

90
W419
A57

PUBLIC HEARING

ON

SENATE BILL NO. 21
(Weights and Measures)

before

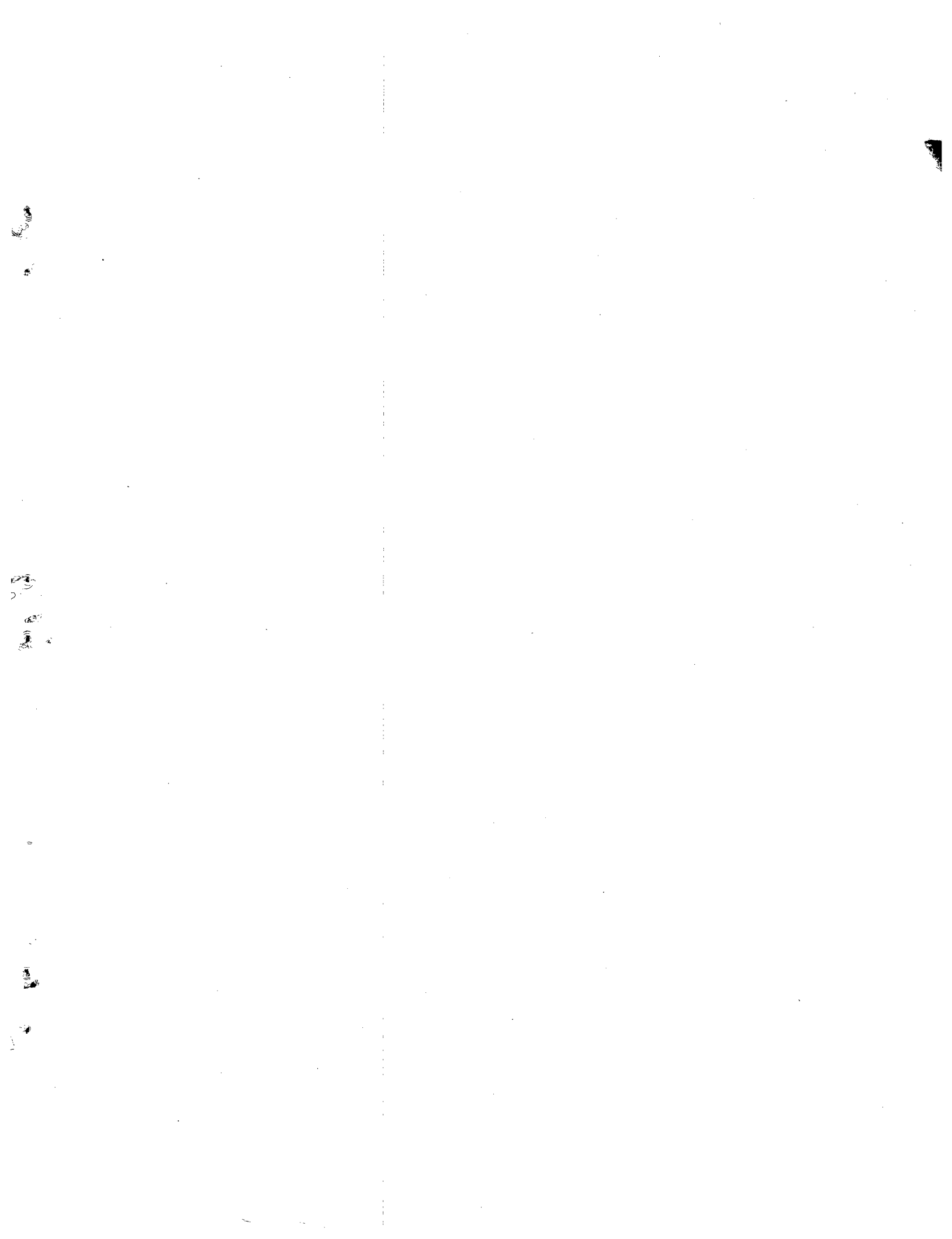
SENATE BUSINESS AFFAIRS COMMITTEE

Held:
Assembly Chamber
State House
Trenton, New Jersey
May 4, 1967

MEMBER OF COMMITTEE PRESENT:

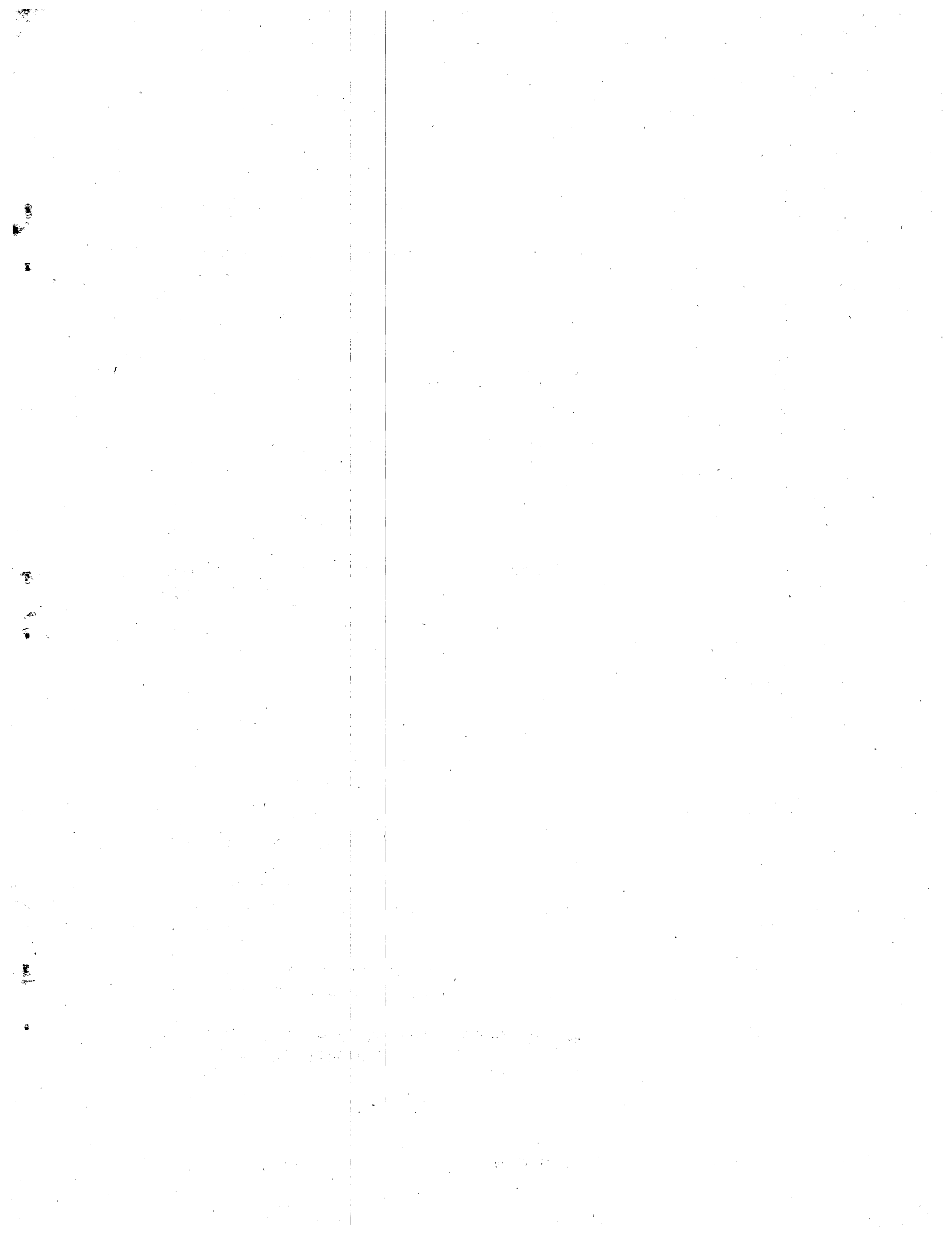
Senator Joseph M. Keegan

* * * *

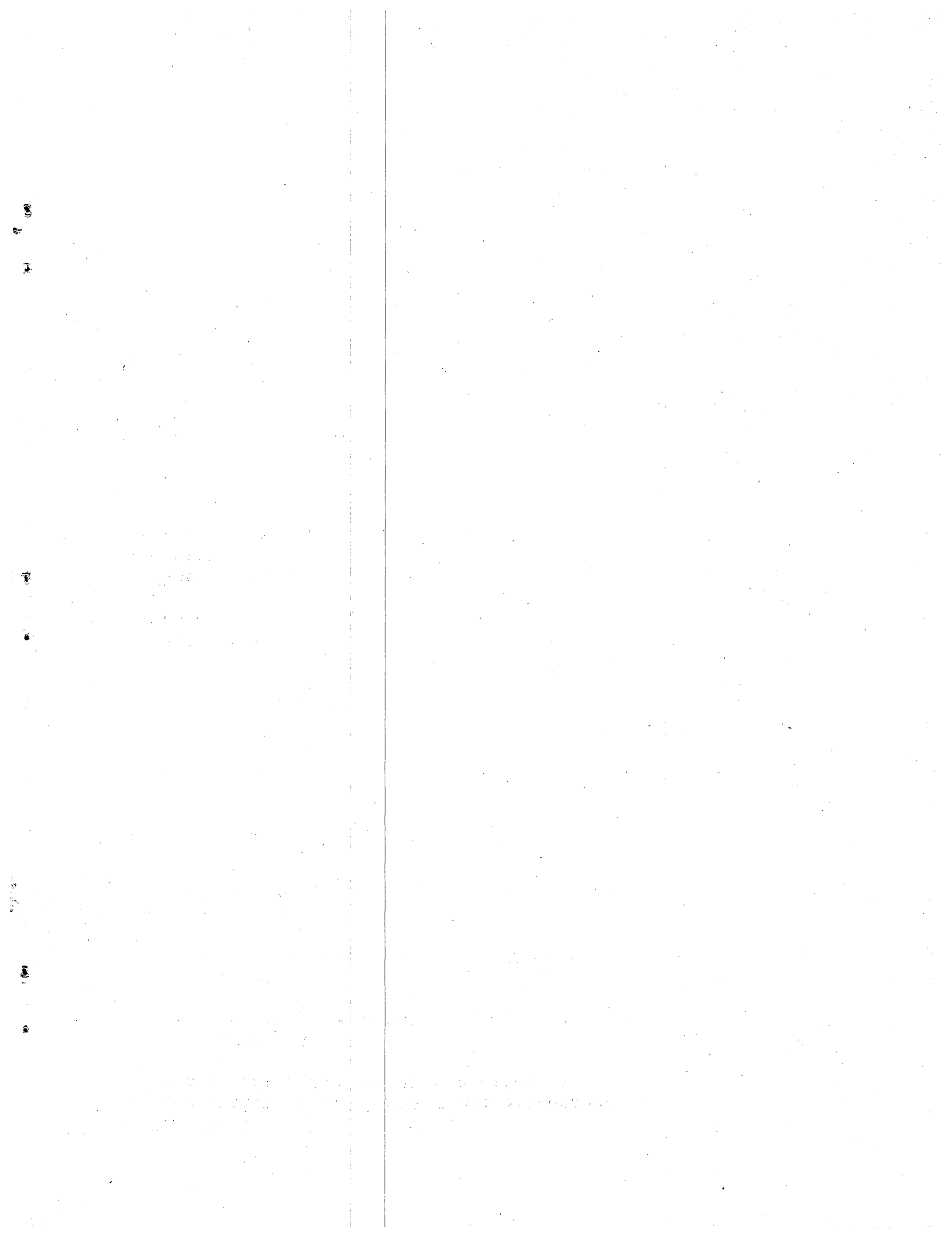


I N D E X

	Page
Frederick C. Schmelz American Cyanamid Company, Bound Brook	2
Griswold B. Holman 151 Park Avenue, Rutherford	10
Leonard Wolfram representing Retail Committee of State Chamber of Commerce	18
James H. Bunting representing Campbell Soup Company	23
Morton E. Kiel New Jersey Tank Carriers Ass'n, Inc.	26
Harold C. Stone Fuel Merchants Association of New Jersey	35
John Ed. Ryan National Forest Products Ass'n	36
William S. Bigelow Sec'y, Suburban Propane Gas Corporation	42
Telegram from J. A. Rosin, Owens-Illinois, Inc.	50
Mrs. Richard A. Zwemer President, Consumers League of New Jersey	51
Mrs. Sally K. Cohan National Council of Jewish Women	56
Mrs. Anne Fallon Staff Member, Soap and Detergent Association	57
Robert A. Jones Middle Atlantic Lumbermen's Association	60
Roger H. Higgons representing New York Paint, Varnish and Lacquer Association	64



John Uetz Association of Ice Cream Manufacturers of Pennsylvania, New Jersey and Delaware	69
George Wilkinson representing Howe-Richardson Scale Co.	73
W. L. Lohrfinck Secretary, New Jersey Bottlers of Carbonated Beverages	81
Erwin B. Hock Distilled Spirits Institute, Washington, D. C..	85
C. Albert Stephan Vice-President, Peter Lumber Co.	88
Donald W. Leeper H. J. Heinz Co.	91
C. H. Fields Executive Secretary, New Jersey Farm Bureau	96
Ronald H. Lord Supervisor of Licensing, State Division of Weights and Measures	103
James R. Bird Supervisor of Technical Services, State Division of Weights and Measures	106



SENATOR JOSEPH M. KEEGAN (Acting Chairman): My name is Senator Keegan and I am the sponsor of Senate Bill No. 21. Senator Bigley, who is the Chairman of the Committee has asked me to start the hearing. It would seem that there are some other obligations today on behalf of some of the members of the Committee.

In looking over the list here, I would assume that most everyone is familiar with the procedures of a public hearing. The rules are relatively simple. I will just run over a few of them, if I may.

If any of you have prepared statements that you would like to leave with the Committee, fine. We will make very sure they are made a part of the record. Then if there is an oral presentation which you would like to make in supplement of your prepared statement, if you will take the first desk here on my left, the microphone is hooked in with the recording apparatus, and we will then have a complete record.

Unless there are any particular problems, so that you know, we have a list now of some 19 - if you could keep this in mind when you are making your presentation, particularly if you have a prepared statement and are leaving it with the Committee, keep in mind that there are other people that would like to be heard and, frankly, we want to have everyone's expression on this.

I take it that everyone has had an opportunity to get copies of the bill and the proposed amendment, the Committee amendments which have been discussed in Committee, and we would anticipate then that we can go along pretty smoothly here today.

I will tell you this, that I and the other members of the Committee, as they appear, are prepared to stay as long as is necessary so that we get all of the hearing done today.

The first man I see on the list here is Mr. Frederick C. Schmelz of the State Chamber of Commerce.

There are copies of the Committee Amendment here if any of you do not have them.

F R E D E R I C K C. S C H M E L Z: Mr. Chairman, my name is Frederick C. Schmelz and I am associated with the American Cyanamid Company, Bound Brook, New Jersey. I appear before you today in my capacity as Chairman of the Subcommittees on Powers and Duties and Regulation of Sales of Commodities of the New Jersey State Chamber of Commerce Conference Committee on Weights and Measures Revision. On behalf of the State Chamber and its many members, I appreciate this opportunity to appear before you today to present the State Chamber's views on Senate Bill No. 21.

As you may recall from our appearance before you last year, the Chamber has had this Conference Committee, comprised of representatives from various industrial and business concerns, review in depth each year the appropriate sections of each successive weights and measures bill -- Assembly No. 597 of 1961, S-252 of 1964, A-631 of 1965, S-274 of 1966 and now S-21 of 1967. In certain instances, the Committee has ascertained improvements which could be made within individual industry sections of these bills. These improvements were submitted early this year to Senator Keegan, the sponsor, in a marked-up version of Senate No. 21. They have subsequently been transcribed in amendment form and I would like to submit a copy for the record of this hearing.

Some time after these improvements were submitted, we learned that they had been rejected, almost in toto, by the Deputy Superintendent of the Division of Weights and Measures.

Apparently the Administration subsequently agreed with the Deputy Superintendent, because the Senate Committee proposed amendments include only two substantive ones stemming from the more than one hundred amendments originally recommended by the Chamber. These are the ones at the bottom of page 1 with respect to safeguarding the contents of a vehicle, and the first amendment on the top of page 2, which

sets standards for a weights and measures official who confiscates property.

We do not mean to imply that other amendments that have been proposed won't serve to improve Senate No. 21. However, the two other major amendments that have been proposed result, we believe, from a conference with Deputy Attorneys General, the Deputy Superintendent and Mr. Peter Dorn, Secretary of the State Chamber.

This conference took place on Wednesday, April 12, in the Deputy Attorney General's office. Mr. Dorn vehemently objected to a maneuver by the Attorney General's office -- taking the language of the substitute lumber bill, and inserting that language into proposed amendments to Senate Bill No. 21. This action violated an agreement reached among the participants of a 5-hour conference held on January 24 on the lumber bill. Mr. Dorn further pointed out on April 12th that the maneuver, in effect, also violated part of the agreed-upon language of the January conference. This had to do with the general licensing provisions, and also to the powers of the director to establish standards as to quantity, quality, serviceability, fitness and suitability of commodities. We note that, as a result of the April conference, the licensing sections have been changed and the standards section has been eliminated. While we feel that this results in a

considerable improvement in the bill, we are still concerned over the manner in which the lumber industry's agreed-upon provisions are being used to gather support for Senate No. 21.

This concentration on the lumber section of Senate No. 21 is evidenced by the fact that the bulk of the proposed Senate Committee Amendments have to do with that section. The State Chamber has endorsed Senate No. 328 which is identical in substance to all of the lumber amendments now proposed for Senate No. 21.

The other major amendment proposed has to do with labeling of commodities. This proposal will be dealt with by a separate witness from the Retail Committee of the State Chamber.

Returning to Senate No. 21 with the proposed amendments, we are still concerned about the very broad powers this bill would confer upon the Director of the Division of Weights and Measures and upon weights and measures officials generally.

We discussed these proposed powers at the public hearing last year. At that time I had briefed my statement and asked that the entire statement be inserted into the record. The transcribers of those proceedings apparently missed this request and my full statement does not appear in the record. I would, therefore, ask you to insert

into the record today the balance of the sections of my statement of last year which are still appropriate.

SENATOR KEEGAN: If I could, Mr. Schmelz, - as I understand, these are parts of a statement and they are directed then specifically to S-21.

MR. SCHMELZ: Yes, sir. That's correct.

SENATOR KEEGAN: Well, we have them and they will be made part of the record here. [See page 111]

MR. SCHMELZ: Thank you, sir.

The complete view of the State Chamber on Senate No. 21, therefore, is to be found in the combination of (a) my testimony and exhibits today, (b) the testimony and exhibits of our other witnesses today, (c) and the testimony and exhibits of both State Chamber witnesses at last year's hearing.

I referred a few minutes ago to the amendments submitted by the State Chamber to Senate No. 21, most of which have been rejected. I would like to make it clear that even those amendments did not encompass the position of many of the members of the State Chamber who, in effect, have abandoned their attempt to amend the perennial weights and measures bills and instead have concentrated on having the Model State Law enacted in New Jersey.

You will recall that the State Chamber supported the Model State Law as a substitute for Senate Bill No. 274

in our testimony last year. A version of the Model Law appropriate to New Jersey has been introduced this year in both Houses of the Legislature -- Assembly No. 676 introduced on February 14 by Assemblyman Davis, and Senate No. 325 by Senator Forsythe. We urge that the Committee substitute the provisions of those bills for the provisions of Senate No. 21. We further urge that, before this is accomplished, a number of amendments be made to Senate No. 325 and we would, at this point, like to ask that these proposed amendments be put into the record. [See page 116]

SENATOR KEEGAN: Well, are these on 325 now?

MR. SCHMELZ: Yes, sir.

SENATOR KEEGAN: Well, I point out to you, they will be accepted by the Committee but I point out that our hearing is on S-21. Of course, understanding the position of the Chamber that your position then is covered in S-325, we will accept them and they will be considered. They will be part of the record but I point out that the hearing is on S-21.

MR. SCHMELZ: Yes, sir. I understood that. We think that the amendments that we have just submitted set forth the Senate's views with regard to our --

SENATOR KEEGAN: Then it is your position, sir, in setting out the position of your organization as far as S-21 is concerned, it's set out more clearly in proposed

amendments -- I see they are headed "Senate Committee Amendments." Have these been submitted to the Committee or is this the form that you are using, Mr. Schmelz?

