocery store. Now, I am not an outlandish shopper, but I am willing to spend three cents out of every \$100 to maintain item pricing. Thank you.

EDWARD J. MCGOLDRICK: My name is Edward McGoldrick and I am from the County of Gloucester. I have been working for 12 months on this issue. It involves me, it involves my family, and it involves all the senior citizens in my county.

One thing I want to point out is, it was mentioned here that if the consumer doesn't like what is going on in one store, he can go to another. Well, that is not true in my county. Most of the seniors in my county are subject to shuttle bus transportation to one store.

There is no alternative if they don't go to that store, unless they can walk.

I have letters in support of this bill from the Woodbury Chapter of the American Association of Retired Persons, Senator Raymond Zane, Senator Walter Rand, and the Senate Majority Whip, William Gormley. Thank you.

SENATOR GRAVES: Would you leave those letters with us for the record, please?

MR. MCGOLDRICK: Certainly, sir, you may have the originals.

SALLY MOLLIKA: Gentlemen, I am Sally Mollica, Director of the Monmouth County Consumer Affairs Office. The Monmouth County Consumer Affairs Office is in favor of this legislation. I have before me 180 letters, handwritten letters, that people wrote to our office. I will give you copies of these letters. I have the originals.

I also have a letter from the President of the Monmouth County Association for Senior Citizens. He is president of 20,000 members. They are in favor of the legislation.

I also have a letter from Foodarama Supermarkets, sent to our office, to one of our investigators: "Thank you for bringing the complaint from this consumer to our attention. She is absolutely right. The consumer should be able to compare the prices of items in the supermarket. We do indeed have unit price labels for sugar at our Foodarama" -- and such and such." "They are now on all shelves and they are visible."

I have another letter from Wake Fern Food Corporation to our office. "In an attempt to iron out all the "bugs" in our check-out scanning program, I would like to get some feedback about the problems consumers are encountering with our supermarket."

The supermarkets themselves are saying they are a problem. I have records; I have documents; and I have cases against them.

In a recent issue of the New Jersey Food Council -- I have a copy right here -- it states that "...the committee tabled the bill for the fourth time but support for this is mounting. Yes, it is mounting because the public is only now becoming aware that they may lose a 'freedom' that they assumed was theirs, that is, the freedom to know

what they are paying for. That is why support is mounting." The public is not fully aware that item pricing is being eliminated. It is a very slow process. It is happening in our stores. We see it. We are aware of it.

Senator Caufield told me at the last meeting that the public wasn't speaking out directly to you. Well, when you read the letters, there are some comments to the Legislators. I will not read them; they are here with the outline. Please read them. Thank you.

JAMES HOLCOMBE My name is James Holcombe and I am speaking for the New Jersey State Legislative Committee of AARP, representing the 650,000 members of the American Association of Retired Persons in New Jersey.

The Association and the State Legislative Committee is strongly in favor of the concept of unit pricing as embodied in Senate Bill 1445.

You have heard most of the reasons why the AARP is in favor of this legislation. I would just like to add another reason. The tags put on the shelf for unit pricing do show a price, but have you looked lately at the size of them? Have you looked at the lettering describing the item and the weight-marking that is on that tag? The print is so small — 1/8 inch — that even persons with normal eyesight have trouble reading it. In addition, the abbreviations used make it almost impossible to determine to which item it refers. Try to identify this one: KR COON EXSH WHT ST, or perhaps DORN LOCHOL INT MH. One of them turns out to be an imitation cheese and the other turns out to be a sharp cheese, if you can figure that one out.

Having gotten through this identification process, other problems arise that we talked about before: The items are not placed over the particular unit price. One has to get down on his or her knees to see the bottom shelf, and sometimes that is covered by the sugar bags.

In general, this bill will be of inestimable benefit to the elderly and to all consumers, and I urge the Committee to release it for a floor vote in the Senate, with a recommendation for approval. Thank you for listening to me today. I will give you a copy of my written testimony, which will go into more detail.

SENATOR GRAVES: Thank you.

JAMES KRESS: My name is Jim Kress. I am Chairman of Consumer Affairs for the United Auto Workers in Linden. I represent 6,000 auto workers in the State of New Jersey.

Something has been pointed out: The main thing in favor of the scanners is getting past the check-out counter quicker, except when it takes you an extra half hour to shop. I am losing \$5 everytime I go shopping.

Also, there are 10,000 workers who can't shop anywhere because they no longer have a job. I think that should be a consideration also.

ROBERT WUNDERLE: I am Bob Wunderle. I am Vice President of Pathmark, and I am appearing in opposition to S-1445.

I would like to clarify the record regarding some of the statements that were made. A statement was made that a study was conducted which found that less than three percent of the items in the supermarkets of New Jersey are item priced. There is no such study to prove any such result.

Secondly, statements were made that there are stores in New Jersey that have eliminated item pricing. I challenge anybody, anywhere, to find me a store that has eliminated item pricing -- all item pricing in New Jersey. It is indeed true that the majority of the stores that have scanners in this State have eliminated some item pricing. It is also true that the vast majority of stores in the State without scanners also have items without item pricing; specifically, the majority of stores in the State have never, ever, item priced either milk or eggs.

I think it was also brought out that a Consumer Affairs study was done last year which showed that consumers were being overcharged some \$3 million a year due to scanner error.

I would like to make two observations: Number one, among specific items that were studied in the study of error -- there were 24 items out of a possible 1600, as I recall -- they specifically mentioned the tampering of particular coupons. Coupons are not scanned; therefore, they have nothing to do with scanning.

Number two, it dealt with produce items. Produce items are individually price marked and are not on the scanner; therefore, they have nothing to do with the scanner.

Number three, it mentioned an item which was a "buy one, get one free item." Frankly, I don't know how they recognized receipts on a "buy one, get one free item." The item is rung up at the regular price and there is a credit draft at the end of the tape. I didn't see the tape; I don't know how that was accounted for.