MR. SCHMELZ: I would like Mr. Dorn to answer that question, sir.

SENATOR KEEGAN: All right.

MR. DORN: They had been proposed to Senator Forsythe, the sponsor of the bill, but I do not know whether he submitted them to the Committee.

SENATOR KEEGAN: Well, I can inform you that I don't know of that. But looking at the heading on them, I see Senate Committee Amendments. They are probably part of the Committee records anyway but, in any event, what these do is with Senate 325, these proposed amendments set out what the State Chamber - at least that division of it that you are concerned with - would like to see encompassed, be it in 325 or a subsequent bill or Senate 21. Is that right?

MR. SCHMELZ: That's correct, sir.

SENATOR KEEGAN: All right. Fine.

MR. SCHMELZ: In summary, then:

1. We favor the wording of the amendments of Senate No. 21 as respects lumber, but we urge that these be incorporated into a Senate Committee Substitute for Senate Bill No. 24.

2. We favor Senate No. 22, with appropriate amendments, as our next witness will discuss, because it will modernize the weighmaster act.

3. We favor the Model State Law and ask that it be made a Senate Committee Substitute for Senate No. 21, together with the amendments to S-325 which we have suggested.

4. We favor these actions because we see the need for New Jersey to give adequate protection to the consumer and yet not impose onerous and unworkable burdens upon the business, agriculture, commerce and industry of this State.

Thank you, sir.

SENATOR KEEGAN: Thank you, Mr. Schmelz.

Do I understand, Mr. Dorn, that you have other witnesses with the State Chamber's viewpoint? If I don't have them here in order, maybe you would let me know who you would like to have next and we can have an entire position of one organization at the same time.

MR. DORN: I believe they are in order, Senator. The next witness is Mr. Holman.

SENATOR KEEGAN: Yes, I see Mr. Griswold B. Holman.

MR. DORN: And following then, is Mr. Wolfram with respect to the labeling sections of the bill.

SENATOR KEEGAN: Fine. The next witness then will be Mr. Holman, and if you would like to stay there, Mr. Dorn, it may be helpful not only to the witness but to the Committee.

G R I S W O L D B. H O L M A N: My name is Griswold B. Holman and my business address is 151 Park Avenue, Rutherford, New Jersey.

I have been in the transportation, shipping and storage business all of my life, having operated our Company, the George B. Holman & Co., Inc., for more than fifty years, having helped to organize Allied Van Lines and having served as an officer of United Van Lines for some 18 years.

I have helped to organize a number of trade associations in which I have served as an officer, including:

American Trucking Association (3 years Vice President)

N. J. Motor Truck Association (2 yrs. Pres.)

Director, etc.

N. J. Furniture Warehousemen's Association (4 years President)

N. J. Merchandise Warehousemen's Association (2 yrs. President)

Movers Conference of America (Secretary-Director)

N. J. Movers Conference.

I have held power of attorney from about 3000

motor carriers for the purpose of publishing all or a part of their rates which are based on mileage, weight, measurement, or count, as well as content, type of packaging, time and value, and filing with the Interstate Commerce Commission and other state and federal commissions.

I have taken part in many conferences and proceedings before I.C.C. and other bodies on the subjects of weighing, weight certificates, commodity descriptions, methods of packaging, measuring, timing, etc.

My own company operates several motor truck scales at our several locations in New Jersey. My company does weighing for hire, that is, weighing vehicles loaded, light, partially loaded, etc., for others, for a fee. On the other hand, as a Certificated ICC Motor Carrier and also franchised by the Public Utility Commissions of several states, we are required, in the handling of the several commodities which we are privileged to haul, to ascertain the weight of shipments transported by our fleet of vehicles.

I am here before you today in my capacity as Chairman, Weighmaster Committee of the New Jersey State Chamber of Commerce. On behalf of that organization I appreciate this opportunity to appear.

Our Weighmaster Committee of the New Jersey State Chamber of Commerce finds that Senate Bill No. 21, in Chapter 9, repeats the substantive provisions of Senate

Bill No. 22.

To return specifically to Senate Bill No. 21, Chapter 9, Licensing Acts we find that while the language in Senate Bill No. 21 is somewhat similar to the language in Senate Bill No. 22, we would prefer the wording of Senate Bill No. 22 as reported favorably by the Senate Business Affairs Committee on April 24th, 1967, but with the Amendments which we are suggesting herewith. [See page 130]

The main purpose of these amendments is to preserve the distinction in the present law between the public weighmaster, that is one who weighs another's goods for hire, for a fee, and, on the other hand, a certified weigher who is an employee, that is, an employee who weighs goods for his employer who may require certified weights in the course of his business. This distinction is important in that it would continue to require all public weighmasters to be licensed but provides, as the present law does, also for the licensing of certified weighers only at the request of the employer.

We also seek amendments that would prevent substantial disruption in employment in New Jersey. If certified weighers were to be classified as public weighmasters, as S-22 provides, a disruption in employment would result. Those companies employing certified weighers who are not New Jersey residents would be required to discharge

them and hire New Jersey residents. We were told some time ago, when a predecessor omnibus weights and measures revision bill was being considered, that similar New Jersey residency requirements would force one company to discharge eighty New York residents employed by that company if these employees did not wish to move to New Jersey.

Then, too, New Jersey residency requirements of public weighmasters, we understand, would result in one company having to discharge seventeen of its present employees. We have every reason to believe that there are many other companies in this same situation.

We would, therefore, strongly urge that the Senate remove the residency requirements with respect to both public weighmasters and certified weighers.

We believe that Section 51:1-80 should be clarified so that this section applies only to persons who issue sealed certificates of weight in order that the burden of penalty not be placed upon individuals who may weigh but are not acting as a public weighmaster nor a certified weigher.

Our Committee also sees no reason why an individual who does not renew his license within fifteen days after it expires should be required to pay a fee in an amount twice that required by the regular fee. There are many justifiable reasons for the holder of a weighmaster's license to

let such license expire without renewal; for example:
change of duties if employed, change of employment,
change of location of employment, temporary disability, etc.

After permitting the license to expire he may later find need for it for the same reasons cited above. There seems to be no justifiable reason for doubling the fee since one whose license has expired should be treated in the same manner and at the same fee as a new applicant who has not been licensed prior to such application. To double the fee puts an unjust penalty on the individual concerned or the company by whom he might be employed if such company foots the bill.

We would like to submit for the record amendments to Senate Bill No. 22 which will effectuate the recommendations we have made. We strongly urge that these amendments be adopted and we assure this Committee that this bill, as law of itself, or as a part of Senate Bill No. 21, will then have the wholehearted support of the State Chamber of Commerce.

Without these amendments we would be constrained to oppose the bill because of unnecessary interference with business practices and the disruption of employment that would result.

I might say that I have sort of lived with the weighmaster problem since 1939 representing a few

thousand carriers who have to weigh their loads, and I might say that we have ironed out many of the differences arising from time to time between the requirements of the Federal Government through ICC and the requirements of the several states.

The situation as it now exists has been very satisfactory and we do not want to disrupt this by such new wording in the law as may change it to some extent.

We have presented you with a copy of the suggested amendments, and I would also like to make another suggestion that the words "and truck" follow the word "railroad" on page 5, line 19 of Section 10. Trucks today are doing the same things that rails have done in the past and there is no reason why the regulations imposed on the railroads and on the trucks both should not be exempt - not exactly exempt from but interfere with the regulations imposed by the state.

I have included in my presentation a memorandum of the approach that I have made to this problem which I tried to do in an orderly way. There is one phase of weighing that I would like to comment on, if you will permit me. (Memorandum - see Page 127]

Under Section 51:1-77 the completion of a weight certificate of a vehicle would be simplified and equally effective if the law required an identifying number of

the vehicle in lieu of the license plate of the vehicle since a single vehicle may have many license plate numbers. Some states issue floater plates which are changed from truck to truck as such vehicles may cross state lines. The recording of such license plate numbers might be of little avail in later identification of the particular vehicle weighed at a specified time.

From a practical standpoint the procurement of the individual registration number of the vehicle or each of a combination of vehicles could be most difficult and, in some instances, of little or no use for future references.

In many instances the location of the weigh beam, the weigh dial or "print weigh" of a truck scale is in an almost "front office" space in a building adjacent to the scale. The means of ascertaining the weight is, in many cases, operated by an office secretary or clerk, licensed as a Public Weighmaster, who has full visibility of the scale and the vehicle or vehicles placed thereon.

It is rather unthinkable that on a cold, rainy or snowy day, the young lady weighmaster should have to travel from her office quarters to the scale with equipment to clean off the mud from a number of license plates, which might be on either the front or the back of a truck or on the front of a tractor and the back of a trailer, note down perhaps several of them in an attempt to determine, in

the case of out-of-state licensed vehicles, the state nearest to New Jersey, as has been included in the wording of the act, and to so record such license numbers as might be required by the law.

Since some trailers from some states do not carry licensing registration plates, other identification of such trailers would be necessary.

It should be sufficient for the law to require "adequate identification" by recording such inscription as there may be on the vehicle or vehicles relating to the name of the owner or operator and the owner and operator vehicle numbers displayed thereon.

I thank you very much for giving us the opportunity of presenting this data and I am hopeful that you will consider it.

SENATOR KEEGAN: On behalf of the Committee, Mr. Holman, we are grateful for having a man with your experience spend your time and give us the benefit of it.

There is one thing that I wanted to make a note of for myself. I know it's in the record, but you added an amendment that you wanted - it was on page 5 - with respect to the addition of the word "truck" to "railroad."

(Witness points same out to Senator Keegan)

Thank you, sir. I just wanted to make sure I had it on my own copy here. Thank you very much, Mr. Holman.

MR. HOLMAN: Thank you, sir.

SENATOR KEEGAN: Mr. L. Wolfram, State Chamber,
Retail Division.

L E O N A R D W O L F R A M: Mr. Chairman, ladies and gentlemen, my name is Leonard Wolfram and I am a representative of the Retail Committee of the State Chamber, and I am also connected with the Grand Union Company of East Paterson, New Jersey.

I would like to say at the outset that we are heartily in favor of weights and measures regulation and control. We think the consumer is entitled to it and we support it 100 percent.

We do, however, seek uniformity between the states in that type of control. Any retail food organization, particularly, which operates in more than one state, encounters massive problems when the regulations change from state to state.

The amendment to Senate 21 which provides for uniformity with the Federal Law, it seems to us would be an excellent argument for awaiting the final determination of the Federal law and regulations before enacting this provision.

Although the Federal Government has enacted the Hart Fair Packaging and Labeling Act, it is currently con-

sidering regulations to implement that act. And until those regulations are finally issued, it would be a mistake, we think, for the State of New Jersey to enact a weights and measures law which might turn out to be inconsistent with the Federal law.

The Federal regulations were issued in the form of a proposal on March 17th. The Food and Drug Administration is still entertaining comment and criticism on those regulations and will do so until May 17th. Thereafter the Food and Drug Administration may change the regulations which they have issued in proposed form and the adoption by New Jersey of a weights and measures law which contains controls over the same subject matter may result in complete inconsistencies.

One of the principal objections to S-21 as it now stands is that it would render obsolete and require the scrapping of expensive equipment which produces for random packages of food, random weight packages of food, such as meat, dairy products, poultry products, and items of that nature, information which is thoroughly satisfactory from the consumer point of view and completely descriptive and clear and specific. A label of a cheese package which produces information of this type shows the net weight, the price per pound and the total price of the package along with the name of the item.

I have specimens of labels of this type which are produced by a machine called a Hobart 3000. The machine costs \$7500. This machine will not produce a legal label for the State of New Jersey under the amendment to Senate 21.

Senate 21 provides for the statement in a uniform location on the principal display panel of the information in question. Now that uniform location very likely will be at the very bottom of the label because this is the federal point of view in regard to cans and packages which are produced in factories, and it makes sense. People should be able to find, when they pick up a can or a package of any food item which comes off the factory conveyor line, - they ought to be able to look in a uniform location, such as the bottom, to see what the contents of the package are.

In picking up a package of meat which has been wrapped in the store, or a package of cheese, the label which is commonly used in supermarkets and retail food stores sometimes has this information at the center of the label, sometimes at the top. It's perfectly clear. It's easy to find, legible and informative. And to require the scrapping of these machines - I'm sure the representatives of consumer groups who are present here would agree - is not an equitable or a reasonable requirement.

Another thing the bill would do would be to specify the type size in which the weight is to be expressed. This would necessarily eliminate the practice of small retailers who habitually write this information. This practice would be terminated unless the man operating the store in writing the label was an expert on printing or had a chart with him to render his printing of the proper size prescribed by the Director. Actually, when these labels are written by hand they contain the clear, precise and specific information required by the statute and sought by the consumer.

Another requirement which the statute would make would be to necessitate changes in the size of the label, depending on the size of the package.

In connection with meat or dairy products, random weight packages, this requirement, it seems to us, is unreasonable. This label on a dairy package, whether the cheese is a half pound or one pound, is thoroughly adequate.

So that it seems to us that it would be most appropriate to exempt random weight packages from the requirements of Senate 21.

Over all, we would be much happier with the uniform weights and measures bill which has been adopted in a considerable number of the states throughout the country and

which would protect the consumer fully and provide the benefits of uniformity for multi-unit store operators.

I understand that the National Conference on Weights and Measures will be holding a meeting very shortly to consider revision to the proposed model state law on weights and measures, and in that connection it seems to us that it would be highly beneficial if any pending food labeling requirements or weights and measures law requirements were withheld until the results of that conference have been produced.

I would like the Committee - if I could put into the record some of these specimen labels. I think it would be helpful.

SENATOR KEEGAN: Certainly.

For the purpose of the record, there has been left with the Committee a small package of - you don't mind if we use a commercial here, Mr. Wolfram, -- Grand Union Imported Swiss Cheese markers.

Now, I was trying to look in my notes for the machine that this came from.

MR. WOLFRAM: Hobart. There are also, Senator, if I may, similar machines which are produced by National Cash Register Company and by various other companies. Now they are used throughout the state on packages of meat items, dairy items and various other items, poultry, fish,

which come in random weight. The scale will weigh the steak, or whatever, and print out the net weight, the price per pound and the price per package. And this information is clear and specific and the consumers are perfectly content with it.

Now our type of scale, because of a faulty location from the point of view of any requirement that all statements of net weight be in a uniform location on every package, - those machines will have to be scrapped.

SENATOR KEEGAN: Thank you.

Again, just to identify the exhibit, it's the printed form from a Hobart machine in connection with the testimony of L. Wolfram.

Thank you very much, Mr. Wolfram. You have been very helpful.

The next witness signed up here is J. Bunting.

May I point out, while Mr. Bunting is coming forward, if there are any people who have joined us since the start of the hearing who would like to sign up we will make sure they are called in order.

Yes, Mr. Bunting.

J A M E S H. B U N T I N G: Mr. Chairman, I have a very brief statement which I would like to read for the record.

My name is James H. Bunting and I am employed by

Campbell Soup Company at 375 Memorial Avenue, Camden, New Jersey. I have been employed by the Company for 31 years and most of that service has been in the Technical Administration Department, which is responsible for quality control and regulatory compliance, including weights and measures laws and regulations. My present position in the Technical Administration Department is Manager - Quality Control, Regulatory Services, and I am familiar with weights and measures laws and regulations generally.

I have been authorized to appear before this Committee on behalf of my employer, Campbell Soup Company, and to state that the Company, in the interest of uniform regulation among the several states, opposes the enactment of S-21 but strongly supports the so-called Model Weights and Measures Law, which I understand has been introduced in this session of the Legislature as S-325.

I have carefully reviewed S-21 and note that it follows its 1966 counterpart, S-274, virtually word for word. I testified on June 3, 1966 before this same Committee in opposition to S-274 and, to avoid needless repetition of what I said then, I respectfully request, Mr. Chairman, that my previous statement, which appears at pages 214-215 of the record of the public hearing on S-274 before this Committee, be incorporated by reference in the record of these proceedings. [See page 131]

SENATOR KEEGAN: The record will note that.

MR. BUNTING: Briefly, our position was then, and is now, that the Model Law, to which I have already referred, represents the best and most widely accepted solution to the weights and measures problem in New Jersey.

With regard to the committee amendments that have been proposed to S-21, if we must have such a law, - and with that we cannot agree - then the amendments proposed at pages 13, line 47; page 16, line 23; and page 32, line 9; would provide desirable protection against arbitrary and capricious administrative action.

We would also support the amendment to eliminate the Director's power to establish standards of quality, serviceability, fitness, etc. - page 14, lines 9 through 11.

Finally, we do not object to the amendment at page 32, line 14, which gives the Director rule-making authority along the lines provided under the Federal Fair Packaging and Labeling Act, except that it should be revised to make clear that all - and I emphasize the word "all" - such regulations should be in strict conformity with the Federal regulations; otherwise, we would have chaos.

As the amendment is now written, it is at least susceptible to the construction that the Director may promulgate regulations about the matters referred to in subparagraphs (a), (b), and (c), without regard to what

the Federal Government does under the Fair Packaging and Labeling Act in these specified areas.

This concludes what I have to say and I would like to thank you on behalf of my Company for the opportunity to present our viewpoint.

SENATOR KEEGAN: Thank you, sir.

Mr. Morton E. Kiel, New Jersey Tank Carriers, Inc.

M O R T O N E. K I E L: My name is Morton E. Kiel. I reside at 65 Richard Street, Tenafly, New Jersey. I am Recording Secretary and Consultant to New Jersey Tank Truck Carriers, Inc., a non-profit trade organization incorporated in New Jersey.

The membership of that organization is comprised of tank truck carriers who operate bulk motor vehicles for hauling bulk commodities to and from and between points in the State of New Jersey. The membership consists of 27 of such carriers who operate, by and large, the major portion of the for-hire tank truck fleet operating in the State of New Jersey.

The first proposal we have is with respect to the requirement that vehicles carrying liquid fuel must contain the name and address of the customer. The members of our organization are, by and large, common carriers who have and serve different customers.

Occasionally, from time to time, they transport more than one customer's goods on the vehicle at the same time. Many of the carriers, all except three of the members, are Interstate Commerce Commission regulated motor carriers for their interstate business.

Ordinarily it is not permitted, a common carrier operating interstate commerce, to carry the name of any particular customer because of the fact that that might lead to favoritism, giving one company greater value than another receives for the same transportation charge.

In most instances, shippers who use common carrier facilities refuse to permit the common carriers to carry the names of the shippers on their vehicles for legal responsibility purposes and what-have-you. All of the common carriers carry adequate and proper insurance, as required by the federal regulations, and almost without exception carry substantially in excess of the minimum amounts.

Another point that should be made is that each and every one of these carriers carry their own names and addresses and license numbers as required by the state and the federal government.

Now we would also like to point out that there are no other common carriers regulated by the state who are required to carry the names of their customers on their

customers on their vehicles when they are operating in a for-hire capacity.

The second portion of our recommendation for amendment is in connection with the so-called calibration and sealing of the markers on tank vehicles.

The transportation of liquid fuel by the for-hire carriers in our organization, and by for-hire carriers generally in New Jersey, is based upon a charge assessed to the shipper or the consignee of a rate in cents per 100 gallons transported. This charge is arrived at by reference to the bill of lading which the carrier signs as a receipt and a contract for transportation. This bill of lading is prepared by the shipper to show the number of gallons that the carrier is being intended for transportation. In the ordinary course of events the tank trailers that the carriers operate are calibrated and the markers are fixed by the manufacturers. In addition there are commercial firms who perform this service for the carriers and have done so for many years.

The members of our organization operate many thousands of such tank trailers, some of which operate regularly within the State of New Jersey, others of which operate in many states and only occasionally come into the State of New Jersey.

The proposed legislation would require that a

representative of the Weights and Measures Division should calibrate and seal the markers in the tanks or the compartments. This involves vehicles which have gallonages of from five to seven thousand gallons each and there are many thousands of them. There is no facility whatsoever in the State of New Jersey operated by the State which would enable the Weights and Measures official to calibrate even one of such vehicles.

It is my understanding that the calibration and marking of the capacities of the vehicles require a substantial period of time, even when done by a commercial firm which is equipped to do so.

The State has no intention and has no facility in mind which would perform this service. So what the bill would do would be to put every carrier who transports liquid fuel in bulk vehicles in violation of the law because there is no way contemplated or known by which the carriers could comply.

Now, our suggestion and amendment is that the method by which the carriers now have their vehicles calibrated be continued. The State should regulate these calibrators if it deems it necessary, and we have so proposed.

The vehicles do not change in size or capacity except if the vehicle is involved in an accident or in

some manner the shape of the vehicle changes. So it is our position further that no purpose would be served in requiring that these vehicles be annually inspected, filled and tested to determine the calibration and the marking of the vehicles.

The organization I represent does not object to the requirement that the vehicles be calibrated because it is customary that they are done in this manner in any event. Actually, the large tank vehicles are never equipped with meters for unloading. The shipper loads the vehicles, advises the carrier in writing on a bill of lading as to the capacity of the load, the number of gallons, and the vehicle is unloaded at destination and the consignee is at liberty to examine the interior to be sure that all of the product has been unloaded. He signs a receipt and the vehicle leaves.

This is different from the delivery of fuel to a home in a small vehicle where a delivery of a few hundred gallons is made at one time. These are deliveries from refineries and distribution points to sub-distributors who, in turn, may have their own vehicles and make deliveries to homes.

The members of our organization are not dealers, they are only carriers. They have nothing whatsoever to do with the sale of the product. They are only concerned

with the carrying of it, and they do that for the public for a charge. And it is our position that a reasonable regulation which can be complied with should be enacted and that no purpose would be served in enacting legislation which cannot be complied with by businessmen.

We have examined the comments of Mr. Christie, in connection with this amendment previously submitted, and it would appear, despite the fact that in the past we have conferred with Mr. Christie and with representatives of the Attorney General's staff, that they do not appreciate the problems that the industry faces if this legislation should be enacted.

Thank you.

SENATOR KEEGAN: Mr. Kiel, with respect to this calibration, it's the practice now that it's done by a commercial firm. Is that right?

MR. KIEL: There are a number of such firms.

SENATOR KEEGAN: And it's your suggestion that the State accomplish its purpose, assuming or going along with the intent that there should be some check on this calibration, - that the effort be made through the commercial firms which do the calibrating. Is that right?

MR. KIEL: Yes, since the State has no facilities. It would be like requiring the automobile to be inspected and the state would have no inspection stations. We have some

problems with the State Inspection Stations now, as all residents of the State know, but if there were facilities and they were adequate we would have no objection to the State doing it but they have no facilities and there are none in view.

SENATOR KEEGAN: Well, that may or may not be. Now, with respect to the calibration, as an expert in this field you say that this has to be done only once?

MR. KIEL: It is done only --

SENATOR KEEGAN: I am asking you, sir, trying to get information. In other words, when one of your member firms buys an order of tank trucks, five or ten of them, whatever it would be, they come calibrated or he causes them to be calibrated. Right?

MR. KIEL: That's correct.

SENATOR KEEGAN: Now, it's your position and your members tell you that there is no requirement to check on this calibration at all.

MR. KIEL: Except if the size of the vehicle is changed because of a change --

SENATOR KEEGAN: A design change or something?

MR. KIEL: Well, a design change or the vehicle is dented or in any way the capacity is changed.

SENATOR KEEGAN: Then I would ask one other thing and again we are kind of availing ourselves of your

expertise - the regulations that you speak of as to a common carrier, are there any regulations in the common carrier act dealing with this calibration and inspection of it for the protection of the people who use the common carrier services?

MR. KIEL: Well, the only one I know is - there is one in New Jersey now. It is not enforced except on very infrequent occasions. The last one that I know of involved a carrier in New Jersey who is not a member of our organization. One of his vehicles was ticketed by a Weights and Measures' official for not having an official sealed marker. The carrier for some reason, best known to himself, pleaded guilty, paid a small fine, and that matter was closed. That is the only regulation that I know of. It's in the law now and it has never really been enforced except on that one occasion that I am familiar with.

SENATOR KEEGAN: And if I get then - and I want to highlight this - the import of your testimony, it is that the common carrier as distinguished from other people who might be using equipment in carrying under seal or carrying bulk products, - the common carrier has a unique position here and should not be taken in under the provisions of S-21, at least so far as calibration is concerned.

MR. KIEL: Well, we don't object to the calibration but we object to the method set forth in the act. We don't object to the calibration if the State feels it is necessary.

SENATOR KEEGAN: So you're not concerned.

MR. KIEL: No, but we want it to be done as a practical matter. I would like to point out that there are literally thousands of liquid commodities, many of which are delivered by gallonage, that these member carriers transport. None of them - none of them is presently subject to these calibration requirements by the state or by the federal government and the products have moved and will continue to move irrespective of the determination of this bill governing liquid fuels only. There are thousands upon thousands of chemicals, edible foodstuffs, and other items which move in bulk in tank vehicles based upon rates which are by the gallon and which are shipped on bills of lading which indicate the number of gallons that will never be regulated or there is no intent at this time to regulate the carriers who carry them. The vehicles that are used for those commodities in many instances are the same ones that are used for fuels where they are compatible and where they can be cleaned.

SENATOR KEEGAN: Right. Thank you very much.

Did you leave a copy of this?

MR. KIEL: I did.

SENATOR KEEGAN: Thank you very much.

Harold C. Stone. Mr. Stone, I see you have designated yourself as a member of or representing here today the Fuel Merchants Association of New Jersey. Is that right.

H A R O L D C. S T O N E: That's correct. Mr. Chairman, my name is Harold Stone and I am the Assistant Managing Director of the Fuel Merchants Association of New Jersey located at 66 Morris Avenue, Springfield, New Jersey.

May I express our appreciation for this opportunity to briefly present our views on this very important proposed legislation.

My remarks in regard to Senate Bill No. 21 will be directed solely to Chapter 9, Article II, Fuel - sub headings "A" General Provisions - "B" Solid Fuel and "C" Liquid Fuel.

The Fuel Merchants Association represents over 900 retail, liquid and solid fuel dealers in the State of New Jersey. We feel that over the years our industry has become quite modern and sophisticated in the methods we now employ in conducting our businesses and yet we feel we operate these businesses under Weights and Measures regulations which are outdated.

Therefore, as the State Association representing the retail, liquid and solid fuel industries, we strongly recommend and urge passage of Chapter 9, Article II.

We firmly believe that the adoption of Article II will benefit and protect not only our industry but the liquid and solid fuel users as well.

Mr. Chairman, this concludes what I have to say.
Thank you.

SENATOR KEEGAN: Thank you very much, Mr. Stone.

Mr. John Ryan of the National Forest Products Association.

J O H N E D R Y A N: Senator Keegan, my name is John Ed Ryan. I represent the National Forest Products Association which is a federation of 17 lumber manufacturers representing every species in every area of the United States.

The points I would like to make, and I will try to keep them very brief, and I appreciate this opportunity to do so -- as members of the State Chamber have stated, on January 24th we met with members of the Weights and Measures Division and the Attorney General's Division and agreed reluctantly as to the contents of any regulations on lumber and building materials.

The final agreement that was reached was the

maximum that we felt, as an industry, we could actually live with and still be able to serve the people of New Jersey.

In this discussion, however, we were not discussing Senate Bill 21 and in no way did Senate Bill 21 enter into the discussions. We were only discussing an amendment to the 1966 bill, 328.

At that meeting it was pointed out that as an industry we felt even the amended suggestions that were agreed upon were not adequate or were not the kind of amendments that were necessary to do what was alleged to be needed.

We also stated that the development of standards for building materials is an area which was included in all building codes and it was not a function of the Department of Weights and Measures to develop standards of fitness and quality for building materials. This belongs more in the State Building Code and other municipal codes than in Weights and Measures Law.

The provisions for grade marking of lumber going into buildings is now included in the State Building Code and it is included in all of the major building codes in the State.

As an association of lumber of manufacturers we have a policy which all of our field men are making

strenuous efforts to have every building code amended to require that all lumber going into buildings be grade marked. If this provision is enforced by the building inspectors, where in my opinion it is the only place it can be enforced and by the only people available to enforce it, there would be no need for any measure in the Weights and Measures Law.

My point is that we have serious doubts that any provision in this law for lumber is necessary. I don't think this point has ever been proven.

If there is a problem of false grade marking, certainly the fraud laws of the State should be able to penalize the people offending and doing this illegal grade marking.

On top of all of this, the lumber industry, as an industry, has made strenuous efforts over the last three years to police itself. Many of the provisions of the American Lumber Standards Committee Rules have been changed and we doubt very seriously that the problem is as large as it was professed to be some three or four years ago.

Now, in discussing the amendments we felt we may have to live with - again I want to stress, we did not talk about Senate 21 -- in reviewing Senate 21 we find several places where the general provisions of the bill would be in conflict with what was agreed upon on

January 24th. Specifically, starting on page 13 and at the top of page 14 in section 51A:2-16, lines 7 through 11, it appears that the Department of Weights and Measures is again given power to write standards for fitness and quality of material. And I think even the Weights and Measures people agreed that they were not technically qualified to write standards for building materials.

On page 15, in section 2-21, lines 13 through 15, again it appears that standards writing power is being given to the Weights and Measures Division.

I am also concerned about amendment to sections 51A:7-6, line 14, which appears in the Senate Committee Amendments to S-21. And it would appear that in some instances the Weights and Measures Division would be given the power to describe how the packages would be labeled. Labeling of building materials is again a matter of recognized standards either by the Department of Commerce or commercial recommendations, commercial standards.

If these standards were different from what is ordinarily recognized all over the Country, it would mean that material shipped to New Jersey would have to cost more. And certainly in this area the cost of building is much too high now.

Finally, I would like to recap this by saying

that I find no real need for the provisions of Senate 21 and the amendments for the lumber section. However, if we are going to have some sort of legislation concerning control of building materials, certainly it should not be more than what is contained in Senate Bill 328, 1967 bill. And if this were included in 325 and Assembly 676, which is a Model Law, in my opinion it would be adequate to cover anything that's necessary or any of the alleged necessities made by the Department of Weights and Measures.

Finally, as a citizen of New Jersey, resident of Hohokus, I have a lot of concern personally after my conversations with the Department of Weights and Measures and the Attorney General's representatives regarding their sincere wish to have more power to regulate more parts of the industry and more commodities on the market.

Many of the things in S-21 are going to do nothing for the citizens of New Jersey except make it more costly to live here.

Thank you.

SENATOR KEEGAN: Could I point out, Mr. Ryan, that actually what happens to S-21 or to any of these measures is a legislative determination. I make the observation that you seem a little upset or let down that there had been a conference on the 24th of January - I made a note of it and I'll check it out - as sponsor of S-21, I am

determined to find out. But I just want to point out that there is a big difference between the administrative and executive end and the legislative end. And we are rather jealous of each others prerogatives. And in the final analysis what goes into legislation will be done by the Legislature. That's the reason we are having a hearing.

I am concerned and wanted to get clear in my mind that it is your opinion, sir, and one representing an association, that over the course of the past three or four years, I think you said, that abuses, if any, which existed in the field have been pretty effectively policed by the association itself or the members of your industry. Is that right?

MR. RYAN: Yes, plus the American Lumber Standards Committee which is the policing arm of the --

SENATOR KEEGAN: All right. I take it that for the purpose of the record if you could get that a little clearer, that there is then a policing arm, totally distinct from your association. It is not a question of the members policing themselves, that there are regulatory agencies.

MR. RYAN: It's the American Lumber Standards Committee in the Department of Commerce. And the lumber industry has supported this arm of the government and has urged the changes in their regulations which we think have pretty well cleaned up any problems that have existed in the

past.

SENATOR KEEGAN: All right. Thank you very much, Mr. Ryan, for your testimony.

William S. Bigelow.

W I L L I A M S. B I G E L O W: Mr. Chairman, my name is William S. Bigelow. I am Secretary of Suburban Propane Gas Corporation, Whippany, New Jersey.

I appear here today on behalf of the New Jersey LP-Gas Association as well as the National LP-Gas Association. Unfortunately I find it necessary to oppose Senate Bill No. 21.

The New Jersey LP-Gas Association represents more than 85 percent of that industry in the State of New Jersey. Its members are the product producers, equipment and appliance manufacturers, distributors and retailers of LP-gas. In this regard the members of this Association are responsible employers of people in every county of the state. The majority of our members are in fact small, local businessmen who will, to a man, be injured if this bill is passed.

Since October 1957 I have met, from time to time, with the Legislative Committee of the New Jersey Weights and Measures Association and with Mr. Samuel H. Christie, Deputy Director of the Division of Weights and Measures,

on a proposed weights and measures bill.

At the outset it appeared that these meetings were worthwhile, but it became increasingly evident that there was so great a pride of authorship in the proposed legislation that the business community could not constructively criticize the proposed bill and achieve any worthwhile results. That proposed bill was first submitted to the Legislature in 1961 as Assembly No. 597. Since then it has been introduced as Senate No. 252, Assembly No. 631, Senate No. 274 and is now known as Senate No. 21. Although over the years there have been a few changes in these bills, today's bill is, in many respects, the same piece of legislation that was introduced in 1961.

There are still features in this Bill which are matters of basic disagreement between industry and the Division of Weights and Measures. These disagreements are both philosophic and technical. There are items in the bill which would appear to open up a Pandora's box so far as giving the Division of Weights and Measures carte blanche authority to regulate all commerce and trade within the State of New Jersey. In this regard it seems to me that one of the tests of good legislation is that it be foremost in the public interest and, secondly, not so designed as to block progress. Senate No. 21, I feel, fails to pass either of these tests.

I do not disagree for one minute that there is probably a need to update Title 51. However, I do not feel that Senate 21 is the right vehicle to accomplish that purpose. One must realize that most of the 95 pages of Senate 21 are a compendium of technical rules, yet the art of measurement is an ever-changing technology and as such technical rules which are applicable today become a bar to progress tomorrow and in too many cases legislative processes are necessarily too slow to permit technical development to proceed at a normal rate.

It is for this reason that we and other people in the New Jersey business community have so strongly supported the Model Weights and Measures Bill which was introduced in this legislative session as Senate Bill No. 325. The basic difference between Senate 21 and Senate 325 is that Senate 325 establishes the legal framework for the promulgation of weights and measures regulations by the State, while Senate 21 prescribes a great volume of regulation within the statute and then provides for additional regulations to be promulgated by the Department. In this latter case I think we tie the hands of the Department because they cannot promulgate rules which contravene the Law laid down in the statute, and there we find one of our major problems.

I am not going to take the time of the Committee

to set forth all of the problems of a technical nature that beset the business community with the proposed regulations in Senate 21. These are very completely set forth in recommendations which have been submitted to the Committee by the New Jersey State Chamber of Commerce. There are, however, a few items which concern us greatly and which we feel compelled to speak on.

With respect to the powers and duties section, 51A:2-14(f), it provides that any Weights & Measures official may stop any person and require him to proceed, with or without any vehicle of which he may be in charge, to some place the official may specify for investigatory purposes. I call your attention to perishable loads which could be destroyed by such an action, and further that the Transportation of Explosives Act of the United States, in paragraph 197.1(b) of regulations promulgated thereunder, provides that no vehicle transporting explosives or other dangerous articles may be left unattended on any public street or highway. It would seem to me that there is good reason for this Federal requirement. The New Jersey Weights & Measures Law should not contravene Federal legislation and regulation which obviously is in the interests of public safety.

Section 51A:2-16 provides that the Director shall have the power to examine and test commodities to determine

that they comply with the standards, and it did provide that he should have the power to establish standards.

In this regard, I think we are still opening up a Pandora's box. Are we proposing that the Department test all commodities? If not, which ones?

In Section 51A;2-21(c) it provides that the Director may hold a hearing if two or more people request it with respect to proposed rule promulgations. I fail to see why it would be such a burden for the Department to be required to conduct a hearing with respect to proposed rule changes prior to their promulgation. There certainly are people within our business community, as well as those engaged in the business of manufacturing weighing and measuring devices, who can constructively contribute to a regulatory program and I don't feel that this contribution should be purely at the whim of a department. My concern is not that I fear the administration of Weights & Measures Laws, because I have a great deal of respect for the competence of the Division and their basic law enforcement philosophy. But, we cannot look at legislation solely in the light of who will administer the law today or tomorrow - we must concern ourselves with the future in terms of years.

With respect to the commodity that my industry deals in, this is lumped together in Article II, Section "C" of the proposed bill, along with all other compressed gases,

or about 800 commodities. This only serves to complicate the regulation. There are a number of items in this section which we feel are unnecessarily onerous.

In paragraph 51A:7-79 we are required to serially number all delivery tickets and we must retain them in our files in a numerical order. Providing we can produce the ticket requested by the Weights & Measures Official, is it any of his business how we retain the tickets or whether they are serially numbered?

In essence, what the Division is doing here is trying to tell the individual gas dealer, whether he has 10 customers or 10,000, how he shall maintain his records, without giving any consideration to the man's established accounting systems.

In addition this section provides for the recording of meter serial numbers on invoices when the sale is via a meter, unless office records are approved by the Director.

It further provides that the delivery ticket shall contain the serial numbers of the cylinders being delivered, unless more than 3 cylinders are delivered to the same customer.

I fail to see the justification for these requirements. The problem of regulating the LP-gas industry from a Weights & Measures standpoint has not been an onerous one for the state and I do not believe that the public has

heretofore suffered because of the absence of this rule.

Section No. 51A:8-7 provides that no person shall install a measuring device unless a notice in writing is given to the local Weights & Measures Official within 72 hours after the device is installed. As written, I believe this would require that our LP-gas installer would be required to notify the local Weights & Measures Official every time we install or replace a vapor meter at a customer's home. As a rough estimate, I would suggest that there are about 8,000 such installations a year made within the LP-gas industry for vapor meter service only. What is the local or county sealer going to do with this data? He has neither the time, the funds or the equipment to test such devices. Vapor meters must be tested and/or repaired in a meter shop - they cannot be field tested.

I am told that it was not intended that this section should cover LP-gas meters, but this is the effect of the proposed bill. If this section is not intended to cover LP-gas meters, it should be so stated.

Section 51A:8-10(4) contains wording that I frankly don't understand. I think it says that if you sell a commodity in containers by liquid measure at retail the sale must be either in a single service container or delivered in the presence of the customer via a liquid meter. It seems to me, regardless of intent, that when we deliver

LP-gas by liquid meter into a container in the customer's backyard, the customer isn't going to stand out there and watch the wheels go around, regardless of the law.

I respectfully submit that if Senate 21 is passed as written it will bring injury to our industry and in turn do harm to the entire State of New Jersey.

There are some bills in the legislative hopper which deal with weights and measures and are deserving of your support; among them is an amended Senate No. 22. We would hope to see a Senate Committee substitute for Senate No. 24 and hopefully a new labeling bill which presumably would correspond with the Federal Fair Packaging Act of 1966. In addition, Senate 325 is deserving of your support. In this regard the Model Bill was developed by the National Conference of Weights & Measures Officials, which is an association of State Weights & Measures Officials sponsored by the National Bureau of Standards. There have been those in the administration who have attempted to hang a tag on this bill that would indicate it is an industry sponsored measure for the selfish purposes of industry. Nothing could be further from the truth and I am quite certain that should the Committee elect to discuss Senate Bills 21 and 325 with representatives of the Office of Weights & Measures of the National Bureau of Standards, they would find this to be

the case.

It is my personal belief that both the public and business would be better served in New Jersey by legislation that would provide the legal framework for the department, establish the method of promulgation of reasonable rules, in conformity with national standards, after public hearings, and spell out licensing procedures, penalties and means of obtaining relief.

Should the Committee so desire, I am prepared to submit in writing the specific word changes we recommend with respect to the problems of the LP-Gas Industry.

Thank you, sir.

SENATOR KEEGAN: Thank you very much, Mr. Bigelow, for your very thorough statement.

Would the record indicate that I have received a telegram, which I will read into the record, from a J. A. Rosin, Plant Manager, Owens-Illinois, Inc., Wayne, New Jersey.

The fact that the firm is in Passaic County has nothing to do with my reading this into the record.

It's addressed to myself, Senate Business Affairs Committee Hearing, which is why I make it part of the record.

"Without demeaning your goal in Senate 21, we respectfully ask you to consider Senate Bill 325 as a meaningful substitute. It is a Model Law found in a

number of states today. Stop. Meeting well the needs you feel should be met by S-21. This field highly technical and the Model Law has received many man-hours of study by public officials in many places. Senate Bill 325 reflects all of this study. We hope you will agree that shift of your support would actually enhance your effort to create a law which will bring the best obtainable results."

Signed as I have set out.

Now, we will continue on. The next witness we have is Mrs. Richard A. Zwemer of the Consumers League of New Jersey.