The most important issue is that the study never, ever addressed the issue of overcharges versus undercharges. It alleges to look at undercharges. It looks at discrepancies between the marked price and the scanner price. The issue of discrepancy versus correct pricing is something I will get into in some detail later.

In the recent survey that Mr. Barry talked about, he made the statement that the vast majority of items had prices on them. I would remind you that this is done with no law in existence in the State.

I would also say to you that he said unit price labels, based upon his survey in many, many stores, were not properly affixed. I am very concerned about the Committee taking very seriously qualitative statements like "unit prices were not properly affixed."

I have a copy of a task force inspection sheet which was conducted last week in our store. It was a two hour survey. The question is: "Additional observations relating to inspection," and it says, "Numerous unit price labels missing; items not in line." Now, I don't know what numerous means. Is it two? Is it twenty? Or, is it two hundred? Based upon the statements, I am led to believe it is quite a large number.

We are also led to believe that the most common error that is found concerns the sale items. That is also categorically untrue. The most common error that is found is with an off-sale item, when the puller, for example, on Monday morning, or Sunday morning, does not reprice the item that went off sale on Saturday back to the regular price.

Please understand that we have documentation on what the errors are. We know what they are. We have seen them. We know the sources of the errors.

On the issue of the great public interest in this legislation, I certainly am not about to quibble with the fact that many people in this room feel very strongly about the legislation. They feel very strongly about item pricing. To put that in some context, I will tell you that in the 13 months ending in July of this year, out of a total of 7,000 customer complaints our company received on a variety of issues, we received 116 complaints on price discrepancies — that is with approximately 90 stores scanned — and we received 86 compliments. Now, that works out to be approximately three complaints per week, and three compliments every two weeks.

Now, I would like to get to what I believe are five basic questions that are dealt with concerning the S-1445 legislation. One is, "Do shelf prices, as mandated by the Consumer Protection Act" — unit pricing — "give customers adequate information to make an informed purchase?" As was mentioned here earlier, in New Jersey, unit pricing was made a law on the premise that unit pricing was the only accurate method of price comparison, on a price-per-measure basis, not individual item pricing. One of the red herrings consistently thrown out is, without item pricing consumers can't make a comparison between canned vegetables and frozen vegetables. With item pricing they can't make an informed comparison either. Number one, canned vegetables typically come in a 15 ounce size; frozen vegetables come in a 10-1/2 ounce size. If one wants to make an informed decision, he needs the unit price, which clearly can't be carried back and forth between departments.

The issue of "you can't compare prices when you get home," -- if the item is not item priced, that is totally true; there is no way you can do that. I submit to you that in a conventional store, without scanners, you couldn't do it anyhow. Go back and look at one of your conventional receipt tapes with all the little numbers on it, with the GR and TX and F, and everything else that is on it, and you tell me how the customers can take that tape home and compare it with the item. There are a thousand and one hypothetical situations that can't be realized without item pricing, and they are all valid. The point is, they are also hypothetical.

The other issue that I would like to deal with is the red herring that the consumer without item pricing can't compare the price of an item with his last purchase. I submit to you that it is irrelevant to compare the price of an item he or she bought with one already sitting on the shelf, unless the item already sitting on the shelf has been stamped with a date. What does it really tell you when you find that the item you brought home is 10 cents more than the item on your shelf, if you don't know whether that item on the shelf was, a, on sale, b, bought last week, or, c, perhaps bought a year ago?

I think the second question is, do consumers demand item pricing as we are led to believe here this morning? I can only say to you, apparently not. The facts of the situation are, apparently not. I don't think it is really necessary to deal with a hypothetical situation when we can deal with reality. A chain food store in Washington, D.C. has operated 132 stores for three years without item pricing. Another supermarket has operated 60 stores for five years without item pricing. And, we don't even have to go that far away. Right across the River in Pennsylvania, in Philadelphia, Genotti's Supermarket has operated 14 stores for two years without item pricing. I don't see any indication — there is no indication in any of those areas — of supermarket fraud, consumer insurrection, or public disapproval.

The question I would raise is, what is the great impetus here? Why is there a great impetus here to enact this legislation? If price removal is so awful, why, in those areas where they have had price removal for up to five years, is there no insurrection? I really don't understand why the public accepts reality a lot better than the hypothetical concerns we are supposed to address.

I think the more serious issue here is the polling. Indeed, the Department of Consumer Affairs' survey on pricing accuracy was based on the premise that item pricing ensures that the consumer is being charged the correct price. The thing that we have found constant is that customers don't want to be overcharged, obviously. They really don't want to be undercharged either because that creates a question about the integrity of the whole pricing system. What consumers really

want is correct pricing. So, let's look at what the correct pricing process is.

In a scanner system, at headquarters level, a price book is generated. From that price book, the prices are electronically transmitted to a store, to the in-store computer and into a scanner file. Out of that same price book we also generate these labels, which I heard earlier were smaller than price labels and illegible. But the point is, these prices and these prices (indicating comparison between book and label) come out of the same list. There is no human error here.

Now, the alternative we are talking about is individual price marking, which is this gun (indicating marking gun) with an adjustment dial to check the price. This gun is used in a conventional supermarket 350,000 times a week. The average store item prices 350,000 items per week. Now consider, what is the potential for error with electronic transmission for each price in this manual to a common price list, versus an individual reading a price book, properly setting the price gun, and indeed stamping the right amount? It is not a question of inadequate employees. It is not a question of poorly-trained employees. It is not a question of poorly-motivated employees. It is simply a fact that employees are human beings and they are subject to the same frailties that I am, and perhaps some of you are. We tend to make errors.

The net result of this legislation is that you are going to legislate the most error-prone procedure we have in the entire price marking, price communicating system, and that is this human individual pricing.

The errors that were found in the Commissioner of Consumer Affairs's study, answer that question regarding the price in the scanner and the price that was marked. They said that if there was a difference between the price on the item and the price on the tape, the one, by definition, on the item was the correct price; therefore, the difference between the two means whether there was an undercharge or an overcharge.