M R S. R I C H A R D A. Z W E M E R: Mr. Chairman, I am Mrs. Richard A. Zwemer the President of the Consumers League of New Jersey.

I appreciate the opportunity of appearing before you at this hearing and giving the views of the Consumers League on the Committee Amendments. May I say, at the outset, that we approve the Amendments as a whole. More specifically, we endorse the new Sub-section, page 32 after line 14, to enable State enforcement at the retail level of the Federal Fair Packaging and Labeling Act. The Consumers League of New Jersey supported this Act and the President attended the ceremony at the White House when President Johnson signed the Bill. The new sub-section spells out the major

provisions of the Federal Act and authorizes State regulations as may be required to establish uniformity with the Act and the Regulations promulgated thereto.

I might interpolate, we are aware that they are working on regulations now and we think that this fully takes care of that provision. As we understand this, the Federal Law applies to the prepackaging on the manufacturing level. So that it is quite necessary, we feel, to have sort of a state enabling act, really, so that our Weights & Measures officials can check the Federal packaging and labeling requirements on the shelves in the stores.

We hope that the section on Building Materials as rewritten, Article VI, pages 81-85, is now satisfactory to all. It doesn't seem to be but that's what we hoped. We believe that the definition of building materials adequately covers the variety and types of construction materials in use today. We are pleased that the term "consumer" defined as "any person who purchases building materials for incorporation into any type of structure or for the purpose of manufacturing" is included in the list of definitions.

I might say that the consumer is interested, particularly the do-it-yourself householder. And if he has to wait for a building inspector to check on the lumber that he's buying to redo his kitchen or add a

playhouse or something, some of the inside work, then I don't think he would get the protection that is necessary under this provision.

We note that 51A:9-87 is the same wording as page 18 of Senate Bill 325, and presume that there is confidence in the United States Department of Commerce to make the grading and standards regulations and that, as we understand it, if any changes are made the officials, Weights & Measures Director, will consult with the industry concerned.

I want to also point out that the discussion on random weights, which is found on page 32 of Senate 21, is almost identical in language with section 27 of the Model Act but there is a bit of a change and I think it might be interesting to put that in the record. This is found on page 32 of Senate 21; it is 51A:7-6(2): "In addition to any declarations required by the provisions of this Title, any commodity in package form, the individual package form being one of a lot containing random weights, measures, or count of the same commodity and bearing the total selling price of the individual package form, shall bear on the outside of the individual package form a plain and conspicuous declaration of the price per single unit of weight, measure, or count."

I will now read Section 27 of the Model Act: "In addition to the declarations required by section 26 of this act, any commodity in package form, the package being one

of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure or count."

There may be a distinct difference in that and the Committee might like to look into that.

With your permission, I wish to file, as part of my testimony, the testimony that I presented in June on S-274 which was not given in the minutes as published. [P.134]

I wish also to file with this testimony a statement that we made, an analysis, really, of S-21 which we distributed in February. It contains our conclusions in favor of S-21 and why we feel the Model Act should not be included. (See Page 141]

I also wish to file, as part of my testimony, our analysis of Senate 325, in which we show that so far as we are concerned it is not satisfactory to us because it is deficient in some of the protections. And with these two statements I think you will get a picture of how we feel about the situation. [See Page 140]

I wish to add then that, with your permission, we would like to file these statements, and conclude by saying that the Committee Amendments in nowise change the reasoning on which we based our endorsement in

February of Senate 21; indeed, they serve to reinforce our support.

Thank you.

SENATOR KEEGAN: Thank you very much, Mrs. Zwemer.

Might I point out to anyone who might be interested that as an individual Legislator and as a member of the Committee I have received many, many pieces of correspondence on S-21, particularly, and have made those available to my colleagues on the Committee. They have informed me that they have also received a lot of these communications, not only from organizations but from individual constituents.

Now, I point this out just to let you know that these matters will be considered by the members of the Committee also. So where some people this morning have asked that matters previously filed be brought to the attention of the Committee, they will be, of course. For instance, what Mrs. Zwemer has done now is to make part of the record those things which she had sent in. But I assure the people who are interested enough to come out here today that anything that I or other members of the Committee have received individually will also be considered by the Committee as a whole.

Thank you very much, Mrs. Zwemer.

The Chair is going to exercise one of its prerogatives. I note that there is another woman witness and it was my thought - I have no idea how far she has to travel, but I don't think it would be an imposition, gentlemen, if we let Mrs. Sally K. Cohen of the National Council of Jewish Women testify and in that way she may get home or may even get a good offer of lunch here, I don't know.

M R S. S A L L Y K. C O H E N: Thank you very much, Senator. This will take about a half a minute.

I am Chairman of the Legislature for the National Council of Jewish Women and represent 10,000 women in 24 districts here in New Jersey. All I want you to know, Senator Keegan, is that we wholeheartedly approve and support S-21.

I hope that will make you happy.

SENATOR KEEGAN: That will improve my lunch, yes. Thank you very much, Mrs. Cohen.

I note that there is another member here in a representative capacity, a Miss Anne Fallon.

While Miss Fallon is coming forward, we might point out, gentlemen, that we are that point in the hearing where we have covered 11 people of 23. I understand, of the 23 that 3 have filed formal statements and will not

supplement them, so that we have then left approximately some 8 or 9 witnesses to go.

It would be the thought of the Chair to continue through so that you gentlemen won't lose the entire day in coming down. We will continue through and try to clean up, if we can, unless the secretaries flag me down and ask for a little time.

Miss Fallon.

M I S S A N N E F A L L O N: Senator Keegan, my name is Anne Fallon, Staff Member at the Soap and Detergent Association. I have a statement here prepared by E. Scott Pattison, President of our Association, who unfortunately could not be here today, and I request permission to read part of that to you and leave a copy for the record.

The Soap and Detergent Association is a national organization of over 100 members, including manufacturers of all the well-known brands of packaged cleaning products sold in New Jersey. A number of these companies have important plants in New Jersey, including Lever Brothers, Colgate-Palmolive Company, Witco Chemical Company, Enjay Chemical, Allied Chemical, Nopco Chemical and others who make detergent products or the ingredients for such products.

We have testified several times in the past, on behalf of our members, in support of any legislative effort to bring New Jersey weights and measures laws and regulations into conformity with other states. Where prepackaged commodities move across state lines, often from the same warehouse, it is in the best interest of the consumer that packaging and labeling requirements be uniform to avoid the cost of special packages.

We note that through a proposed amendment, Section 51A:7-6(5), an attempt has been made to tie the packaging and labeling sections of S-21 in to the Federal Fair Packaging and Labeling Act, but we submit that for consumer-packaged commodities, the bill still represents non-uniform legislation. Our industry preference would be for S-325, which is substantially similar to the Model State Law which has been adopted in the great majority of states in the Union. In addition, S-325 spells out in greater detail, than does amended S-21, the uniform packaging and labeling requirements applying to consumer commodities.

We wish further to point out that the Laws and Regulations Committee of the National Conference of Weights and Measures Officials is presently considering amendments to the Model State Law to bring it fully into conformity

with the Federal Law. These amendments will be acted on by the officials during their National Conference in Washington, June 26 to 30.

While we recognize and support your Committee's desire to enact without delay a new weights and measures law in New Jersey, we respectfully suggest that it would be beneficial to defer final action until after the National Conference has officially adopted revised Model State Law provisions, and incorporate these in S-325.

Thank you again for the opportunity to present our views. We hope that final action on this bill can be deferred, pending further developments at the National Conference in June, and that, if not, the Committee give favorable consideration to substituting S-325 for those provisions of S-21 which affect consumer packaged products.

SENATOR KEEGAN: Thank you very much, Miss Fallon.

Inform Mr. Pattison that he was very ably represented.

MISS FALLON: Thank you, Senator.

SENATOR KEEGAN: Now, Mr. Robert A. Jones, Middle Atlantic Lumbermen's Association.

Thank you, Mr. Jones, you were the one that we imposed on the most because you were immediately next when we stepped out of order there.

R O B E R T A. J O N E S: I am glad to be imposed on by the ladies.

Senator Keegan, I appreciate the privilege of being here today and adding our testimony to the comments that we have heard from the various industry people.

For the record, my name is Robert A. Jones. I am the Executive Vice President of the Middle Atlantic Lumbermen's Association in Ardmore, Pennsylvania, and we represent the retail lumber dealers, specifically in South Jersey, and in this instance I believe, because of a conference held on January 24th we represent all of the dealers in the State of New Jersey.

In our previous testimony before a similar public hearing we have gone on record as being heartily in favor of any laws or regulations which would be helpful to the State of New Jersey, the people in the State of New Jersey and the industries which make up and serve these people in the State of New Jersey, and we still feel the same way about it.

However, in view of the testimony that I've heard this morning from other members of other industries, we would like to recommend most heartily the adoption of the New Jersey State Chamber of Commerce - several recommendations with their amendments involving the various bills, all of which you have in the record as of

this moment.

We are concerned with one or two points which I think should appear in the record, especially insofar as our lumber regulations are concerned, because it seems to us that over the past three years we have had several bills of different numbers, both in the Senate and in the Assembly, but all maintaining almost identical wording of bills which we felt would be harmful both to the State of New Jersey and to the members of our industry, and under no circumstance would they give the protection which we were all seeking for the people in New Jersey.

I might point out in this instance that, in listening to the remarks of the lady from the New Jersey Consumer Group, she was particularly interested in the do-it-yourselfers and felt that perhaps S-21 in its present form might protect the do-it-yourselfers.

Well, the do-it-yourselfers are consumers and we too are tremendously interested in protecting them. But one of the misconceptions that seems to be in the minds of many of these people is the fact that most of the lumber and building materials which are bought by anyone, whether it be a consumer or a do-it-yourselfer or a builder must be bought on specification and if the specifications of the material called for are given or

discussed with the dealer or the seller of the materials, in order to find out what would be proper to use for specific jobs, those specifications are adequately followed by our retail lumber and building material dealers. If someone comes in and asks for materials with no name or with no knowledge of where it is going to be used and does not ask for a description of the best product to use for the job involved, sometimes we find that these people might become victims of their own lack of intelligence of the nomenclature of our products.

In no instance, however, does S-21 or any of the other regulations which have come before this hearing control or help that situation. This is a matter primarily of ethics and it has been our opinion over many years that a great majority of lumber and building materials are more than happy to anticipate requirements, that is the end use of the products involved, especially if a do-it-yourselfer tells the dealer what he needs it for.

We are also a little concerned about what happened at the meeting which was mentioned by Mr. Ryan in his earlier testimony, on January 24th of this year, in which all of the representative groups within the lumber industry met at the Weights & Measures Division Office, here in Trenton, and all agreed to certain changes in the amendment of the then S-328. And everyone is happy with

the amendment, some of which seemed to please the Weights & Measures Division, some of which pleased our industry, but, generally, in the best interest of the people of New Jersey we all concurred. And after the meeting was over and everyone agreed that these amendments would be helpful to the passage of the bill we were astounded to find that a memorandum was sent from the Weights & Measures Division which rejected almost all of these things. Mr. Ryan commented on that. We, too, are at a loss to know why such a thing should happen. And then we find, today, in S-21 almost identical wording of the amendments, insofar as lumber is concerned, is back in S-21. And as far as we are concerned this, to the degree that we feel is necessary, would be very helpful. But we do feel that S-21 in its broad scope gives entirely too much leeway and power to the Division of Weights & Measures which we think might be best incorporated in other structures of the state government.

We would like to repeat then, in order to bring this to as short a testimony as we can, that we would like to see the recommendations of the New Jersey State Chamber of Commerce in their various recommendations and amendments to the bill which several of the men have mentioned, that these be incorporated into the law as a good compromise and a good law for both the people in the

State of New Jersey and the many industries which seem to be vitally affected by the present writing of S-21.

Mr. Chairman, in the interest of time I would forego any other remarks about this subject. We do hope that this thing can be brought to a conclusion and that it will work to the wellbeing of all concerned.

Thank you very much.

SENATOR KEEGAN: Thank you, Mr. Jones.

Mr. Roger H. Higgons, New York Paint, Varnish and Lacquer Association.

R O G E R H. H I G G O N S: I will start by saying that my name is Roger H. Higgons. I live in Cedar Grove, New Jersey. I have been a Paint Chemist for over 40 years. And I will also add that a committee from our Industry has worked with the State Chamber of Commerce in preparing proposals leading to S-21 insofar as our products are concerned. These recommendations were incorporated in those submitted by the New Jersey Chamber of Commerce early this year.

To get to the formal part of my testimony which was addressed to Senator Bigley: Speaking for the New York Paint, Varnish and Lacquer Association, we wish to say that we greatly appreciate the opportunity to present our views at this hearing on Senate Bill No. 21 on

Weights & Measures.

Our Association represents over 200 member companies engaged in the manufacture and sale of paints and related products in the State of New Jersey as well as in neighboring states. Nearly half of these companies have plants and offices in New Jersey. While weights and measures laws are most often thought of in relation to packaged foods and other household commodities, they affect the products of many other segments of industry, including those of our member companies. It is for this reason that we wish to register the opposition of the New York Paint, Varnish and Lacquer Association to passage of S. No. 21 in its present form.

The proposed Administration amendments to S-21 will overcome some of the objectionable features of the bill as originally introduced, but we feel that further amendments should be made to eliminate outmoded requirements and, most important, to put it in harmony with the recommendations of the National Conference on Weights and Measures, as incorporated in the Model State Law and Model Regulations developed by that body. These recommendations have been adopted, in essence, by over half the states in recent years, including New York, Pennsylvania and Delaware.

It should be borne in mind that most New Jersey

manufacturers sell their products in all states of the Union and adoption by New Jersey of a law significantly different from those of other states would create serious obstacles to the orderly conduct of business by New Jersey industry. If it became necessary for industry to provide separate and different labeling for products sold in this state, it could result in higher costs to New Jersey consumers, as well as to those of other states in which New Jersey products are sold.

Two other weights and measures bills introduced earlier this year, S-325, by Senator Forsythe, and A-676 by Assemblyman Davis, were designed to reconcile the differences between the Model Law and S-21, but we feel that even these two bills are in need of further amendments, although either bill would be preferable to S-21 in its present form. Business and industry would welcome the opportunity to work with the Senate Business Affairs Committee or the State Division of Weights and Measures on amendments to any of these three bills. In view of the technical complexities of present-day commodities, such cooperation is essential to development of an up-to-date weights and measures law, which New Jersey sorely needs.

One other aspect to be considered in relation to the proposed New Jersey law is the fact that the National Conference on Weights & Measures is to be held

next month and will be attended by officials of all the states. An important subject to be discussed at the Conference will be the recently enacted Federal Fair Packaging and Labeling Act. This Act clearly preempts all state laws covering net contents labeling of consumer commodities, insofar as they are less stringent or require information different from that required by the Act or regulations promulgated pursuant thereto.

It is anticipated the Model State Regulations may have to be revised to be in harmony with the Federal regulations. By the same token, the states would be wise to defer action on any weights and measures laws under consideration pending issuance of final Federal regulations covering all types of commodities. Conclusions reached at the National Conference will probably be helpful to New Jersey in revising its weights and measures law.

In closing, we wish to state the New York Paint, Varnish & Lacquer Association will support any of the three weights and measures laws proposed this year, S-21, S-325, or A=676, provided necessary amendments are made to these bills.

I signed this as Chairman of the Legislative Committee of the New York Paint, Varnish and Lacquer Association.

I would like to add some personal comments. I

have been a resident of the State of New Jersey for over 40 years and feel proud of this State's achievements, particularly in the field of industrial and technological developments. I do not feel that weights and measures legislation in this State has kept pace with these developments, either in existing law or in S-21 which is largely based on the old law with the addition of some more modern amendments.

In my opinion, the residents of this State deserve to have a thoroughly modern weights and measures law, one that reflects the latest recommendations of the National Conference on Weights & Measures and agrees with all requirements of the Federal Fair Packaging and Labeling Act. The best way to accomplish this would be to start from scratch, frame an entirely new law including only those provisions from the present law or of S-21 which represent up-to-date practices.

Thank you.

SENATOR KEEGAN: Thank you very much, Mr. Higgons.

John Martin and Fred Uetz, Association of Ice Cream Manufacturers of Pennsylvania, New Jersey and Delaware.

I note that we have some visitors in the gallery. This is a public hearing on Senate Bill No. 21, youngsters, and the purpose of the public hearing is to get information

and background on legislation which is pending before one of the Senate Committees.

The gentlemen come forward to testify and their remarks are taken down and made part of the record. Then the members of the Committee will use the record and refer to the record in their Committee deliberations of the bill.

F R E D U E T Z: This statement is presented on behalf of the Association of Ice Cream Manufacturers of Pennsylvania, New Jersey and Delaware and the individual members of the Association. I will submit a list of the membership of the Association separately.

It is estimated that, taken together, the members of the Association manufacture, handle or distribute over 75% of the frozen desserts sold in the State of New Jersey.

My name is Fred E. Uetz and I am Assistant to the Divisional Vice President of Production, Pioneer Ice Cream, a Division of the Borden Company in New York City. I have been associated with various aspects of the frozen desserts industry and the Dairy Industry for over 35 years and I have been active in former legislative hearings in the State of New Jersey and elsewhere, including a hearing held before the Department of Health of the State of New Jersey on December 7, 1964 and a legislative hearing on Senate Bill No. 274 of last year.

I have reviewed the proposed Weights & Measures Law presently known as Senate Bill No. 21 as it pertains to frozen desserts. In my opinion, based on my experience in the Industry, and in the opinion of other members of the Association, Senate Bill No. 21 is outdated even as to current requirements now embodied in the Food and Drug Section of the Statutes of New Jersey State Department of Health and the Federal Food and Drug Definitions & Standards for Frozen Desserts which govern products moving in interstate commerce.

My comments refer particularly to Sections 51A:7-11 to 51A:7-16 of the Bill and to Section 51A:1-2 - Definitions. In the first place, the definition of Frozen Desserts does not include the articles presently defined as frozen desserts under the laws pertaining to the Department of Health in the State of New Jersey. For example, miscellaneous ice cream and frozen confections and bisque tortoni are omitted from the Bill.

Secondly, an inappropriate weight per gallon is established for all frozen desserts at 51A:7-13. Various weights per gallon are established under various standards of identity under the Department of Health but all frozen desserts should not be 4-5/10 pounds per gallon - some should be subject to a higher standard. Ultimately the matter of standards should be left to the Department of

Health as is provided in current legislation. Since the Department of Health has already promulgated Standards of Identity for Frozen Desserts which have the force and effect of law, it should not be necessary at this time to pass additional laws setting standards. There is no objection, of course, to Weights and Measures officials enforcing existing standards but two distinct laws on precisely the same subject should not be passed.

Section 51A:7-14, if included in the ultimate version of a Weights and Measures Bill should contain language conforming to the National Labeling Committee recommendation for plant coding. However, it is not necessary to set forth this argument in full here because plant coding is, in fact, approved by the Department of Health under the laws of New Jersey and plant coding should remain so approved without the necessity of further approval by the Director of Weights and Measures. It would be incongruous to have a particular plant code approved by one agency and disapproved by another. Consequently, one should control and in this case it is submitted that the coding system presently in force should control.

Finally, and most importantly, it is the position of the Frozen Desserts Industry that frozen desserts should continue to be sold as current customer usage dictates and not by net weights. Section 51A:7-12 provides that

frozen desserts in molded forms of 8 fluid ounces or more are to be sold by net weight only. This provision should be deleted since it is inappropriate, would change established understanding as to some forms and would result in expense.

I would like to draw attention at this hearing to the fact that the Frozen Desserts Industry has appeared and offered its proposed amendments to Senate Bill No. 21 each year this bill has been introduced. The Industry does not understand that there is any objection to the amendments it proposes. However, for one reason or another the bill has been reintroduced in the same form without industry amendments each successive year. It is hoped that if the bill is not passed this year and is reintroduced next year the proposed Frozen Desserts Amendments above will be included in next year's reprint so that the Frozen Desserts Industry at least will be relieved from making numerous appearances where there is no real disagreement.

This concludes the presentation of the Association of Ice Cream Manufacturers at this hearing.

The Association will be happy to confer with Weights and Measures Officials in order to make constructive solutions for the re-wording of language but thought it appropriate at the instant hearing to outline some of the reasons why the current proposals, insofar

as they pertain to frozen desserts, are inappropriate in today's industry.