I was very happy to hear that Senator Caufield shops, because everyone else who has spoken here didn't sound like a shopper to me.

I have been shopping for more than 70 years, and I know how I shop. I comparison shop every store on Sunday with the newspaper, and I use coupons too. I don't wait until I get into the supermarket to see what the price is or to see what I am going to buy.

Senator Herbert said he threw a package of peas in the cart. He should buy the frozen food last and not check with the can of peas.

There has been a great deal of stress put on senior citizens. Believe me, if I had to start to look at all those prices, I would not only need my glasses, but I would need a magnifying glass.

You know, at some time some wise person said, "If it is not broken, don't fix it." I think the supermarkets should police themselves.

I enjoy what the consumer advocates are doing. I like to know they are there. I am a volunteer for Deborah Heart and Lung Hospital, and I work hard. I hope to heavens I never need it, and I feel the same way about the supermarkets. They are doing a very good job.

But, this thing about going into the supermarket and looking down at the sugar and at all of these prices, we don't shop that way. Although I like safety in different things — the food acts and so on — I think we do not need any more government on our backs.

Right now, I am glad to be here because I don't have a telephone at home. I have no dial tone. If I lift up the receiver, it keeps ringing. I think we should learn about what happens from Ma Bell. Ma Bell, in her wisdom, wouldn't be laying 11,000 people off, as we read in the paper last night.

I have never been overcharged. I have nothing with me today. I have no notes with me. I have nothing for you to read. But, I do have my knowledge, and this thing about comparing a can of peaches — when you get home, you know what you bought and when you put it in the cupboard you don't even care what you paid for it. It is finished. It is over.

You do not buy just by looking at those cans. There may be a special and you may pick that up. You buy from the throwaways, from the things that are mailed to you, and particularly from the ads in the paper. We are all pretty smart. We don't just go and buy. We buy from sales and we think that is enough. Thank you very much.

SENATOR GRAVES: Thank you. I think one of the Senators wants to ask you something.

SENATOR BUBBA: Before you leave, Marie, I work for the Telephone Company. Give me your telephone number and I will make sure you get a repairman.

MRS. CUDDY: They are coming between 8 A.M. and 5 P.M.

SENATOR GRAVES: No, you missed the whole point there. He is trying to get your telephone number. (laughter) And, if you do give it to him, he will have to share it with Caufield and me. Why should he be the only person to have your private number?

MRS. CUDDY: Well, I will be happy to oblige. (laughter)

SENATOR GRAVES: Okay, ladies and gentlemen, the comments now will be from Senators only. I think we can very safely say we have been to a lot of hearings and meetings and we have had a lot of discussions. This is about the fourth meeting we have had on this particular subject, even though it does not seem to be earth-shattering with constituency desire, one way or the other. I don't think anyone -- and the people from Paterson aren't bashful -- has stopped me on the street and said to me, "Senator, or Mayor, I have a feeling on this one." No one, absolutely no one, has come forward and said anything, other than some mail that has been presented by either of the two sides.

I think I can safely say that I have received more input today toward making a decision on this piece of legislation than I have ever had on any piece of legislation. I think the input that has come to me has made me decide that my vote is going to be based on what I thought at first was not going to count as much as it does from what I have learned by listening to all the sides of the question here today. We are not going to take a vote today because it is a public hearing, number one, and, number two, the transcript must first be made

available to our other two Senators, Senator Bassano and Senator Contillo. I would imagine it will be at least a month before it is ready.

We have learned that our agenda is extremely light as far as meetings are concerned. I was notified yesterday — and I guess the other Senators were also — that we are only going to meet about twice in September and twice in October, so don't look for a vote on this until some time in October. In fairness, because it was a public hearing, that is the route that has to be taken. We must wait for everybody to get a copy of what the public said at the hearing.

I also want to give anybody who has not had the opportunity to speak, and who had something prepared to say, the opportunity to leave that prepared statement with us because it will be put into the transcript, which will be given to us.

The Senators will now have a chance to sum up, or ask any questions they want to ask. Senator Caufield.

SENATOR CAUFIELD: Thank you, Mr. Chairman. I will be very brief. Obviously, this is a matter of great concern, or we wouldn't have so many consumer groups and representatives of the industry here today.

I have to agree with Senator Graves, despite the fact that Bob Russo told me about complaints they received at the Department of Consumer Affairs, I must tell you that I haven't received many complaints — very few. Maybe part of that is because of a different reason. Certainly, with the industry representatives here I want to say this: Maybe it is because in the City of Newark, which I represent, supermarkets are almost invisible. The big concern that we have is not item pricing, in my district and in Wynona Lipman's district, which are the two poorest districts in the State of New Jersey. We don't have supermarkets, or we have very few supermarkets, and we suffer from something that many of you don't suffer from. Our people have to get on buses. They have to see if they can bum a ride in a car with somebody. And, in many cases, after taking the bus and getting their bags together, they then have to take a cab back home, which defeats the very purpose they went to the supermarket for in the

first place. They have now spent more money than they should have spent.

So, I would just like to get a little special appeal into the members of the industry. I am certainly not faulting the industry; I understand the business reasons and some other reasons regarding why these things came about. However, I would hope that is a failing we can cure in the future. We have a very, very serious problem, where people can only go to a little grocery store, and where they pay prices which are not only not item priced, but are obviously much more expensive than they would have been if they were able to go to a Pathmark, or an A & P, or some other supermarket.

So, again, I am not putting down item pricing. Obviously, many consumer groups and senior citizen groups, etc., are very concerned about it, so therefore I share a concern about it. But, I must point out that in my city and in my district we do have a very serious problem. Believe me, my constituents would take some supermarkets, with or without item pricing. Thank you.

SENATOR GRAVES: Senator Bubba?

SENATOR CAUFIELD: I think I have made comments throughout the hearing and I will defer to you, Mr. Chairman.

SENATOR GRAVES: In conclusion, we want to thank the seniors and those associated with the consumer affairs divisions; and, on the State level, the Attorney General's office. I think that we heard a wide spectrum of some things we didn't even anticipate. As Senator Caufield has said, some of our inner-cities are being deprived of supermarkets, and I guess in my other role, as Mayor of the City of Paterson, I too have that particular problem. We would welcome supermarkets, regardless of item pricing or no item pricing.

I am not quite sure that either side has overwhelmingly put forward convincing arguments for or against this legislation. So, in fairness, I think there is going to be a lot more searching done on this. We are all able to leave here with a lot more knowledge of the intent of this legislation than we had two hours ago when we started this public hearing at 11:30.

But, yet, have enough compelling reasons been presented dramatically enough so that we can determine -- with a degree of necessity -- that the way we vote will be interpreted to be in the best interest of our constituency? That is the most important assessment we have to make. What we do, for or against, with or without this piece of legislation, what impact it is going to make, and how it will be interpreted so that it is in the best interest of our constituents, is something I am still a little adrift on. I look forward to searching the transcript when it is made available to us. I also suggest to you that we don't want to get hit with about 50 letters apiece, but I am sure each of us would like to get hit with one or two letters apiece, saying, "I thought of this after I left the hearing, and I think it is significant enough, Senator, to draw your attention to it."

So, thank you to both sides, and the hearing is now concluded.

(Hearing Concluded)

APPENDIX

SENIOR CITIZENS COUNCIL OF UNION COUNTY, N.J., INC.

R E S O L U T I O N

WHEREAS, food prices in the supermarkets are still spiralling upward, and

WHEREAS, retired persons, the disabled, and young families have difficulty in budgeting for their food and making ends meet, and

WHEREAS, comparison shopping is one way to fight inflation by shopping wisely, and

WHEREAS, there is a potential threat by the supermarkets to remove prices from items, and

WHEREAS, prices marked on supermarket items are needed to do comparison shopping, and also to check against the cash register for potential errors when paying,

NOW, THEREFORE, BE IT RESOLVED that the Senior Citizens Council of Union County, N.J., Inc. insists that all items in the supermarkets be clearly priced, and

BE IT FURTHER RESOLVED that petitions to this effect be signed and forwarded to the New Jersey Division of Consumer Affairs, and

BE IT FURTHER RESOLVED that the Council contact other groups to support this resolution.

Evelyn Frank
Evelyn Frank, President

Dated: May 14, 1981

New Jersey State Library

Union County SENIOR NEWS



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UNION, N.J.

Seniors petition to retain item pricing

A two-year drive to have the New Jersey legislature enact a law prohibiting supermarkets from removing prices from store items is reaching a climax under the impetus of the Senior Citizens Council of Union County.

The Council has been securing petitions to protest the re-

moval of prices and will continue to lobby for a bill. Many legislators have been approached to formulate a bill to help all consumers, particularly large families who have major marketing costs.

A survey taken by the state's Office of Consumer Protection tells a story of consumer losses

at the checkout counter. The survey found that 28 percent of the items on which the marking of pricing would be appropriate, in fact, were not marked. This does not include such items as fresh produce, frozen food and individual snack items on which item pricing may not be appropriate.

John Barry, division director, noted that the survey "found it nearly impossible for consumers to check the accuracy of the scanner register tapes unless the products are individually marked with prices. The scanner register tape may be detailed, but without item pricing

(Continued on Page 14)



Over 3,000 petition legislators to prohibit removal of item prices

(Continued from Page 1)

the consumer would have to remember the shelf price when checking accuracy at the checkout counter or at home."

More than 3,000 signatures collected by the Council seeking action to prohibit price removal have been turned over to Ellen Bloom, director of consumer affairs in Union County, for submission to the Consumer Affairs Advisory Committee. The

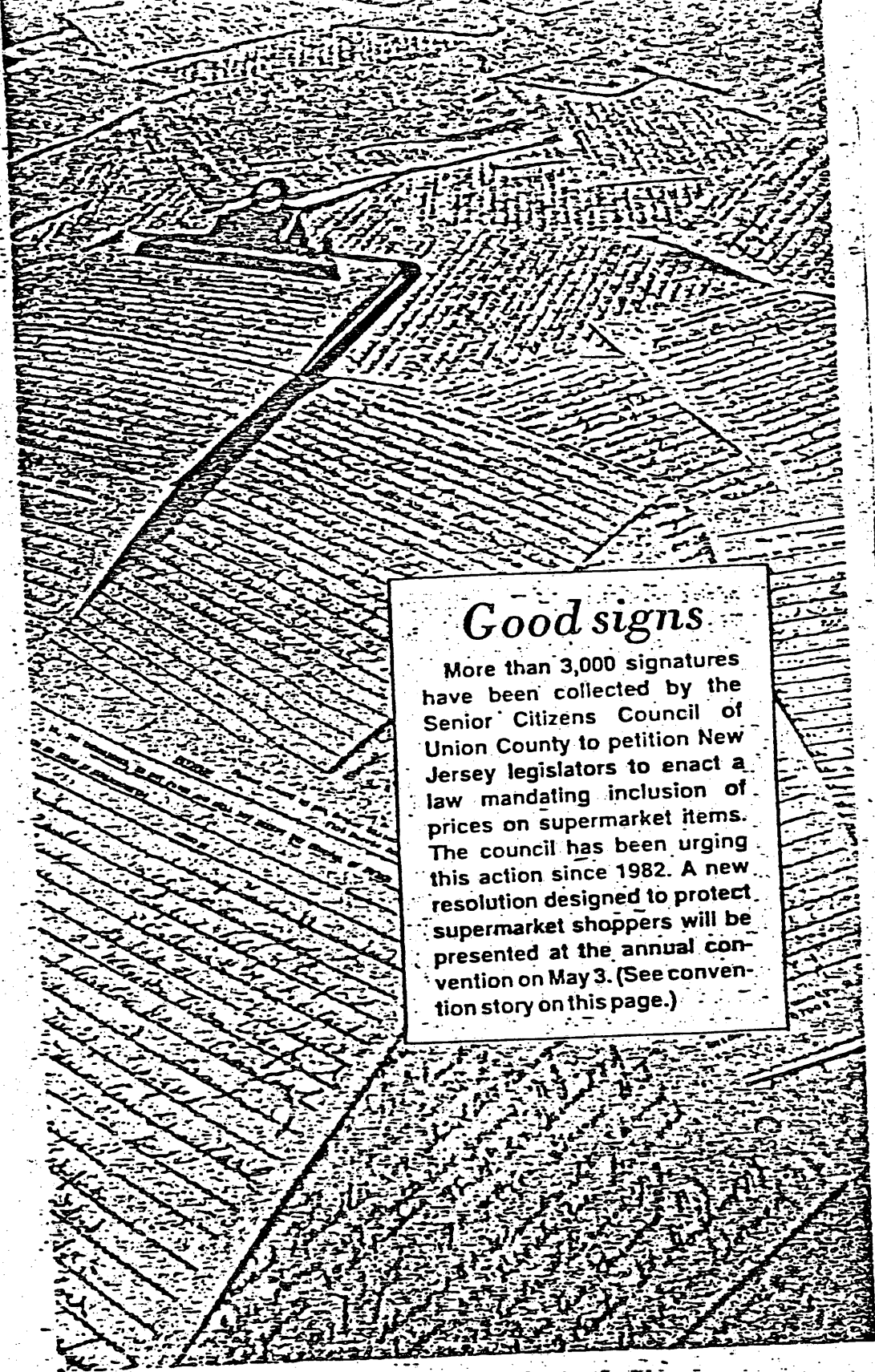
committee in turn, will present a resolution in favor of item pricing to the Union County Board of Freeholders. Bloom said presentation of the petitions was awaiting petition signing by members of the United Auto Workers.