Thank you.

SENATOR KEEGAN: Thank you very much, Mr. Uetz.

I note, Mr. Uetz, that you left also a pamphlet Form M-D2, January, '65, revised, of the New Jersey State Department of Health. Did you wish that left with the Committee also?

MR. UETZ: I would, to support the contention made in the statement and also the regulations pertaining to the laws governing the manufacture, sale and distribution of frozen desserts.

SENATOR KEEGAN: I note for the record that Mr. Uetz has also left with the Committee Pamphlet M-D16, March, '65 of the New Jersey State Department of Health.

MR. UETZ: And a list of the members in the State of New Jersey of our Association.

SENATOR KEEGAN: Fine, we will accept that too.

Thank you very much, sir.

Mr. Martin, thank you for your help.

Mr. George Wilkinson, Howe - Richardson Scale Company.

G E O R G E W I L K I N S O N: Mr. Chairman, my name is George Wilkinson and I am the National Service Manager for the Howe - Richardson Scale Co.

I am a resident of the State of New Jersey and I am speaking on behalf of the Howe - Richardson Scale Co. in an official capacity. Howe - Richardson is an International Corporation involved in the engineering, manufacturing, sales and service of industrial scales and systems. We are greatly interested and influenced by Weights and Measures regulations. Our Corporate headquarters and one of our major plants is located in Clifton, New Jersey and provides gainful employment for several hundred New Jersey residents.

I am also expressing the views, in an unofficial capacity, of the Scale Manufacturers Association, an Association national in scope, representing 80 to 85% of the volume of scales manufactured and sold in the United States.

Senate Bill No. 21 is, in our opinion, far too extensive, much more so than any other state or jurisdiction known to us.

This Bill, if enacted, could place control over non-commercial weighing and measuring devices, which is unprecedented and not required for fair trade in the State of New Jersey. Hundreds of examples may be cited where control of non-commercial devices is impractical and unnecessary. Weights and Measures enforcement has its rightful place in rigid control of commercial devices used

for buying and selling.

Senate Bill No. 21 provides extensive power to the Director. Such rule-making powers are specified in Chapter 2 Article II. The Director has the responsibility to establish specifications, tolerances and allowable deviations for measure containers, weighing, measuring and counting devices. Such specifications, tolerances, and allowable deviations for measuring containers, weighing, measuring and counting devices, have been competently established through many years of experience on the part of weights and measures officials nationally and are constantly updated to meet the requirements of technological advances. I will discuss the source of this in a few minutes.

Chapter 9, Article III of this Bill requires that dealers and repairmen shall undergo an examination into their technical competence, which examination shall be conducted by the State Division under regulations and rules promulgated by the Director. We agree that a control is required; however, may we suggest an adequate, less restrictive substitute to accomplish the desired results at less expense to the state. We highly recommend consideration be given to a Registration Plan, which has been adopted by the National Conference on Weights and Measures and has proven to be effective and non-

restrictive in many states. More and more states are adopting such a Registration Plan.

The publication covering all aspects of the model regulations pertaining to the voluntary registration of service men and service agencies for commercial weighing and measuring devices may be secured from the United States Printing Office. I have a copy with me that I may leave for the record.

Chapter 8 requires that no person shall sell, lease, install or deliver either any new or any altered device unless a sample of such new or altered device for use in the purchase or sale of commodities or services has been submitted by the manufacturer or alterer thereof to the director for inspection and the director has approved the device as to type, construction, and operation.

This provision is unrealistic as many such devices are large in size and weigh many thousands of pounds. This is not a new provision and in some cases in the past such approval has been granted after the manufacturer has installed such a device with the permission of the Director and inspection therefore by the Director takes place after the installation of the device. One other means less frequently used is to have the Director inspect such a device at the manufacturing source. Since the weights and measures regulators have the

authority to condemn and prevent the use of improper devices, such power is all that is required. Over the past number of years, only 14 separate states and cities have included this particular regulation and during the past year two or three of such states and cities have enacted legislation to remove this regulation from their laws.

In summary, we are not opposing legislation because we are in opposition to a change of any sort in New Jersey Weights & Measures Law. We, rather, propose that you should seriously consider Senate No. 325 and Assembly No. 676, which in essence is legislation patterned around the model states weights and measures law.

We are unique in this country in that we have weights and measures legislation controlled on the state level rather than the national level. In nearly every other country this is not the case. They have all found it most expedient to have national laws and national enforcement of weights and measures regulation.

Our system of state weights and measures legislation has endured for two reasons:

First, and probably foremost, many years ago the National Conference on Weights and Measures began as a coordinating body to render technical advise and to foster

uniformity of weights and measures legislation throughout the Nation. This body has met consistently each year and as an arm of the National Bureau of Standards has forged a uniform workable code of weights and measures legislation. This conference consists of weights and measures officials from almost every state with organized and active sub-committees so that the most qualified men in weights and measures work throughout the Nation, pool their knowledge and abilities to find the best possible solution to problems that arise from year to year.

The National Conference through hard work over many years, developed the model law and the model regulations which now is the basis for almost all weights and measures legislation throughout the Nation. They have also developed the codes of specifications, tolerances, procedures for testing weighing equipment and all of the many detailed technical parts of this vastly complex field of weights and measures enforcement.

Secondly, the states for the most part, have been willing to cooperate over the years by adopting these uniform regulations based on the model law and the recommendations of the National Conference. Whether we like it or not, we are living in an interstate world where we must have free flow by the states in order for our economy to progress. There is nothing so important in

continuing this type of free economy than uniform weights and measures legislation among the states, weights and measures legislation that is passed here should be aimed toward promoting interstate commerce.

As stated previously, our company because of its international affiliations, has had experience in weights and measures enforcement in the United States where we do not have 100% uniformity among the states, as well as experience with weights and measures enforcement, in countries that do have 100% uniformity. Our experience has taught us that uniformity is important and directly related to the purchase price paid by the consumer. Uniformity does not of necessity weaken weights and measures enforcement or fair trade.

I would urge you to contact the one person in this country who is probably the foremost authority on weights and measures, Dr. Malcolm Jensen, Chief, Office of Weights and Measures, at the National Bureau of Standards in Washington. A letter from anyone in the Senate or Assembly of the State of New Jersey directed to Dr. Jensen for his opinion, in general or on specifics concerning Senate Bill No. 21, will bring a written response furnishing an impartial view from a person well qualified to advise in this field.

Thank you kindly for the opportunity of expressing our views on Senate No. 21.

SENATOR KEEGAN: Thank you, Mr. Wilkinson.

I will just point out, if I could, I have been informed that New Jersey, I think, historically has a unique position so far as weights and measures are concerned. Our Department, I understand, is one of the first in the country and there doesn't seem to be too much dispute so far as the upgrading of our present statute is concerned.

My experience with S-21, and previous legislation going back to 1965, - through Mr. Christie, we are quite in touch with Dr. Jensen and we find that Mr. Christie has the respect and the wholehearted cooperation of the National Officials of the Weights and Measures Division, and the Committee will be leaning on Mr. Christie also.

MR. WILKINSON: We certainly agree with your comments on weights and measures enforcement in the past in New Jersey. We have been very happy with it and we have always found the Weights & Measures Department very cooperative.

SENATOR KEEGAN: Thank you very much, Mr. Wilkinson for coming down.

Mr. W. Lohrfinck of the New Jersey Bottlers of Carbonated Beverages Association.

W. L. LOHRFINCK: I want to thank you, Mr. Chairman, for the opportunity to make this statement on behalf of the Association which I represent, in reference to Senate Bills 21, 325 and 326.

My name is W. L. Lohrfinck, Secretary of the New Jersey Bottlers of Carbonated Beverages, the association which represents the soft drink industry in New Jersey. My address is 2 Holland Road, Middletown, New Jersey.

I am appearing here today to present to you the views of our members on the various bills relating to weights, measures and containers. Since any weights and measures law or regulation adopted by the State of New Jersey will have an impact on the soft drink industry on a national scale, as well as in this State, I am also expressing the views of the National Soft Drink Association, representing soft drink manufacturers all over the country.

At the present time there are about 3554 soft drink plants in operation in cities and towns all over the United States. Of that total 96 are located here in New Jersey. These local plants are typically owned and managed by residents of this State and they represent a significant segment of the communities in which they are found.

These New Jersey manufacturers are proud of their State and they have a vital stake in her future. We believe

that New Jersey, in many respects, is unlike other states and we appreciate her unique attractions. At the same time, because of certain unusual features involved in soft drink labeling, we must be concerned over proposals to carry over the concept of uniqueness into laws of potentially national application.

Against this background then we would commend to your favorable consideration the bill, S-325. That legislation is similar in many important respects to the Model Law on Weights and Measures developed by the National Conference on Weights and Measures. The Model Law which reflects the sound thinking and experience of weights and measures officials in every state has been adopted and successfully implemented in many jurisdictions, including our neighboring States of New York and Pennsylvania. In an area of law which calls for a high degree of uniformity the Model Law serves as an effective standard.

I am sure you are aware of recent developments within the federal government on the subject of labeling. There is now pending a proposed regulation which will govern the content labeling of food products sold in interstate commerce. That regulation will also affect other label statements but it is primarily directed to quantity declarations.

That regulation, national in scope, cannot help

but have its effects felt here in New Jersey. By the same token what is done here in New Jersey will have ramifications beyond our borders. Unless some consideration is given to devising a compatible Federal-State and interstate system the result could be a thicket of conflicting laws and regulations from which many manufacturers will not be able to emerge unharmed.

For the soft drink industry such a situation could create an island of depression in New Jersey. Such a threat arises from the long established use of reusable glass containers as the principal package for soft drink products. The fact that many of those bottles bear permanently applied content declarations renders the bottlers extremely vulnerable to the danger inherent in non-uniform state weights and measures regulation.

The returnable bottles are a mobile factor in this industry. That is to say a bottle sold by a New Jersey manufacturer might be returned by the purchaser to an outlet in New York or Pennsylvania. By the same token a New Yorker buying a bottle of beverage in his home state might turn it in to a New Jersey outlet which, in turn, will give it to a New Jersey bottler. If the bottler in this State cannot use that container because it does not comply with New Jersey's weights and measures law he has, of course, suffered an economic loss.

It should also be noted that there are already in existence large stocks of these returnable bottles which complied with existing laws at the time they were produced. If they are subsequently rendered invalid the bottler will be forced to discard them and replace them with new stocks. It is no idle threat to say that many bottlers in New Jersey could not bear such a financial loss and remain in business.

On a national basis it is estimated that there are now in existence about 28 million gross of such containers valued at about 25 million dollars. While it is not possible to accurately state the extent of this float in New Jersey we can approximate it by realizing that our bottlers do about 7.6 percent of the total sales volume of the industry every year. An equal share of the returnable bottle float would be about \$1,900,000 as the investment of New Jersey bottlers.

Adoption of laws, or regulation invalidating this investment is our concern today. These bottles to which we refer are in existence now and studies have shown that they cannot be modified.

It is readily evident that where laws are different, requirements for compliance may also be different. This is the threat we see in one of the bills, S-21, which you are considering today. If the concept of a Model Weights and Measures Law, as embodied in S-325, is

not followed then we perceive a basis for abandoning the concept of uniformity in regulation also. Such a situation could be disastrous for the soft drink industry in this state.

For all these reasons we urge your favorable consideration of S-325. As a possible alternative, in view of the regulations pending at the federal level, you might want to consider S-326 which would permit further study prior to a final decision.

I thank you.

SENATOR KEEGAN: Thank you very much, Mr. Lohrfinck for your very thorough statement.

MR. LOHRFINCK: Thank you, sir.

SENATOR KEEGAN: The next name I have on the list here is Erwin B. Hock. I understand that Commissioner Hock has filed a statement with the Committee already.

E R W I N B. H O C K: My name is Erwin B. Hock. I am with the Distilled Spirits Institute in Washington, D. C. I am a resident of New Jersey at 312 Brooklyn Blvd., Sea Girt, New Jersey. And I might add that I formerly was Commissioner and Director of Alcoholic Beverage Control in the State of New Jersey.

I am going to be very brief, Senator. I want to leave a few things with the Committee - a copy of the Federal

Alcohol Administration Regulations, pertaining to alcoholic beverages; a copy of the New Jersey Division of Alcoholic Beverage Control Laws and regulations. In both of these your Committee will find that alcoholic beverages are dealt with extensively and specifically with respect to labeling, advertising, and standards of fill.

As you probably know, the alcoholic beverage industry is probably the most regulated and controlled industry in the country. The products are supervised by the federal government from the point of manufacture right through to the retail level and the consumer. Take for example distilled spirits. They may only be placed in containers which are designated in the federal regulations as well as in the state regulations. Also as to labeling. The labels of a producer of distilled spirits and wine must obtain a certificate of approval from the federal government before a single bottle can go into commercial channels. And these labels must contain mandatory information required by the federal government on both front and back labels.

I might add that several years ago when the Congressional Committee under United States Senator Hart of Michigan went deeply into the whole problem of labeling, packaging, etc., that Committee at that time congratulated federal officials on the adequacy of the federal label

requirements for alcoholic beverages.

Also the 49th Annual Conference of Weights & Measures at the Sheraton Park Hotel in Washington, D. C. - the final report of the Committee on Laws and Regulations at that Conference, under exemptions, specifically provides: "Packages of Alcoholic Beverages -- Packages of alcoholic beverages, for which the labeling requirements are specified in federal law, shall be exempt from the requirements hereinafter set forth."

I will leave this information with the Committee. There is no point in my going into it in great detail because you will find it all here.

But in conclusion, I would like to urge, because of the vast regulations we are under and which we want to keep, incidentally, in the industry, - we don't want a change - that this Committee consider the express exemption of alcoholic beverages from S-21 or any similar bills because it would appear needless duplication and very probably cause a great deal of confusion.

I think that's all.

SENATOR KEEGAN: Thank you very much, Commissioner. The Committee will certainly take your testimony under deliberation. Thank you very much, sir.

The record would indicate that Commissioner Hock has left with us a copy of the U. S. Treasury

Department Internal Revenue Service IRS Publication No. 449 (2-61); a copy of State of New Jersey, Department of Law and Public Safety, Division of Alcoholic Beverage Control Rules and Regulations effective January 1, 1957 with an insert bringing the regulations up to date; also a memorandum on The Power of the City of New York to Regulate Labeling of Liquor and Wine which is a memorandum of the Distilled Spirits Institute, Inc., September 21, 1964; and also the proceedings of the Forty-Ninth National Conference on Weights and Measures, June 15th through 19th, 1964, in Washington, D. C. - the Final Report of the Committee on Laws and Regulations.

Next is Mr. C. Albert Stephan of Peter Lumber Company of Pleasantville, New Jersey.

C. A L B E R T S T E P H A N: Mr. Chairman, my name is C. Albert Stephan. I am a Vice President of Peter Lumber Company operating retail lumber yards in the states of New Jersey and Pennsylvania, and I am speaking entirely on articles and regulations concerning or referring to particularly the lumber industry.

I am referring to our meeting of January 24th. In that meeting with the Bureau of Weights and Measures there was a complete agreement on the articles pertaining to the lumber industry. These agreements accepted

existing standards of the lumber industry, and they are primarily incorporated in Bill 328. However, there are considerable conflicts in S-21.

The present provisions in these regulatory bills provide for the Bureau of Weights & Measures to establish standards, set measurements, sizes, grade markings and labeling.

Now, as for the setting of grades and standards and measurements, there are now existing standards, measurements, sizes, grading rules of the industry, that are used and accepted in building codes and regulations and these codes do govern the standards and grading requirements, stressing and engineering requirements.

I believe that the changes set forth in the meeting of the 24th relating to the lumber industry should be incorporated in the regulatory bills. These provisions were incorporated in S-21 but, as pointed out in previous statements, we feel that this gives the Bureau of Weights & Measures regulatory powers that are too great and too broad, and these could result in considerable conflict with existing codes and standards.

Now, as previously mentioned by one of the other witnesses regarding the do-it-yourselfers, I would like to dignify them a little bit by calling them "home craftsmen." Construction and alterations by those people

are under the protection of the building code and permits are granted for such alterations, etc. Now, most of the other items used by the home craftsmen are standard items, manufactured according to standards and grades of materials, and priced and offered by both the manufacturer and the dealer according to the quality, as represented, as selected or specified by the buyer.

Now, as retail lumber dealers we are heartily in agreement with regulations that protect the consumers. On any item misrepresented, the customer does have recourse in claiming fraud if such was the intent.

Now we are not concerned with the overzealous enforcement of regulations but we feel that those regulations and requirements should conform with accepted standards and building codes as now in existence. But we are concerned with the broad powers now given to the Bureau of Weights & Measures.

I thank you very much, sir, for this opportunity.

SENATOR KEEGAN: Thank you, Mr. Stephan.

Mr. Jack McCaffery of the New Jersey Brewers Association.

I point out that Mr. McCaffery has left a statement with the Committee, and his statement will be made a part of the record for the Committee's perusal. (See Page 144]

Mr. C. J. Ringleib.

Mr. Ringleib has also left a statement. We take it he does not wish to elaborate on the statement and his statement will be made part of the record.

Mr. D. W. Leeper, representing the H. J. Heinz Company.

D O N A L D W. L E E P E R: My name is Donald Leeper and I am an employee of the H. J. Heinz Company which has a factory in Salem, New Jersey, and whose products are widely distributed in the state.

In addition to representing the Heinz Company, I have been asked to represent the New Jersey Canner's Association and the National Canner's Association, some members of which have factories within the state and many of which distribute products within the state.

The major concern of food canners and of my Company with S-21 arises from the breadth of authority granted to the Weights & Measures Division to regulate the canning industry.

In efforts to achieve authority to meet every contingency, the Act delegates authority far beyond the intent and far beyond the scope of Weights & Measures.

This comes in part from incorporation into the act of legislative intent to require the Weights & Measures Department to administer certain functions with respect to

the control of quality of a few commodities such as gold, silver and platinum, lumber and building materials, etc.

It also comes in part from the incorporation in the act of legislative intent to standardize certain package sizes, such as baskets for agricultural commodities.

It also comes in part from legislative authority to prohibit absolutely the use of false measuring devices, and to control the performance of weigh-masters.

Each of these, and many other functions required by the Act, are perfectly legitimate functions of the Department of Weights and Measures. However, in devising language to regulate quality of gold, silver, lumber, etc., the authors have authorized the control of the quality of all commodities.

In the language devised to standardize agricultural baskets they have authorized the standardization of all food packages. In the language devised to absolutely prohibit the deliberate use of dishonest measuring devices, they have authorized the seizure and condemnation of commodities of all types. In the language devised to provide subpoena authority where laws have been violated, they have authorized access to many kinds of business records of parties who are completely innocent of wrongdoing.

In summary, in devising language to regulate legitimate functions of weights and measures, they have compounded authority upon authority until the S-21, as it now stands, would permit the Director, so far as foods are concerned, to do the following:

1. Establish standards of quality and nutrition of foods.
2. To seize and condemn foods which do not meet the quality standards established.
3. To specify package sizes to be used, and, indeed, to specify the quality and suitability of packages to be used for food and to seize and condemn all such packages that violate his regulations.
4. To subpoena a manufacturer's recipes and processes and quality data.
5. To require contents declaration in terms not required by other states or by Federal law.

We recognize that it probably is not the intent of the present administration to exercise these functions. Nevertheless, it is the history of law enforcement that authority granted is ultimately employed.

We would recommend that to avoid such unintentional grants of authority, there are two courses open. One is to amend the language of the bill to make it more specific with relation to the area to which the authority extends.

The second course, and the one which we strongly favor is to authorize the proper functions of the Department of Weights and Measures through different legislative acts. We understand that the Senate has before it separate bills having to do with weighmasters, with building materials, and the Model Weights and Measures Law represented in S-325.

My Company and the Cannery Associations which I represent today, being national distributors, are vitally interested in uniformity of state laws. We recognize that the Model Law, as developed and refined by the National Conference of State Weights and Measures Officials, is an eminently sound law and one whose meaning and interpretations are widely understood. It has been adopted in half of the states and, more importantly, has been adopted by or incorporated in the laws of all of the major neighboring states. We recommend its' adoption in place of S-21.

In the event that the Committee does not see fit to recommend the adoption of the Model Act, together with the separate weighmaster and building materials act, we have prepared a lengthy recommendation of amendments to S-21. We believe that these amendments preserve the necessary authority intended by the authors and, at the same time, by elimination of repetition and by use of specific references, prevent the granting of regulatory

authority not proper for Weights and Measures Administration in the area of food manufacture.