Evelyn Frank, president, said at a recent council meeting that "Seniors are concerned that supermarkets, particularly those with scanners, would like to take advantage of the scanner and save a step by not having the price stickers on the items. Even if the supermarkets think it would save the consumer money in the marketplace, this would be a disservice for the comparison shopper.

"There is no way of remembering the cost when you are at the checkout counter and,

therefore, will have no way of making sure the scanner is accurate. Also, when you pick up an item, move down the aisle to compare with another brand, you would have to remember all the prices. And what happens if a careless shopper replaces an item on the wrong shelf?

"We are urging senior citizens not to buy anything that is not priced. There seems to be a trend today that many of the items are not priced, either through an error or by plan."



Good signs

More than 3,000 signatures have been collected by the Senior Citizens Council of Union County to petition New Jersey legislators to enact a law mandating inclusion of prices on supermarket items. The council has been urging this action since 1982. A new resolution designed to protect supermarket shoppers will be presented at the annual convention on May 3. (See convention story on this page.)

Resolutions to be considered at convention

LIFELINE

WHEREAS, the New Jersey Lifeline Utility Program now credits tenants with half the allowable credit to their electric bills and the other half to gas bills; and

WHEREAS, some tenants have much higher electric bills and very small gas bills which creates a low crediting to their gas bill,

NOW, THEREFORE BE IT RESOLVED that a study be made to recommend allowing tenants to choose which bill should receive the full amount of the credit as well as to determine how to benefit the renter whose utilities are included in their rents, and

BE IT FURTHER RESOLVED that copies of this bill be forwarded to our state legislature and appropriate state agencies.

PROMOTION OF BETTER HEALTH

WHEREAS, Promotion and Maintenance of Wellness, an issue at the White House Conference on Aging in 1981, produced recommendations that government agencies, at both state and national levels, and

CAR INSURANCE REFORM

WHEREAS it has taken the Legislature seven years to agree on the new no-fault Auto Insurance Plan that satisfied the members of the Assembly and Senate, and

WHEREAS, Governor Kean signed this "Cost Containment and Freedom of Choice Bill," to be effective January 1, 1984, even though it did not meet with the standards envisioned, and

WHEREAS, 2 new elements of cost have been added in the form of an expense fee and policy constant, and

WHEREAS, this new insurance law still leaves room for the imposition of another cost constant in the form of the Residual Market Equalization charge, and

WHEREAS, copayments and deductibles transfer risk from the insurance company to the insured, and

WHEREAS, this new insurance predicates premiums on residence, age, sex, and driving experience, and

WHEREAS the cost of this new insurance places a greater burden and hardship on many categories of policy holders,

gram, sometimes referred to as Home Equity Conversion, and

BE IT FURTHER RESOLVED that the Senior Citizens Council of Union County will disseminate all information obtained on this plan.

ITEM PRICING

WHEREAS, a resolution was endorsed in 1981 to retain item pricing, and

WHEREAS, requests for action on item pricing was put before many of our state legislators at our Legislative Luncheons with no positive action taken, and

WHEREAS, the Senior Citizens Council of Union County has continued to press for item pricing by obtaining signed peti-

tions and joining with the Union County Division on Aging for Consumer Affairs,

NOW, THEREFORE, BE IT RESOLVED that the Council will continue to actively obtain a law requiring item pricing, and

BE IT FURTHER RESOLVED that the Council will contact our District Legislators and request a statement on their intent with the purpose of reporting back to our newspaper readers, and

BE IT FURTHER RESOLVED to continue to seek signatures on petitions, and

BE IT FURTHER RESOLVED to contact any and all government bodies and groups to support item pricing.

Support sought from consumers for item pricing

At the present time we are enjoying the technology of scanners at the supermarket.

They not only aid the store management in a number of areas, such as restocking and code updates, but they also help to make the lines move at a swifter rate, which benefits the consumer in saving time.

However, with the onset of this computer, *trickery*, there is a slow movement creeping along, called "limit the item pricing."

"What is item pricing?"

It is the price on the item that you, the consumer, pay.

There is both pro and con with item pricing. The supermarket lobbyists are hard at work against it.

Our office has taken a stand, along with other consumer agencies, as being for item pricing, but help is needed.

At a recent hearing in Trenton, it was stated by legislators that unit pricing on the shelf is sufficient, under the Consumer Fraud Act.

We disagree, and these are the reasons why we feel item pricing is a must.

Item pricing provides the consumer with practical information at the shelf point to the purchase point.

Item pricing allows you, the consumer, to be a comparison shopper.

Can you possibly remember all the prices on all the items? Without the item marked you are at a disadvantage.

Item pricing allows you to take a number of items to the checkout point where both you and the clerk have a chance to correct any error. (Sometimes scanners make errors too.)

For the consumer who finds difficulty comprehending the unit shelf price label, there is a need for the simplified item price.

Buying Wise
**SALLY
MOLICA**



Many consumers compare their receipts at home to the purchase, as well as compare prices against home shelf items. This allows them to perhaps change their brand for a comparable item at less cost.

We find that most people, of all ages, find it easier to read and know what they are paying for when the amount is printed on the item.

This is common sense 7% technology.

It may not seem important to you at this particular time, but when the price on the item disappears, it will be too late.

If you have any feelings on the subject, please write to our office. Be it for or against — let us know.

At the next public hearing this office will go on record as being in favor of it, but supported documentation is needed.

Please write:

"Local Pricing"

Monmouth County Department of
Consumer Affairs

Hall of Records Annex

P.O. Box 1255

Freehold, NJ 07728

Sally Molica is the director of the Monmouth County Department of Consumer Affairs. The column appears Sundays.

Morris County Office of Consumer Affairs

Courthouse

Morristown, New Jersey, 07960



Carole A. Glade

Director

Item Pricing Testimony

Aug. 29, 1984

Carole A. Glade

In April of 1983, the Consumer Affairs Advisory Committee for the Morris County Office of Consumer Affairs unanimously approved a resolution supporting legislation requiring item pricing on consumer commodities.

The Committee, comprised of 15 members of the business, education, and civic communities, supported the legislation for the following reasons:

1. item pricing affords consumers with information at the point of sale and point of purchase; shelf pricing does not allow consumers the protection to verify the prices charged with the actual selling price;
2. consumers need price information at the point of purchase in order to participate freely in the market place; elimination of this information puts the consumer at a disadvantage, making the free market system inequitable;
3. because a variety of items are purchased at one time, item pricing affords both the seller and the purchaser the opportunity to correct errors to avoid over-charges and under-charges;
4. item pricing is simply disclosure and is a basic right in our society;
5. the increase in technology in the marketplace should not replace the basic protections of consumers and businesses alike.

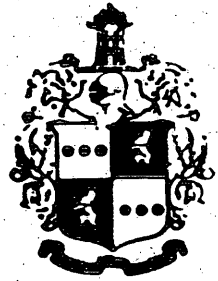
A survey of consumer ideas was conducted by the Morris County Office of Consumer Affairs in coordination with the municipal and county offices of consumer affairs to determine the state-wide perception of this issue. The survey overwhelmingly shows that the vast majority of shoppers favor item pricing and seek protection through legislation.

7X

Morris County Office of Consumer Affairs

Courthouse

Morristown, New Jersey, 07960



Carole A. Glade

Director

1984

State-Wide Item Pricing Survey

Recognizing the need for statistics indicating the opinions and desires of consumers throughout New Jersey, the Morris County Office of Consumer Affairs prepared a questionnaire to be circulated to consumers in New Jersey through the county and municipal consumer offices. These county and municipal consumer offices are members of CAMCA-- the County and Municipal Consumer Agencies of New Jersey--a professional organization representing the interests of consumers.

Each member-agency was sent 25 copies of the survey. The survey was taken, in most instances, during National Consumer Week, April 23, 1984. In summary:

10 County Offices Participated

4 Municipal Offices Participated

275 Total Number of Surveys Returned

The survey statistics indicate the following conclusions:

1. Consumers state-wide use unit pricing when grocery shopping.
2. The vast majority (95%) of shoppers want to find the price located on each item.
3. Shoppers have encountered problems at scanner-operated check-outs.
4. Shoppers would change stores if their current store removed the item prices.
5. The vast majority (96%) of shoppers do not want the prices removed from the products.
6. A large majority (78%) feel the prices should be required on each item by law.
7. Shoppers who use coupons at scanner-operated stores have experienced problems (71%).
8. Shoppers are basically split between using the conventional cash register and scanners.

(cont'd) 8X

Offices at 32 Washington St., Morristown, N.J. 07960. Telephone: 285-2811.

9. The vast majority (96%) of consumers surveyed would be willing to sign a petition to their legislators stating they are in favor of item pricing legislation.

The survey results were tabulated by a student-intern, Nancy Hutkai.

The actual surveys are available for inspection at the Morris County Office of Consumer Affairs.

1. Do you use unit pricing while shopping? yes 87% no 13%

If yes, how often?

- 30% a) always
38 b) almost always
27 c) sometimes
5 d) never

* indicates less than 1%

2. On the food items you purchase, do you want to see the prices on:

- 95% a) all the items
4 b) most of the items
1 c) some of the items
1 d) none of the items
1 e) other _____

3. Check the statement which best describes your food shopping behavior.

- 4 a) I buy the lowest priced product.
61 b) I compare prices of products.
31 c) I use unit pricing labels to compare prices of products.
3 d) price does not matter.
1 e) none of the above.

4. How often do you shop in food stores that use scanners?

- 19% a) always
35 b) almost always
37 c) sometimes
9 d) never

5. If you have shopped where there are check-out scanners, have you experienced any problems in (check as many as apply to you)

- 14% a) comparison shopping
33 b) keeping track of the cost of your purchases
23 c) being overcharged on items at checkout
5 d) being undercharged on items at checkout
13 e) getting correct or full value of coupons, "specials", and sale items
12 f) no problems at all

6. What type of food shopper are you? Check the one that best describes your food shopping behavior.

- 5% a) I am a "name brand" buyer, regardless of the price.
17 b) I buy "name brand" items that are on sale.
5 c) I buy the "sale items" no matter what brand the product is.
5 d) I buy the lowest priced item of a product.
68 e) I am a shopper that combines more than one of the above choices.