We will not take the time of the Committee to detail these amendments, but request the privilege of filing them with the Committee as part of our testimony.

We would further like to testify relative to the amendments to S-21 proposed by the Administration under date of April 17.

We find that, where they refer to food products, they parallel many of the amendments contained in our own list of proposed amendments and we wish to go on record as endorsing the Administration amendments of April 17. We regret that they did not reach us in sufficient time to permit our prepared statement to be modified in accordance with them.

Thank you for this opportunity to testify.

SENATOR KEEGAN: The record would note, Mr. Leeper that filed with your formal statement is also a list of recommended amendments to S-21 and they are, as you point out, quite detailed. They will be made available to the Committee. [See Page 146]

We also note that since the preparation of your formal statement you have not had an opportunity to incorporate the proposed amendments to S-21 and it may be that in many areas the Committee has already considered

several of your amendments but we assure you that we will give this very careful consideration. We are very grateful for the detailed work that this represents, it will save the Committee a lot of work.

MR. LEEPER: Thank you.

SENATOR KEEGAN: We have representing the New Jersey Farm Bureau, Mr. C. H. Fields.

C. H. F I E L D S: Mr. Chairman, my name is C. H. Fields of Trenton, New Jersey. I am Executive Secretary of the New Jersey Farm Bureau, and I appear here today to present a statement on Senate Bill 21 on behalf of that organization and also the New Jersey State Grange.

Farm Bureau and Grange are private farm organizations of rural and farm families in 20 New Jersey counties. Since our membership consists of a majority of the producers of agricultural crops and livestock in the State, we have a vital concern and interest in the operation of the Division of Weights and Measures and the changes in the law that would be brought about by the passage of Senate 21.

We are opposed to the passage of S-21 in its present form, and would like to state briefly the general and specific reasons for our opposition.

We look upon the Division of Weights and Measures

as a vital and necessary agency of State Government. It provides a mechanism through use of the police power of the State to make sure that the buyers of goods receive reasonably fair treatment at the hands of sellers. Its over-all purpose should be to assist and encourage legitimate business to operate in a climate of fair play and to protect the interests of consumers.

We want to point out, however, that governmental regulation and control over the day-to-day relationships between buyers and sellers in the marketplace can go too far, and can become a detriment to both business and consumers. We want to commend the Committee for proposing an amendment to 51A:2-16, removing authority of the Director to establish standards of "quality, serviceability, fitness, and suitability" of commodities regulated by the act.

There is no doubt in our minds that the Committee has greatly improved the bill through many of its proposed amendments; but we are still concerned about the language in several sections of the amended bill that directly affect agriculture.

On page 30, in Section 51A:7-2, it is not clear whether the law would require loads in excess of 100 pounds to be weighed by a licensed weighmaster and the issuance of a delivery ticket, or whether it means that

any individual package weighing more than 100 pounds must be so weighed and delivered with the required ticket. If it refers to the weight of the load, it would definitely interfere with the normal deliveries of farm products to market by farmers. We would suggest that the word "packaged" be inserted in line 4, between the words "commodity" and "in."

On page 35, Section 51A:7-18, we want to point out again, as we have done now for three years in the consideration of the various successive bills that have sought to rewrite Title 51, that barrels have not been used by the cranberry industry for many years, no bushel baskets are used to ship cranberries, and the 1/3 barrel box referred to has not been in use by the cranberry industry for several years. The standard container now in use is a 25-pound carton or box, which is not even mentioned in this section. The point is that this section is entirely obsolete and has no relationship to the conditions now prevailing throughout the cranberry industry. If we are going to modernize the law, this section should certainly be changed.

On page 36, Section 51A:7-21, we continue to question why the language requires "Roman letters," and why the requirement that peach baskets must be marked "Standard N. J." We suspect there are few officials,

employees, or any other persons in the peach business, or the Division of Weights & Measures who would know a Roman letter from a Gothic letter. This requirement is completely meaningless and ridiculous. All other sections of this bill require that information on containers be in "English letters." The peach basket referred to in this section is a standard container recognized by the U. S. Department of Agriculture. The term "Standard N. J." is not required on any other container mentioned in this bill. There is absolutely no reason for the requirement in this instance. In addition, the peach industry now widely uses a 3/4-bushel basket that is accepted by the U. S. Department of Agriculture, and it is not even mentioned in this section of the bill.

While it may be said that these are minor considerations, and that in actual practice might not cause any difficulty to agriculture, we wonder why our recommendations on these items have been ignored during the last two or three years of rewriting this legislation.

On page 37, Section 51A:7-25, we find a serious objection. This section requires the manufacturer, distributor or dealer of new or used agricultural dry measure containers to notify in writing, in advance of delivery, the superintendent of the county or municipality in which the containers are to be delivered, all kinds

of completely useless and meaningless information.

Dealers in used containers may not sell, expose for sale or distribute used containers unless they have been re-examined by them and brought up to the required specifications, and all markings thereon obliterated or otherwise destroyed, except the name of the manufacturer of the container and the name and address of the person dealing in and processing such containers, or in lieu thereof a symbol registered by him with the Director.

In view of the millions of new and used agricultural dry measure containers used annually by New Jersey farmers and packers, this section could not possibly be enforced, particularly with respect to the method of handling used containers. Truck loads and trailer loads of these used containers are picked up in nearby markets by dealers and delivered directly to New Jersey farms, or are picked up by the farmers themselves from used container dealers in the markets.

If the dealer in used containers is required by law to obliterate the information on the containers, they will have to increase their price to farmers to pay for the cost of such reconditioning of the containers; whereas, if the responsibility is left on the farmer or user of such containers, the work can be performed at slack times by the farm workers with little or no additional cost to

farmers.

We are also not satisfied with the definition of "In package form" on page 4, line 71. We have experienced considerable difficulty in the past two years on this definition in proposed regulation 58, 58A and proposed Administrative Ruling No. 66001. A clarification of this definition is needed, and we would suggest the exact language contained in the Model Law recommended by the National Conference on Weights and Measures.

In our opinion, this bill still fails to accomplish its avowed purpose to "keep pace with the demands of modern merchandizing methods, commodities, technological advances in weighing, measuring and counting devices. . ." as stated on page 96. If the non-agricultural sections of the bill are as far out of line as the agricultural sections, then we would suggest a lot of work remains to be done.

We do not deny that legislative action is needed to give New Jersey a modern weights and measures law; but we think the public good would be better served by starting with the Model Bill, as developed by the National Conference on Weights and Measures, held under the auspices of the United States Department of Commerce, add to it as deemed necessary, and then take care of the special needs in New Jersey through broad regulatory power. This would remove many of the objections related to uniformity of

standards that affect interstate commerce.

We appreciate the opportunity to again present our views on this legislation.

SENATOR KEEGAN: We appreciate your taking the time to give us your views.

Now I have completed the list, with the exception of two witnesses. The list that I had gone through ran down to Mr. Fields of the Farm Bureau. The list also shows Mr. Lord of the State Division of Weights & Measures and Mr. Bird of the State Division of Weights & Measures.

Would you gentlemen like to testify or leave a statement with the Committee, realizing that you are on call so far as the Committee is concerned anyway? However you would like to handle it.

While the next witness is coming forward, we would note for the record that there has been left with the Acting Chairman a statement of the New Jersey Laundry and Cleaning Institute, over the signature of Richard V. Whalen, Executive Secretary. This is dated May 4, 1967, and is a statement which Mr. Whalen would like to leave with the Committee. There is no need for me to take the time to read it, it will be made part of the record and will be considered by the Committee.

Yes, sir?

R O N A L D H. L O R D: Senator Keegan, my name is Ronald H. Lord. I am Supervisor of Licensing for the State Division of Weights & Measures and I would like to keep my remarks within the area of the points already presented, especially in the licensing field.

We have been exposed to the fact that there is a distinction between a public weighmaster and a certified weighmaster. I fail to see that distinction. 51A:1-73 uses both the words "public weighmaster" and "certified weighmaster" and provides the duties and powers of a weighmaster.

We are not going into the legal opinions. May I just say that the Weighmaster Act requires more than a signed certificate which is the only thing that a certified weighmaster, working for an employer, could issue.

A weighmaster must issue a certified weight certificate and that certified weight certificate must be sealed. Now, that seal is issued through the weigh station through the State Superintendent of Weights & Measures to the weighmaster, and it would follow that a certified weighmaster could not perform the office of a weighmaster unless he was appointed to perform that office and assigned the official weighmaster number. This process remains substantially the same in Title 51, S-274 and S-327.

We have also been told that if S-21 is enacted a substantial disruption of employment would result. I can only say that the weighmaster act has been in effect since 1920 and there has been no large disruption of employment due to the residency requirement.

Now this residency requirement is not a capricious whim of the administration, there is a good and valid reason for this residency requirement. A weighmaster is appointed and is an official of the state, and it has been well established that it is necessary that the business of the state -- that the weighmaster, who is a state official, be a resident of the State of New Jersey and answerable to the government of the State of New Jersey.

We have heard the argument that the dealers-mechanics section of S-21 would mean that the Division of Weights & Measures would have control over non-commercial weighing devices. Actually 51A:1-2, page 8, lines 231, 231-A and 231-B defines, and I quote: "provided, however, that such devices used exclusively for inter-plant or manufacturing processing only shall not be construed to come within the provisions of this act."

So on the basis of that there seems to be a built in safeguard against the non-commercial device.

Finally, I would like to come to the question of the floater plates brought up earlier as a method of

identification for certified weight certificates. Since this argument was brought up previously, at the last hearing, I have researched this problem or this term of floater plates with other licensing agencies and also through the State Library and we could find no records of any state having this floater plate practice. True, licenses may be transferred by a fee but as a floater plate being transferred from vehicle to vehicle we have yet to find any such term. So it would still remain that the most practical method of identifying a vehicle for a certified weight certificate would be the motor vehicle license plate number.

That concludes my remarks, sir. At this time Mr. Bird, from our Division, has some other comments on the technical points.

SENATOR KEEGAN: Fine, Mr. Lord. The Acting Chairman will point out that you will continue on call and continue to be as cooperative and helpful to the Committee as your Department has been.

Thank you very much, sir.

MR. LORD: Thank you, sir.

SENATOR KEEGAN: Mr. Bird?

J A M E S R. B I R D: My name is James R. Bird.
I am Supervisor of Technical Services for the State
Division of Weights & Measures.

This afternoon you are asking for an adequate tool - S-21. At different times we heard this morning that the state should have the Model Law but, in my opinion, the Model Law is the best least-common denominator of this type of law but we have long since passed this position. And we've also heard the ads at different times that "because we're second best we strive harder." But at one time New Jersey had one of the best or the best reputation in the field of weights and measures, and we're still trying harder.

We once were first, as I said, and now we need to go on, not with the foundation of the model law but with S-21 which will give New Jersey the best weights and measures law possible for our particular conditions.

And there is much to be said for uniformity which we've heard so much of this morning. But when uniformity is less than we should have, why be satisfied with it?

And to set the record straight, some of the testimony we heard here this morning, that only the petroleum tank trucks are involved in this testing and calibration of compartments, is not entirely correct because all weights and measures devices fall under the jurisdiction

of 51:1-84 which requires that all devices be tested and sealed once a year. And all vehicles that are so used come under this category that they should be so tested.

We also heard this morning that the Weights and Measures Department has not been active in this field of testing these devices and it was implied that we don't intend to be. But to my knowledge there are only two commercial calibrators operating in New Jersey and they are in no sense performing the work that we are required to do. And in one sense they are doing work that is unnecessary because many times they provide a calibrated chart with these vehicles. And at the present time we only recognize, at the most, 3 markers, capacity markers, in each compartment and this is based on the National Bureau of Standards' handbook, H-44, which we have adopted by regulation No. 46. This handbook covers the regulations, specifications and tolerances applicable to all these particular devices.

And there has been activity for ten or more years that I know of in the calibration, gauging and testing of tank truck compartments by members of my own staff and by members of the county and municipal weights and measures departments.

And we also heard this morning that we do not have any equipment to do this. We have and have used specialized equipment for this type of work. We have also requested for

several years modern and efficient equipment necessary to properly perform our duties and we have been actively engaged in this phase of enforcement, regardless of what has been heard here today.

In responding to the testimony of the scale industry representatives regarding type approval and mechanic's licensing, we have had the approval law on our books since 1926. This law provides protection to the proprietors for devices. I'll explain this briefly. If a proprietor or operator bought a device and it did not conform to all the regulations, specifications and tolerances, we would not approve it for use in the State of New Jersey.

Now, if this was left to the individual judgment of the weights and measures officials in New Jersey, it is probable and likely that some device would be tested and sealed when it should not have been because it requires in many circumstances and instances specialized knowledge and experience to adequately test some of these devices which we do on a specialized basis at the state division level.

Now it has also been said that we should have bonded, rather than licensed, mechanics. Who should decide when the work is improper when we have bonded mechanics? And who is to enforce this bond? In the past we have had many hearings with mechanics when there was improper work or there was some misunderstanding and we have been

able to straighten it out very adequately in many circumstances. And we feel through the experiences that we have had that this is a much better system than having a bond where a man can come in and pay his bond and say, "I'm a scale or meter mechanic." Once he is bonded he would be privileged to work on any device whether it would be a gasoline pump, an LPG fuel meter or whether it's an analytical balance.

At the present time we have categories that these men are licensed for. Once they have proved their ability and capability of working on a particular device they are licensed for this particular thing. And as they progress in their experience they can come back and be reexamined and their license upgraded to cover these particular categories. And it is my own personal opinion that the bonded mechanic, as has been requested by the scale industry, is not an adequate protection.

That about covers the remarks I have now.

Thank you.

SENATOR KEEGAN: Thank you very much, Mr. Bird.

All having testified or having left statements with the Committee who have signified a desire to do so, I would ask if there is anyone else who has not been called or has not been afforded an opportunity to come forward.

As you know, this public hearing was called for ten A.M. and I said I would continue until all were heard.

The record will indicate that I made the call and that no one came forward. That being so, as Acting Chairman, I will close the public hearing on Senate Bill No. 21. The record will be prepared and forwarded to the Chairman of the Committee, Senator Donald Bigley.

I am very grateful to all you gentlemen for coming. I am sorry I didn't have an opportunity to thank the others while they were still here, but the Committee, through me, expresses its appreciation to all who have taken time from your very busy schedules to give us the benefit of your experience in your respective fields.

Thank you very much.

(Hearing concluded)

Insert

Appropriate Sections of Statement

of

Frederick C. Schmelz

at the

Senate Business Affairs Committee

Public Hearing - June 3, 1966

(Not included in the record of that hearing)

-- /// --

Section 51A:2-14(a) vests all weights and measures officials with the power to "arrest without formal warrant anyone who violates the law within his view ..." It is recognized that this authority is a carry-over from the present statute. However, the proposed bill is so broad that this section could be administered to apply in countless situations which are not covered by the present statute. For instance, the word "law" is defined in S-274 to include "any rule promulgated" under the bill. The director's rule-making power is very extensive. Under the circumstances, the arrest without formal warrant provision becomes repugnant, vesting as it does a tremendous power in weights and measures officials and encouraging arbitrary and capricious enforcement methods.

Section 51A:2-14(b) provides that weights and measures officials shall be vested with power to:

"issue stop-use, stop-removal, removal, condemnation, confiscation orders with reference to any weights, measure and device, package, commodity in package form or amount of commodity, which he finds being used, sold, offered, exposed for sale, kept or in the process of delivery in violation of any of the provisions of this Title or the regulations and rules promulgated by the director..." (Emphasis added.)

The section goes on to provide that a condemnation or confiscation order concerning a weight, measure or device shall be in accordance with certain

statutory procedures, but no procedure is provided for condemnation of commodities.

The language is very close to that in Section 14 of the Model Law, except that the underlined words "condemnation, confiscation" have been added. The effect of this addition, no matter how innocent it may appear, is to do away with every safeguard for the protection of producers and distributors of commodities, and to make the weights and measures official both the enforcement officer and the judge. These officials would be authorized by the explicit terms of this section to condemn and destroy any commodity they decided was unlawful. The extraordinary power of condemnation is traditionally reserved to the courts, and only after a trial and proof of a violation has been established. Under this bill an official could condemn a lot of merchandise without even notification to the packer or owner. Any subsequent attempt to challenge the condemnation would of course be futile, for the goods would have already been destroyed.

Then, too, this section goes much further than the Model Law, inasmuch as "commodity" is defined in Senate No. 274 as, "Any article of trade or commerce" and "article" is defined to mean, "Any article of merchandise and includes any portion of such article, whether a distinct part thereof or not, including any part thereof whether separate or not, and also including material for manufacture".

Section 51A:2-14(d) vests similar power in weights and measures officials as are vested in Section 51A:2-14(b) except that this section

permits orders to be issued whenever it is deemed either "necessary or expedient". This is an extraordinary grant of power, even going far beyond subsection (b) of this section, where orders may be issued only where actual violations are found.

Section 51A:2-14(e) empowers weights and measures officials to enter premises without formal warrant "at any time", upon probable cause to believe there is a violation. If this applies, as it may, to any store on whose shelves stands a package with technical defects on labeling, the power seems to unusually drastic, if not excessive.

Section 51A:2-16, lines 6 through 10, provide a grant of power which is felt to be much too broad. It has been suggested that the director be given general supervision over all weights and measures activities in the State, that he have the power to examine and test all measuring devices used in trade to determine that they comply with the standards and that he shall have the power to establish reasonable standards as to the weights, count and measurements of specific commodities as listed in the bill, as well as permissible deviations from such standards.

Under Section 51A:2-21 the director could adopt rules governing "the possession, methods of sale or exposure for sale of commodities". No comparable language is in the Model Law nor in any other law with which we are familiar. Here, again, there is a granting of extreme power to regulate broad categories of activity without any guidelines or safeguards, and without any relation to weights and measures regulation. Regulations governing the possession and sale of commodities could provide almost anything and still be within the statutory language.

Under Section 51A:2-21 C, regulations issued shall be effective thirty days from the date of their promulgation, unless otherwise provided in the content of the regulation. It has been recommended that regulations should become effective thirty days from the date of their promulgation unless a longer period of time is provided for in their content. It is also believed that public hearings on any regulation should be mandatory and that any such hearing should not be held until 21 days after the publication of a notice thereof. All persons appearing at such hearing should be given the opportunity to be heard and any rules and regulations as proposed, or as modified after such hearing, should be such as are reasonably necessary for the protection of the public, and should be in substantial conformity with generally accepted and applicable standards concerning the subject matter. It has also been suggested that it might be advisable to vest in a commission (which would include representatives of business groups) the power to promulgate rules and regulations under the act.

It has been noted that Section 51A:2-21 does not provide that any person aggrieved by a ruling, action or order of the director should be entitled to a hearing and judicial relief similar to that provided in the newly enacted chapter 154 of the Laws of 1965.

Under Section 51A:2-22 the director is given extremely broad power to revoke, suspend, limit or refuse to issue or renew licenses. In other words, the director would, if Senate 274 were enacted, exercise "life or death" control over any licensed business merely by finding the businessman performs any "incorrect" practice, conduct or transaction;

conducts himself in a manner likely to deceive or mislead, or tending to deceive or mislead the public; or advertises or publishes statements which are false, incorrect, misleading, deceiving as to his skill, knowledge, product or methods of operating his business. No other statute remotely attempts to grant such an extreme economic power to any administrative agent.

Section 51A:3-10 provides for double or triple penalties for excessive deviations. The fact that a meter or device goes out of calibration and, perhaps by failure of the device, goes out in an excessive amount certainly is not a justification for doubling or tripling the penalties.

It has also been recommended that the bill exempt transactions as between "merchants". In this context, a merchant would be considered as being a person who, by reason of occupation or experience, possesses the knowledge or skill peculiar to the practices, conduct or commodities governed by the act, or to whom such knowledge or skill may be attributed by reason of the employment of an employee, servant, or contractor who, by reason of occupation or experience, possesses such knowledge or skill. It has been further suggested that the limitations of the act be expressed by defining "commodity" to mean any article of the specific commodities stipulated in the act.

SENATE COMMITTEE AMENDMENTS

TO

SENATE NO. 325

S T A T E O F N E W J E R S E Y

ADOPTED _____

Amend:

Page	Section	Line	
4	9	2	Delete "The" and insert "(a) Except as modified under procedure specified in subsection (b) of this section, the".
4	9	6	After "conference." insert "The director is also authorized to establish and promulgate such rules, regulations or orders as he may deem necessary to implement the enforcement or administration of this act."
5	9	3	After line 3 insert "(b) Procedure for establishment of regulations. (1) Any action for the issuance, amendment, or repeal of any regulation, rule, tolerance, specification, or technical requirement (hereinafter referred to as 'regulation') under Sections 9(a), 24, 25, 26, 33, 37, and 47 shall be begun by a proposal made (a) by the director on his own initiative, or (b) by a petition of any interested person showing reasonable grounds therefor filed with the director. The director shall publish such proposal and shall notify all trade associations and persons who shall have filed with him a written request for such notification. The director shall afford all such interested parties an opportunity to present their views thereon, either orally or in writing. The director shall, by order, act upon such proposal and shall make such order public by publishing it in the same manner as the initial proposal. Except as provided in paragraph (2), the order shall become effective at such time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.
			"(2) On or before the thirtieth day after the date on which the order entered under paragraph (1) is made public, any person who will be adversely affected by such order if placed in effect, may file objections thereto with the director specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the director under paragraph (3), the filing of such objections shall operate to save the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired, the director shall publish a notice in the same manner as the initial proposal, specifying those parts of the order which have been stayed by the filing of objections and if no objections have been filed, stating that fact.
			"(3) As soon as practicable after such request for public hearing, the director, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the director shall by order act upon such objections and make such

5 9 3 - cont'd

order public. Such order shall be based only on substantial evidence erected at such hearing and shall set forth, as part of the order, detailed findings of the fact on which the order is based. The director shall specify in the order his findings as to such conditions.

"(4) Any person aggrieved by a ruling, action or order of the director under this act upon application made within 15 days after written notice thereof shall be entitled to a hearing before the director who shall within 30 days thereafter hold a hearing of which at least 15 days' written notice shall be given to all interested parties. Within 30 days after such hearing the director shall issue an appropriate order modifying, approving or disapproving his prior ruling, action or order. A copy of such order shall be served upon all interested parties. Pending the determination by the director and upon application therefor the director may stay the operation of such ruling, action or order upon such terms and conditions as are reasonably necessary to insure compliance with the provisions of this act.

"(5) Except as otherwise provided herein, relief from any final order, ruling, or action of the director made pursuant to this act may be sought by application to the Appellate Division of the Superior Court of New Jersey."

7	18	35	Delete "municipality having a population of 60,000 or" and insert in lieu thereof "county".
7	18	36-38	Delete lines 36 to 38.
7	18	39	Delete "United States census," after "be" insert "and in and for each municipality having a population of 60,000 or more there may be".
14	38	37	After "Berries" delete "and" and insert ",", after "fruits" insert "and small vegetables".
14	38	38	After "Berries" delete "and" and insert ",", after "fruits" insert "and small vegetables".
14	38	39	After "open" insert "or transparency covered original standard".
16	43	29	After "mean" insert "structural".
16	43	34	After "products" insert "but not including mineral aggregates or products produced directly therefrom".
17	44	41	After "of" insert "sections 43 to 53 of".
19	48	7	After "violation of" insert "sections 43 to 53 of".
19	51		Delete section 51.
19	52	27	Delete "52" and insert in lieu thereof "51".
19	52	28	After "enforcement of" insert "sections 43 to 53 of".
20	52	1	After "provisions of" insert "sections 43 to 53 of".
20	52	8	After "provisions of" insert "sections 43 to 53 of".
20	53	20	Before "Director's" insert "52.".
20	53	24	After "of" insert "section 45 of".

Amend:

Page	Section	Line	
20	54	37	Delete "54" and insert in lieu thereof "53".
20	54	40	After "of" insert "sections 43 to 53 of".
20	55	42	Delete "55" and insert in lieu thereof "54".
21	55	2	After "in" insert "sections 45 to 53 of".
21	56	4	Delete "56" and insert in lieu thereof "55".
21	56	5	Delete "The" and insert "Whenever the director has reasonable grounds for believing that the provisions of this chapter are being violated by any person, the".
21	57	15	Delete "57" and insert in lieu thereof "56".
21	57	18	After "provisions" delete "or" and insert in lieu thereof "of", after "sections" insert "43 to 53".
21	58	24	Delete "58" and insert in lieu thereof "57".
21	59	33	Delete "59" and insert in lieu thereof "58".
22	60	14	Delete "60" and insert in lieu thereof "59".
23	61	10A	Delete "61" and insert in lieu thereof "60".
23	62	24	Delete "62" and insert in lieu thereof "61".
24	63	1	Delete "63" and insert in lieu thereof "62".
24	64	15	Delete "64" and insert in lieu thereof "63".
24	65	28	Delete "65" and insert in lieu thereof "64".
24	65	30	After the word "a" insert "public", after "weighmaster" insert "or certified weigher".
24	65	38	After "any" insert "public".
24	65	41	After "is a" insert "public".
25	65	1	After "as" insert "public".
25	65	4	After "his" insert "public".
25	66	9	Delete "66" and insert in lieu thereof "65".
25	66	12	After "any" insert "public".
25	66	17	After "such" insert "public".
25	67	22	Delete "67" and insert in lieu thereof "66".
25	67	42	Delete "by railroad".
26	68	1	Delete "68" and insert in lieu thereof "67".
26	69	6	Delete "69" and insert in lieu thereof "68".
26	70	15	Delete "70" and insert in lieu thereof "69".
26	71	21	Delete "71" and insert in lieu thereof "70".
26	72	27	Delete "72" and insert in lieu thereof "71".
26	73	35	Delete "73" and insert in lieu thereof "72".
26	74	38	Delete "74" and insert in lieu thereof "73".

Senate Committee Amendments

to

Senate Bill No. 21

Amend:

Page	Sec.	Line	
2	Analysis	18	Omit "Products of petroleum" and insert "Liquid fuel and illuminating oil"
3	51A: 1-2	22	After "materials" insert "other than paints and other liquid coatings"
3	1-2	24	Omit "but not limited to"
3	1-2	33	After "mixture" insert "other than liquefied petroleum gas"
4	1-2	38	Omit "whether or not in the liquid"
4	1-2	39	Omit line 39
4	1-2	40-41	Omit "where in this section" and insert ", provided, however, that compressed gas shall not mean any material or mixture essentially free of non-volatile materials"
4	1-2	56	After "single" insert "commercial"
4	1-2	65	After "French custard" delete "," and insert "and"
4	1-2	65	Delete ", sherbet, ice, and"
4	1-2	66	Delete "fruit ice"
4	1-2	72	Delete "so as to constitute a unit quantity of a commodity" and insert "in units suitable"
4	1-2	74	After "enclosing" delete "the"
4	1-2	74	After "packages" delete "which" and insert "that"
5	1-2	77	After "unit" add "of", after "or" add "of"
5	1-2	81-84B	Omit
5	1-2	93- 94	After "enacted" omit ", and any rule promulgated under such legislation"
5	1-2	98	After "butylenes" delete "." and insert "and is essentially free of non-volatile materials."
6	1-2	116	After "any" delete "device" and insert "trade or commercial container designed or intended to be"
6	1-2	After line 121I	Insert "Merchant means a person who, by reason of occupation or experience, possesses the knowledge or skill peculiar to the practices, conduct or commodities governed by the act, or to whom such knowledge or skill may be attributed by reason of the employment of an employee, servant, or contractor who, by reason of occupation or experience, possesses such knowledge or skill."

(Amendments to Senate No. 21 submitted to Senator Keegan in February, 1967 as a result of the January 6th meeting on Weights and Measures.)

Amend:

Page	Sec. 51A:	Line	
6	1-2	129-130	Omit
7	1-2	178	After "service" insert "measure", after "device" delete "so", after "designed" delete "as" and insert "and represented by its manufacturer"
7	1-2	179	After "commodity" delete "or" and insert "and"
7	1-2	189	After "original" insert "standard"
7	1-2	190	Omit "All fruits" and insert "Fruits"
7	1-2	191	Omit "including" and insert "other than"
8	1-2	225	After "include" delete "but not be limited to"
8	1-2	231	After "person" delete "," and insert "in commercial transactions"
8	1-2	231A	After "interplant" insert ", intraplant"
10	2-9	3	After "superintendent." omit "The governing body of any municipality"
10	2-9	4-5	Omit
10	2-9	8	After "county" delete "or municipal"
10	2-9	9	After "municipality" delete "having a population of less than"
10	2-9	10	Omit "60,000"
12	2-14	13	After "stop-removal," insert "and", after "removal," omit "condemnation, confiscation"
12	2-14	17	After "Title" insert ",", delete "or the regulations and rules"
12	2-14	18-20C	Omit
12	2-14	29	After "(d) delete "Any weights and measures official shall have the power to issue stop-"
12	2-14	30-35	Omit
13	2-14	36	Omit "expedient to issue such orders, and may", omit "place" and insert "Place"
13	2-14	40	After "investigation" delete ", or, at any time,"
13	2-14	44	After "purposes" delete "," and insert ", except when such vehicle is transporting commodities which, because of their perishable or dangerous nature, should not be left unattended or detained for more than the shortest possible time."
13	2-14	49	After "enacted" delete ", and"
13	2-14	50	Omit
13	2-16	6	After "over" delete "the" and insert "all", after "weights" delete "," and insert "and", after "measures" delete ", devices and commodities offered" and insert "activities"
13	2-16	7	Delete "for sale, sold, or in use"
13	2-16	8	After "test" delete "commodities" and insert "all measuring devices used in trade"

Amend:	Page	Sec. 51A:	Line	
	14	2-16	9	After "the" delete "quantity," and insert "weight,"
	14	2-16	10	Delete "quality, serviceability, fitness and suitability" and insert "count and measurement"
	14	2-16	11	After "act" delete "." and insert "as well as permissible deviations from such standards."
	15	2-21	11	After "rules" delete "may" and insert "shall"
	15	2-21	13-15	Omit
	15	2-21	21	After "variations" insert "of quantity measurement and quantity declaration"
	15	2-21	31	After "Unless" delete "otherwise" and insert "a longer period of time is"
	15	2-21	33	After "their" delete remainder of paragraph and insert "adoption following a public hearing which shall be held not less than 21 days after the publication of a notice thereof. All persons appearing at such hearing shall be given the opportunity to be heard. Rules and regulations, as so proposed or as modified after such hearing shall be such as are reasonably necessary for the protection of the public, and shall be in substantial conformity with generally accepted and applicable standards concerning the same subject matter."
	15	2-21	43 -45	After "force." delete
	16	2-21	51	After line 51 insert "F. Any person aggrieved by a ruling, action or order of the director under this act upon application made within 15 days after written notice thereof shall be entitled to a hearing before the director who shall within 30 days thereafter hold a hearing of which at least 15 days written notice shall be given to all interested parties. Within 30 days after such hearing the director shall issue an appropriate order modifying, approving or disapproving his prior ruling, action or order. A copy of such order shall be served upon all interested parties. Pending the determination by the Director and upon application therefor the Director may stay the operation of such ruling, action or order upon such terms and conditions as are reasonably necessary to insure compliance with the provisions of this Title. "G. Relief from any final order, ruling, or action of the director made pursuant to this act may be sought by application to the Appellate Division of the Superior Court of New Jersey."
	16	2-22	6	After "or" insert "willful"
	16	2-22	8-9	Omit
	16	2-22	13	Omit
	16	2-22	14	After "deceptive," delete "incorrect", after "or" delete "any"
	16	2-22	16-18	Omit and insert "or"
	16	2-22	21-23	Omit
	19	2-35	6-15	After "received." omit

Amend:	Sec.	Line	
Page	51A		
20	2-35	16-18	Omit
21	3-2	1-5	Omit
21	3-5	5	After "device," delete "In the absence of conclusive evi-"
21	3-5	6-8	Omit
21	3-5	9	Delete "proof of intent to use in trade or commerce."
22	3-7	3	After "offer," delete "advertise"
22	3-8	2	After "offer," delete "advertise"
22	3-9	1	After "offering," delete "advertising"
22	3-9	5-7	Omit
22-23	3-10	1-15	Omit
29	7-1	9	After offered delete "," and insert "or", after "exposed" delete "or advertised"
29	7-1	18	After 'commodities' delete ", other than food in package form,"
29	7-1	23	After line 23 insert "(6) to any commodity which is the subject of sale between merchants where there is a recognized commercial practice otherwise."
30	7-2	4	After "commodity" insert "packaged"
31	7-2	45	After "delivered" delete "pursuant to a written contract," and insert "using"
31	7-2	46	Delete "provided, however,"
31	7-2	47	After "measures" delete "are used." and insert "provided, however, there is written evidence thereof." "(d) Sales as between merchants."
31	7-3	2	After "for" insert "retail", delete "or have in his"
31	7-3	3	Delete "possession with intent to distribute or sell"
31	7-4	8-17	Line 8 after "however," omit and insert "that the director shall, by regulation, rules or orders which shall be consistent with applicable Federal Law, permit (a) variations from the declared weight or measure caused by ordinary and customary exposure, after the commodity is introduced into interstate or intrastate commerce, as the case may be, to conditions that normally occur in good distribution practice and that unavoidably result in such variations, and (b) variations from the stated weight, measure or numerical count caused by unavoidable deviations in weighing, measuring or counting individual packages which occur in good packing practice."
31	7-5	1	After "be" delete "required or"
31	7-5	3	After "order" delete "require or"
32	7-6	5-9	Omit
32	7-8	1	Delete "Advertising;", delete "misrepresentation" and insert "Misrepresentation"

Amend:	Sec	Line	
Page	51A:		
32	7-8	3	Before "exposed" insert "or"; after "exposed" delete "or advertised", after "size," delete "grade"
32-33	7-8	6-9	Omit
33	7-10	1-5	Omit
33	7-11	1-9	Omit
33-34	7-12	1-7	Omit
34	7-15	1-3	Omit
34	7-16	1-6	Omit
34	7-17	5	After "of" delete "avoirdupois"
40	7-30	9	Before "or" insert "gold overlay"
41	7-36	6	After "washing," insert "and", after "charges" delete ", and the price per pound"
41	7-36	7-8	Omit
41	7-36	9	Delete "are computed based on schedules also filed with the director"
41	7-36	11	After "of" delete "the"
42	7-36	12	After "information" delete "to" and insert "of"
42	7-36	14	After "customer" delete "." and insert ", except if the customer be a transient."
42	7-37	6	After "that" delete 1/3 quart" and insert "10 fluid ounce"
43	7-39	12-17	Omit
49	7-54	5	After "the" delete "scrape" and insert "wood"
49	7-55	4-5	After "and" delete "unless the same has been heated to at least 225 degrees Fahrenheit." and insert "processed so that the product will dry more rapidly than raw linseed oil."
50		Heading N.	After "N." delete "Products of Petroleum" and insert "Liquid Fuel And Illuminating Oil"
50	7-61	6	After "sentation" delete ", or by advertising"
50	7-62	1-7	Omit
50	7-63	3	After "thereof" delete "," and insert "intended for use as fuel"
53	7-73	2	After "by" delete "cubic feet" and insert "vapor volume in cubic feet, or equivalent unit;", after "or" insert "by"
53	7-73	9	After "by" delete "cubic feet" and insert "vapor volume in cubic feet, or equivalent unit;", after "or" insert "by"
53	7-77	3	Delete "cubic feet" and insert "vapor volume in cubic feet, or equivalent unit;", after "or" insert "by"

Amend:

Page	Sec. 51A:	Line	
54-55	7-79	11-12-13	Delete "Delivery tickets shall be serially numbered and the serial number of the cylinder or container shall be legibly marked on such delivery ticket."
55	7-79	14	After "be" delete "numerically"
55	7-79	15-16	After "included," delete "unless otherwise allowed by the director,"
55	7-79	18-23	Omit
55	7-80	6	Delete "whose operations are", after "to" delete "the jurisdiction of" and insert "regulation by"
56	8-1	6	After "thereof" delete "." and insert "; provided, this Chapter shall not apply to common carriers."
56	8-2	2A	After "devices" delete "used in buying, selling, barter, payment" and insert "subject to the provisions of this Title"
56	8-2	3	Delete "for services or trade,", after "year," delete "or less"
56	8-2	4-5	Omit
56	8-2	6	Delete "ascertain if they are accurate,"
56	8-2	22	Omit
56	8-2	32-33	After "repair" delete "or condemned and confiscated"
58	8-7	22	After "condemnation" delete "and immediate confiscation"
58	8-7	23-26	Omit
58	8-9	8	After "weighings." delete "." and insert "provided, however, that this section shall not apply to pharmacist's prescription balances."
58	8-10	5	After "51A:8-7!" insert "; provided, that nothing contained in this act shall require a manufacturer of a container not designed or intended by the manufacturer to be a measure container to obtain such approval or to mark such container as provided in section 51A:8-10 (3) of this Title."
58	8-10	7-14	Omit

Note: Suggest as substitute for Chapter 9 the provisions of S-325 respecting Weighmasters.

Amend:	Sec.	Line	
Page	51A:		
63	9-13	1	After "deliver" delete "fuel,", after "fuel" delete "or liquid fuel"
63	9-13	4	After "person" insert "other than a common carrier"
63	9-13	5	After "delivering" delete "fuel,", after "fuel" delete "or liquid fuel"
63	9-13	8	After "of" delete "fuel,", after "fuel" delete "or liquid fuel"
63	9-13	10	after "ing" delete "fuel,", after "fuel" delete "or liquid fuel"
63	9-13	13	Delete "fuel,", after "fuel" delete "or liquid fuel"
63	9-13	17	After "day" delete "; or to that person who sells or delivers at retail liquid fuels in"
63	9-13	18	Omit
63	9-13	19	Delete "the same day"
64	9-13	41	After "deliver" delete "fuel,", after "fuel" delete "or liquid fuel"
64	9-13	66	After "of" delete "fuel,", after "fuel" delete "or"
64	9-13	67	Delete "liquid fuel"
64	9-14	6	After "is" insert "delivered by a common carrier or"
66	9-15	51	After "the" delete "sale of a boatload or railroad carload" and insert "delivery of solid fuel by a common carrier."
66	9-15	52-53-54	Omit
71	9-30	7	After "51A:8-2" delete "." and insert ", except as hereinafter authorized."
71	9-30	8	After "official" insert ", or other authorized person,"
71	9-30	10	After "director" delete "." and insert ", except as hereinafter provided."
71	9-30	12	After Line 12 insert the following: "The State director, upon application to him, shall appoint and issue certificates of qualification, which may be revoked by him for good cause, to qualified persons as bulk tank vehicle inspectors, and keep a record thereof. These inspectors shall have full authority and power to test, calibrate and seal the marker or markers in the bulk tank vehicle or any compartments thereof and to issue a certificate of approval. The certificate of approval shall not expire except when the bulk tank vehicle or any compartment thereof is damaged or altered so as to change the carrying capacity. The State director shall not be called upon to pay and shall not be responsible for any charges by the inspectors, but same shall be paid by the owner of the bulk tank vehicle. Any bulk tank vehicle in operation on the effective date of this act which was previously calibrated, tested and sealed may be utilized without further testing if the shape of the bulk tank vehicle has not been changed, modified or altered since its initial test, calibration and sealing of the marker."

Amend:

Page	Sec. 51A:	Line	
73	9-49	4	After "device" insert "for use in the purchase or sale of commodities or services"
75	9-56	3	After "device" insert "for use in trade or commerce"
81	9-82	2	After "to" delete "any legally incorporated agricultural"
81	9-82	3	Delete "co-operative association in dealings with its members; nor to"

Note: Suggest as substitute for Article 6 S-328 as amended.

Page	Sec.	
86	10-5	51A:10-5 - after line 7 insert: "51A:10-6 This act shall not in any way enlarge or diminish any right or remedy otherwise existent pursuant to the Revised States of New Jersey or at common law, or increase the burden of care ordinarily imposed by the common law of the State upon those within its jurisdiction.

"51A:10-7 Exemptions from this Act

The provisions of this act shall not apply to car and vehicles of railroad carriers and common or contract motor carriers subject to the Interstate Commerce Act or the public utility laws of this State; weighing, measuring and counting devices and procedures used by said carriers in weight determination and transportation or holding of goods in accordance with their tariffs; nor shall the picensing provisions of this Act be applicable thereto."