7. If the store you shop at uses scanners do they:

- 6% a) have prices on all items
36 b) have prices on most items
48 c) have prices on some items
10 d) do not have prices on items

8. If prices were removed from the item but appeared on the shelf in the food store where you shop would you:

- 9% a) continue to shop there?
50 b) go to a store that prices items?
38 c) continue to shop at the same store, but complain about the price removal on items.
3 d) other _____

9. What is your opinion of removing prices on items?

- 1% a) good idea
96 b) not a good idea
3 c) makes no difference

10. How many large/major grocery stores are within a five mile area of your home?

- 4% a) 0
39 b) 1-3
47 c) 4-6
7% d) 7-9
3 e) more than 9

11. Do you think item prices on individual items should:

- 78% a) be required by law in New Jersey
4 b) not be required by law in New Jersey
18 c) undecided/need more information

12. Is item pricing beneficial to you? yes 97% no 3%

If yes, does it make shopping:

- 39% a) easier
24 b) faster
36 c) more economical
1 d) other _____

13. Would you shop at a store where you had to use a marker to put the prices on each item you purchased?
 yes 6% no 94%

14. How often do you do your major food shopping?

- 60% a) once per week
16 b) twice a week
21 c) every two weeks
3 d) more often: explain: _____

15. How often do you use coupons when you shop?

- 27% a) always
29 b) almost always
38 c) sometimes
6 d) never

16. Have you experienced any problems using coupons in a store using scanners?

yes 10% no 81%

If yes, how often?

- 71% a) always
3 b) almost always
22 c) sometimes
4 d) never

17. Do you look at advertisements before going food shopping?

- 50% a) always
45 b) sometimes
5 c) never

18. While shopping do you: (check as many as apply to you)

- 25% a) use store advertisements?
23 b) purchase weekly specials?
27 c) use newspaper/magazine coupons?
2 d) do none of the above?
23 e) use a combination of the above?

19. Do you compare your sales receipt with your purchases? 64% yes 36% no
 If yes, when:

- 22% a) at checkout counter
53 b) when you get home
25 c) other _____

20. What is the average cost of your weekly food bill?

- | | |
|------------------------------|-----------------------------|
| <u>24%</u> a) \$50 and below | <u>5</u> e) \$150 - \$180 |
| <u>24%</u> b) \$50 - \$80 | <u>*</u> f) \$180 - \$210 |
| <u>29%</u> c) \$80 - \$110 | <u>*</u> g) \$210 - \$250 |
| <u>17%</u> d) \$110 - \$150 | <u>*</u> h) more than \$250 |

21. When shopping in a store that uses scanners, do you unload the "specials", coupon items and free offers from you cart last?
 yes 11% no 89%

22. How many of the products you purchase in a food store have a price marked on the product?

- | | |
|-------------------|-------------------|
| <u>15%</u> a) all | <u>30</u> c) some |
| <u>54</u> b) most | <u>1</u> d) none |

23. Do you find that you are spending more on your grocery bill now than you did one year ago?

yes 80% no 20%

If yes, is it due to one of the following:

- 14% a) items not being priced
9 b) scanners making overcharges
7 c) clerk making mechanical errors
13 d) not being aware of how much your order costs
57 e) other _____

24. Can you easily locate and use the unit prices on the items you purchase? State-wide Total

- 15% a) always
76% b) sometimes
5% c) never
4% d) do not know

25. What check out system would you prefer supermarkets to use?

- 40% a) scanners
52% b) conventional cash registers
8% c) other, explain _____

26. If you shop at stores with scanners, do you find that your food bill has:

- 38% a) increased
5% b) decreased
57% c) stayed the same

27. What type of sales receipt is easier for you to read?

- 42% a) one from a scanner
12% b) one from a conventional cash register
21% c) there is no difference - can read both
8% d) have never seen scanner receipt - do not know the difference
17% e) there is a difference - but I can read both

28. Where would you prefer to find the price of a food item?

- 85% a) on the item
11% b) on the shelf below the item
2% c) on a sign near the item
2% d) other _____

29. How often do you use the prices on items you purchase to plan your shopping list for the next time?

- 18% a) always
45% b) sometimes
37% c) never

30. Does the price: (check as many as apply to you)

- 40% a) influence you to purchase product again
30% b) help in planning your food costs for next time
25% c) help in menu planning for next time
5% d) other _____

31. Who does the majority of food shopping for your family?

- 10% a) male
73% b) female
17% c) both

32. Do you watch the cash register while your food purchases are being added up?

- 38% a) always
34% b) almost always
21% c) sometimes
7% d) never

33. Would you be willing to sign a petition in support of item pricing?
yes 96% no 4%

34. Would you be willing to circulate a petition in support of item pricing?
yes 67% no 23%

PERSONAL INFORMATION

1. your age:
6% a) 18 - 25
16 b) 26 - 35
24 c) 36 - 45
25 d) 46 - 55
17 e) 56 - 65
12 f) over 65

2. Marital status:
67% a) married
12 b) single
12 c) divorced
7 d) widowed
2 e) separated

3. Your family income:
24% a) under \$15,000
32 b) \$15,000 - \$30,000
24 c) \$30,000 - \$45,000
11 d) \$45,000 - \$60,000
9 e) \$60,000 and above

4. Your education is:
6% a) less than high school
42 b) high school graduate
26 c) some college
17 d) college graduate
9 e) post college

5. Your occupation is:
40% a) professional/mgt/administrative (white collar)
5 b) physical labor (blue collar)
19 c) clerical/sales clerk
5 d) temporary/unemployed
13 e) full-time homemaker
11 f) retired
7 g) other

6. Number of people for whom you purchase groceries:
11% a) 1
49 b) 2 - 3
37 c) 4 - 6
2 d) 6 - 8
1 e) 9 and above

7. In what county do you live?

8. In what town do you live?

9. List the store name and location where you do your major food shopping.
store _____ location (town) _____

Optional:

Name: _____

Address: _____

Phone #: _____

Date: _____



COUNTY AND MUNICIPAL CONSUMER AGENCIES OF NEW JERSEY

Resolution

WHEREAS the County and Municipal Consumer Agencies in New Jersey (CAMCA) have received numerous complaints regarding the inaccuracies of computer checkout scanning systems; and,

WHEREAS CAMCA is concerned with any elimination of item pricing, particularly in supermarkets; and,

WHEREAS this issue has been the subject of intensive study by CAMCA, hearing presentations by the Food Council and Legislators as well as the study of research provided through our Committees; and,

WHEREAS no means has been developed whereby consumers are protected from inaccuracies at the checkout counter through any other means than the observance and comparison of item prices to the scanner readout; and,

WHEREAS promises of monetary savings to the public through the elimination of item pricing have not been substantiated; and,

WHEREAS the continuation of item pricing is felt to be in keeping with the spirit of the New Jersey Consumer Fraud Act and Federal Legislation guaranteeing immediate knowledge of total selling price;

WE, THEREFORE, THE MEMBERS OF CAMCA very strongly support and urge enactment of legislation which will require item pricing on all merchandise sold in retail establishments throughout the State of New Jersey.

IN WITNESS WHEREOF I have hereto set my hand on this 25th day of August, 1983.

Ellen Bloom, President

Rec'd 9/6/84

SUBJECT: ITEM PRICING TESTIMONY

RE: SENATE BILL No. 1445

PRESENTED AUGUST 29, 1984

BIRCH AUDITORIUM, ESSEX COUNTY COLLEGE, NEWARK

GOOD MORNING, MR. CHAIRMAN AND SENATORS:

MY NAME IS MARY ELLEN GOWIN. I'M DIRECTOR OF CONSUMER AND PUBLIC AFFAIRS FOR WAKEFERN FOOD CORPORATION. WAKEFERN IS THE WHOLESALE AND MERCHANDISING ARM FOR SHOPRITE SUPERMARKETS. SHOPRITE IS A COOPERATIVE - ITS MEMBERS OPERATE 110 STORES IN NEW JERSEY.

I'D LIKE TO THANK THE COMMITTEE FOR THE OPPORTUNITY TO SHARE OUR OPINION ABOUT THE SENATE PROPOSAL ON MANDATORY ITEM PRICING.

CURRENTLY, OUR MEMBERS HAVE INSTALLED 65 SCANNERS IN THE STATE. THIS HAS BEEN A GRADUAL PROCESS, EVEN THOUGH SCANNERS HAVE BEEN AVAILABLE TO US FOR OVER 10 YEARS NOW. WAKEFERN IS OPPOSED TO LEGISLATION THAT WOULD REQUIRE MANDATORY ITEM PRICING.

WE RECOGNIZE THAT PROVIDING PRICE INFORMATION IS A BASIC RESPONSIBILITY TO OUR CUSTOMERS. WHETHER THAT PRICE INFORMATION IS ON THE PRODUCT ITSELF OR ON THE SHELF. NO RETAILER WILL DEBATE THAT FACT. BUT THIS PROPOSAL SIMPLY DOESN'T RECOGNIZE THE ONE GOVERNING OBJECTIVE OF EVERY SUPERMARKET OPERATOR AND THAT IS TO BE ABLE TO SERVE HIS CUSTOMERS' NEEDS BETTER THAN HIS COMPETITORS.

BY REQUIRING SUPERMARKET OPERATORS TO INDIVIDUALLY ITEM PRICE EACH ITEM, YOU MANDATE THEM TO PUT MORE EXPENSIVE LABOR HOURS INTO THE PRICE-MARKING OPERATION THAN EVER BEFORE.

THIS RESTRICTIVE LAW WOULD PENALIZE OPERATORS WHO INSTALL SCANNERS. IF FEWER RETAILERS INSTALL SCANNING EQUIPMENT, CUSTOMERS PAY THE PRICE IN THE HIGH COST OF:

- .HAVING TO STAND IN LINE FOR SLOWER CHECKOUTS.
- .HAVING LESS ACCURATE CHECKOUT SERVICE.
- .HAVING LESS DESCRIPTIVE RECEIPT TAPES AVAILABLE TO THEM.
- RESULTING IN MORE DIFFICULTY CHECKING THEIR ORDER.

,AND PERHAPS PAYING HIGHER COSTS, SINCE THE RETAILERS ABILITY TO CONTROL INVENTORY IS DIMINISHED AT THE SAME TIME THE COST OF OPERATION IS INCREASED.

WAKEFERN WOULD LIKE TO REQUEST THAT YOU CONTINUE TO ALLOW US THE FLEXIBILITY TO MAINTAIN OUR OPERATIONS IN ACCORDANCE WITH WHAT OUR CUSTOMER EXPECTATIONS ARE. YOU CAN BE SURE IF THE VAST MAJORITY OF CUSTOMERS DO NOT ACCEPT ITEM PRICE REMOVAL, WE ARE NOT GOING TO MOVE IN THAT DIRECTION. THIS YEAR, MY OFFICE HAS HAD JUST UNDER 100 COMPLAINTS RELATED TO ITEM PRICING AND SCANNING AND THAT IS OUT OF 1½ MILLION TRANSACTIONS A WEEK IN OUR STORES.

WE'RE NOT SAYING THE SYSTEM IS PERFECT. BUT WE BELIEVE THE MARKETPLACE IS THE BEST REGULATOR. THIS TYPE OF LEGISLATION WOULD ONLY LOCK IN THE IMPERFECTIONS OF THE CONVENTIONAL SYSTEM.