MEMORANDA RE WEIGHMASTER BILLS - May 4, 1967

Senate Bills Nos. 21, 22 and 325 would handle the matter of Weighmasters each in a different manner, none of which methods would seem to have full comprehension of the subject, its importance to all business in this State and the disastrous effect of some of the provisions on business, on labor and on the public weighmaster.

With respect to weighing, measuring and counting, some fundamental facts should be understood by all:

1. PURPOSE OF WEIGHING

- (a) As an adjunct to manufacturing, it is necessary to know the quantity, measurement, number, etc., of materials received and also to determine to quantity, measurement or number, etc., of items manufactured.
- (b) As a factor in determining the sales price in merchandising the manufacturer's products.
- (c) In determining the cost of services rendered when such services are based on the weight of the commodity, such as handling, milling, transporting, etc.
- (d) For the determination of the weight of an item of commodity for the purpose of law compliance or enforcement such as the weight of vehicles for licensing purposes, overload, or for use as evidence in Court.

2. BY WHOM PERFORMED

- (a) By the employee of the manufacturer, producer or person servicing the commodity.
- (b) By a person, corporation or partnership, or employee of the same, engaged in the business of weighing, counting or measuring for the public, for a fee.

3. TERMINOLOGY

- (a) In the current Statutes and in the several proposals before the Legislature, terminology is conflicting and sometimes vague, and not as meaningful as it might be. The words ('appointed', 'licensed', 'designated', 'certified', 'weigher', 'weighmaster', etc., are confusing.
- (b) The use of the words "for hire", "receiving a monetary fee", "consideration", "consideration other than wages" are confusing when not related uniformly to other terms such as "Certified Weigher", "Public Weighmaster", etc.

4. DESCRIPTION OF GOODS WEIGHED

- (a) As determined by the manufacturer, processor or vendor, in his own terminology of trade names or by other standards.
- (b) By the weigher, who is not prepared to describe, nor has he knowledge of the nature of the commodity which he is called upon to weigh, such as the contents of a particular package, the several items which might be on a general commodity truck, the various liquids in the several tanks of a tank truck, labelled or unlabelled, packaged or in bulk.

5. WEIGHT CERTIFICATE

- (a) By employer of manufacturer, processor or vendor.
- (b) By public weight
- (c) In duplicate, triplicate, quadruplicate, extra copies.

Under Section 51: 1-77, the completion of the certificate of weight of a vehicle would be simplified and equally effective if the law required an identifying number of the vehicle in lieu of a license plate number of the vehicle, since a single vehicle may have many license plate numbers. Some states issue "floater plates" which are changed from truck to truck as such vehicles may cross state lines. The recording of such license plate numbers might be of little avail in later identification of the particular vehicle weighed at a specified time.

From a practical standpoint the procurement of the individual registration number of the vehicle or each of a combination of vehicles could be most difficult and, in some instances, of little or no use for future references.

In many instances the location of the weigh beam, weight dial or "print weigh" of a truck scale is in an almost "front office" space in a building adjacent to the scale. The means of ascertaining the weight is, in many cases, operated by an office secretary or clerk, licensed as a Public Weighmaster, who has full visibility of the scale and the vehicle or vehicles placed thereon.

It is rather unthinkable that on a cold, rainy or snowy day, that the young lady weighmaster should have to travel from her office quarters to the scale with equipment to clean off the mud from a number of license plates, which might be on either the front or the back of a truck or on the front of a tractor and the back of a trailer, note down perhaps several of them in an attempt to determine, in the case of out-of-state licensed vehicles, the state nearest to New Jersey, and to so record such license numbers as might be required by the law.

Since some trailers from some states do not carry licensing registration plates, other identification of such trailers would be necessary.

It should be sufficient for the law to require "adequate identification" by recording such inscription as there may be on the vehicle or vehicles relating to the name of the owner or operator and the owner and operators vehicle numbers displayed thereon.

Submitted by Griswold B. Holman

SENATE AMENDMENTS
TO
SENATE NO. 22

- Amend page 1, Title, Line 2, delete "51:1-75,".
- Amend page 1, Section 1, lines 4 and 5, delete "include the terms 'licensed weighmaster' and 'certified weighmaster' and shall".
- Amend page 1, Section 1, line 19, after "consideration" insert "other than wages".
- Amend page 2, Section 2, line 3, before "shall" insert "and certified weighers".
- Amend page 2, Section 2, line 14, after "weighmaster" insert "or certified weigher".
- Amend page 2, Section 2, line 18, delete "restoration".
- Amend page 2, Section 2, line 21, after "weighmaster" insert "or certified weigher".
- Amend page 2, Section 2, line 24, after "weighmaster's" insert "or certified weigher's".
- Amend page 2, Section 2, line 26, delete "a resident of the State of New Jersey;".
- Amend page 3, Section 3, lines 1-7, delete Section 3.
- Amend page 3, Section 4, line 1, delete "4" and insert in lieu thereof "3".
- Amend page 3, Section 4, line 3, before "shall" insert "and certified weigher".
- Amend page 3, Section 4, line 11, after "weighmaster's" insert "or certified weigher's".
- Amend page 3, Section 5, line 1, delete "5" and insert in lieu thereof "4".
- Amend page 3, Section 5, line 5, after "owner" insert "or operator".
- Amend page 3, Section 5, line 13, after "numbers" insert "of the home state or nearest state"; after "vehicle or" insert "of each unit of a".
- Amend page 3, Section 6, line 1, delete "6" and insert in lieu thereof "5".
- Amend page 4, Section 7, line 1, delete "7" and insert in lieu thereof "6".
- Amend page 4, Section 8, line 1, delete "8" and insert in lieu thereof "7".
- Amend page 4, Section 8, line 6, after "a" insert "sealed".
- Amend page 4, Section 8, line 7, after "weighmaster" insert "or certified weigher".
- Amend page 4, Section 8, line 12, after "is a" delete "public".
- Amend page 5, Section 8, line 20, after "any" insert "sealed".
- Amend page 5, Section 9, line 1, delete "9" and insert in lieu thereof "8".
- Amend page 5, Section 9, line 9, delete ";" and insert ".".
- Amend page 5, Section 9, lines 10 and 11, delete lines 10-11.
- Amend page 5, Section 10, line 1, delete "10" and insert in lieu thereof "9".
- Amend page 5, Section 11, line 1, delete "11" and insert in lieu thereof "10".

STATEMENT FOR PUBLIC HEARING - NEW JERSEY SENATE
BUSINESS AFFAIRS COMMITTEE - June 3, 1966
SENATE BILL NO. 274

My name is James H. Bunting and my business address is 375 Memorial Avenue, Camden, New Jersey. I am also a resident of New Jersey. I am employed by Campbell Soup Company, which produces canned, frozen and dried packaged foods at various locations throughout the world, including its original and largest plant located at 100 Market Street, in Camden. It markets these products not only in New Jersey, but nation-wide and in various foreign countries as well. I have been employed by Campbell Soup Company for thirty years. Of that total service with the Company, 25 years have been spent in the Technical Administration Department, which has responsibility for quality control and regulatory compliance (including labeling and fill control) among other responsibilities. My present title in the Technical Administration Department is Manager - Quality Control, Regulatory Services and my regular duties involve insuring compliance with the rules of the government agencies regulating our Camden Plant operations, plus the agencies regulating our plants in other states. I am, therefore, familiar with the problems the Company encounters with regard to the labeling of its products and compliance with the various statutory and regulatory requirements relating to weights and measures. From the regulatory standpoint alone, this includes the requirements of the Food and Drug Administration and the United States Department of Agriculture (Meat and Poultry Inspection Divisions), as well as those of their regulatory counterparts in the several states and of state agencies dealing with weights and measures.

I am generally familiar with the laws of New Jersey relating to weights and measures as they are set forth in Title 51 of the New Jersey Statutes. I have also familiarized myself with Senate Bill No. 274, introduced in the Senate on March 14, 1966. Speaking on behalf of Campbell Soup Company, I am authorized to oppose the enactment of this bill and I would like to direct my comments to those portions of it which have particular significance for Campbell Soup Company, namely, those dealing with packaging, labeling and sale of food products.

First, however, let me say that we are strongly in favor of the enactment of the Model State Law on Weights and Measures as endorsed by the National Conference of Weights and Measures. This Model Law represents the consensus of weights and measures officials from each state under the sponsorship of the National Bureau of Standards. I am advised that the Model Law has been adopted by 19 states, plus Puerto Rico; other states have adopted essential parts of the Model Law. This law has been tested and it works; it has been successfully administered in conjunction with the so-called Model Regulations, which have also been recommended by the National

Conference.

More specifically, our reasons for opposing S-274 and favoring the Model Law are:

- (a) S-274 is a lengthy, complex law regulating in detail everything from sterling silver to land measurements, including foods. The food industry is already highly regulated by both state and federal law and certainly does not need any additional legal complexities imposed upon it. By comparison, the Model Law is a relatively short and concise statement of what is required of the many industries regulated and of the administrators.
- (b) S-274 is significantly different from the Model Law, which has been adopted in its entirety or with slight variations by the neighboring states of Pennsylvania, New York, Delaware and Maryland. If S-274 is adopted, New Jersey then would be an island in the midst of these other states having the Model Law, or its equivalent. In an era of regional planning, this would be a definite setback to the elimination of trade barriers and to the promotion of uniformity of regulation. Any material departure from the Model Law, such as the enactment of S-274, is very apt to require a food processor to have one inventory of product for New Jersey and a separate inventory for other states. The two inventories might be different in labeling, container size, or product formulation, depending on the regulations promulgated by the Director under S-274. This is not a very pleasing prospect for Campbell Soup Company which produces 171 different products at its Camden Plant. In any event, all this would work to the disadvantage of the State of New Jersey in the following respects:
 - (1) Costs to consumers would increase.
 - (2) Costs to food processors would increase.
 - (3) Costs to out-of-state food processors marketing in New Jersey would also increase, to the disadvantage of the New Jersey consumer.
- (c) S-274 does not state in exact and precise language its requirements or the powers and duties of the administrators. This would cause confusion and uncertainty in industry and allow differing interpretations by the administrators. On the other hand, where the Model Law has been adopted, both industry and administrators know what is expected

of them, simply because of its widespread and long-standing acceptance. There is a great reservoir of administrative experience among the several states under the regulatory pattern developed under the Model Law, thus helping to produce both certainty and uniformity of application and interpretation.

- (d) We do not believe that the defects in S-274 can be corrected by amendments. The problems with it are fundamental, principally that in an area affecting interstate commerce, New Jersey should avoid restrictive, non-conforming legislation. In short, the Model Law is, in our judgment, a reasonable way of providing the best and most effective means of regulating weights and measures in New Jersey.
- (e) S-274 would authorize the Director "to establish reasonable standards as to quantity, quality, serviceability, fitness and suitability" of regulated commodities. This would give the Director power to establish standards of quality (for example) for any and all foods (plus any other commodity sold by weight, measure or count) without any restriction. There is no such broad grant of authority in the Model Law.
- (f) There are many other parts of S-274 that do not conform to the Model Law. Rather than detailing further the defects of this 125 page bill (as contrasted with the 18 page Model Law), suffice is to say we do not believe that S-274 will now serve the best interests of New Jersey. The bill would handicap New Jersey in economic competition with other states and handicap its consumers perhaps by increasing costs of commodities.

For all these reasons, we oppose S-274 and respectfully urge that it not be enacted. We also respectfully urge that the Model Law be carefully considered as the best and most widely accepted alternative pattern for weights and measures regulation in New Jersey.

STATEMENT BY MRS. RICHARD A. ZWEMER
ON BEHALF OF THE CONSUMERS LEAGUE OF NEW JERSEY
AT THE HEARING BY THE BUSINESS AFFAIRS COMMITTEE
OF THE STATE SENATE
ON S. 274

JUNE 3, 1966

Mr. Chairman:

I appreciate the opportunity of appearing before you at this Hearing and giving the views of the Consumers League on one of the most important bills before the New Jersey Legislature. The comprehensive revision of our weights and measures laws which began in 1911 and was enlarged to cover additional areas during succeeding years has now reached the stage where the patchwork approach is no longer adequate. S. 274 introduced by Senator Joseph M. Keegan is a real achievement in thorough draftsmanship and it also preserves the gains and the tested and tried procedures while at the same time adding the protective measures needed in the modern world of abundant packaging and advertising media. We commend S. 274 and ask that it be adopted as it is and without amendment.

Although its 125 pages in bill form look to be formidable, it will actually not be much longer, if any, than the compilation of our weights and measures laws in this small printed pamphlet of pocket size. S. 274 may be even more compact through space saved in putting all the definitions together.

The interest of the Consumers League in our weights and measures laws has been a continuing one ever since some of our members participated in the Stevens Survey and helped draft the 1911 Law. When I first came on the Executive Committee of the League in 1937, I talked with Mrs. Harriman Simmons and others and learned of their pride and devoted concern for an effective weights and measures law. These women were essentially practical; they saw an injustice in short weight delivery of coal and ice and defective scales for weighing purchases at the grocers. They set about to remedy these defects and to ensure that the enforcement of honest practices be in the hands of competent and dedicated

officials. These procedures have stood the test of time -- they are preserved in S. 274.

S. 274 -- Necessary to Meet Modern Conditions

The gaps in our present Law with respect to the protection of the consumer were forcibly brought to our attention when we were compiling our booklet "New Jersey Consumer Protection Laws." Most of the gaps were due to the changes in the methods of merchandising -- the abundance of packaging as developed for all types of merchandise -- the modern reliance on advertisements and displays to sell the product and give assurance of quality which the old time grocer formerly supplied by word of mouth. On the other hand, the sound underpinning of protection through enforcement procedures which the Legislature put into the Law in 1911 have safeguarded the public in such an efficient and trustworthy way that we all take it for granted. S. 274 retains the basic pattern of enforcement and gives the enforcing officials some additional tools which they need to fully protect the public.

I wish to specifically point out the advantages of S. 274 in protecting the public in certain needed areas.

Short Weight

Although our present Law provides penalties for short weight in the contents of containers, the only specific requirement of a label to show the net contents, thereby ensuring protection from short weight, is in the section on food packages. (51:1-95). This is understandable considering the method of sale in the grocery stores back in 1911. Today, all commodities in packages, whether food or nonfood, such as soap, waxes, detergents or scouring powders, should be required to bear a weight label. This is done in Section 51A:7-3 for nonfood packages and in Section 51A:7-4 for food in package form.

I have here a chart showing the label requirements for food packages under Regulation 50 issued in 1955. These excellent label requirements should also apply to nonfood packages, such as soap, detergents, waxes, and other household supplies. Some manufacturers do label their products; but others, especially in soap and toilet articles, do not do so. I have here some soap wrappers which do not bear weight labels, nor even the words "large" or "small". Other cleansing or scouring powder cans do give weight labels but uncommon fractions are used in Bab-0 -- 16.8 oz.; Dash -- 3 lb. 2 oz.; Salvo -- 2 lb. $\frac{1}{4}$ oz.; All -- 9 lb. 13 oz. In these two size cans of "Comet", the taller can is 1 lb. $5\frac{1}{2}$ oz., and the smaller can is $\frac{1}{4}$ ounces. The shopper wishes to know what can is the best buy, but she is immediately stumped by the necessity of converting pounds into ounces and especially adding on the $\frac{1}{2}$ ounce -- this calculation needs a slide rule -- even more accurate than the commercial gadgets to carry with you when you shop. In this case the shopper would get a better buy if she bought two $\frac{1}{4}$ oz. cans for 31¢ instead of the "giant" size of $21\frac{1}{2}$ ounces for 25¢. Pennies count -- the price of Comet for two $\frac{1}{4}$ oz. cans was 29¢ last January and the large size was 21¢. The shopper in a market of rising prices must be more aware than ever of the unit cost of items she needs for her household -- this makes the enactment of S. 274 even more urgent at this time.

Regulations are also needed regarding misleading descriptive labels aimed to catch the eye of the busy housewife with only a limited time to shop in the store or who relies on ads for bargains. I refer especially to the use of "jumbo", "giant", "family size", which sound like bargains but mean nothing when ounces are compared. I have here a 3.25 oz. size of toothpaste and it is labeled "giant". The next size of 5 oz. is labeled King. Under S. 274 (51A:7-6), these terms would be outlawed or regulated. Another eye catcher in advertisements is to list the bargain price of an item without giving the grade or weight. Under S. 274, this practice would not be permitted in ads where the price is

given because in these cases the quantity or grade must also be shown. (Misrepresentation as to Price is Sec. 51A:7-8 Model Law, 31).

(Note: The Model State Law was adopted by the National Conference on Weights and Measures and amended in 1965).

Another eye catching practice to lure the housewife into thinking she is getting a bargain is the "cents off" caper. This gives the impression that great savings can be made. Actually it is just an advertising gadget. These tubes of toothpaste when the 5¢ off label is used is no guarantee that it is cheaper than the same tube of the same manufacturer in another store. For example, here are two identical sizes (5 oz. net weight), but one is 5¢ off regular price of pkg. and cost 70¢ in one store. The other with no "cents off" cost 49¢.

Slack fill is another bane of the housewife who finds a package of cereal or flour holding far less than the weight label indicates. The present law prohibits the sale of "less than quantity" represented of any commodity commonly sold by weight or measure (51:1-97). However, tolerances for dehydration and other natural phenomena are permitted. Under S. 274, there is a statement on slack fill which protects the manufacturer as well as the buyer, namely that "reasonable standards of fill for food and other commodities in package form" are to be set by the Director. (51A:2-21) (Section 9 of Model State Law).

Another protection vitally needed in this age of carpeting, linoleum, new textiles, and foam rubber, is the provision in S. 274 (Sec. 51A:7-7) that these products in rolls and bolts must be labeled with the net content of the material in terms of linear measurement. Back in 1911, a piece of goods was measured on the counter by a system of tack attached thereto and then the length desired was cut off with a pair of shears. Back in 1916, a regulation (No. 3) was issued making counter tacks as linear measurement illegal. Since that time, almost all textiles are put up in rolls or bolts before being sold and it is a

brave customer who asks that the entire yardage be spread out before her and measured by hand. Many of the complaints which come into our Office concern the shortage of material on carpeting and other dry goods delivered in pre-packaged rolls. A weight label or tag is needed.

The basic pattern for the enforcement of the law and regulations was worked out in 1911; it has served us well. The State Superintendent appointed by the Governor with the consent of the Senate must have scientific knowledge of the construction and use of standards of weights and measures. (Under S. 274, his title is changed to Director). Each county must have a superintendent of weights and each municipality over 60,000 population. All are under civil service and in counties not having civil service they have the rights and salary corresponding to civil service status. These requirements are retained in S. 274, (51A:2-8). If any county or municipality should refuse to appoint these officials, the State Superintendent is authorized to send in an assistant superintendent, and charge the county or municipality for the expenses. (51:1-69). This safeguard guarantees that there be no interruption in protective services to the consumer. This safeguard is continued under S. 274. (51A:2-25). In addition, under S. 274, the director may enforce this provision by instituting an action in the Superior Court to compel the appointment of a county or municipal superintendent. Monthly reports are sent in by the municipal and county superintendents giving the number of tests, number of weights found correct, number false, etc. (51:1-70). The county and municipal superintendents and assistant superintendents must be qualified to do their jobs. (51:1-48). This general statement is repeated in S. 274 (51A:2-4). In addition, S. 274 provides for certification and requires attendance at a training program as a prerequisite. (51A:2-11).

Powers of Officials

Through a qualified staff, as outlined above, there should be no hesitation in entrusting them with adequate enforcement tools. We are fortunate in

New Jersey in having officials trained and dedicated to their work.

The powers exercised by these officials in our present law include inspection annually of all weights and measures used in trade within his jurisdiction (51:1-65), weighing grain, coal or other commodities while in transit from dealer to purchaser (51:1-63) and the enforcement of the provisions of the Law. Food in package form as we have indicated above must bear the net quantity of the contents "plainly and conspicuously marked on the outside of the package in terms of weight, measure of numerical count." (51:1-29).

Under S. 274, weights and measures officials have general enforcement powers. (51A:2-14). All commodities in package form must bear the true net quantity of the contents (51A:7-3); textiles in rolls must show the linear measure (51A:7-7). Articles in violation may be removed from the shelves, or in process of delivery through a stop-use order. (51A:2-14). Furthermore, as is recommended in the Model State Law, the Director may through recognized sampling procedures, have packages weighed from time to time and when found not to contain the amounts represented may order them off-sale. (51A:2-30). (Model Law, Sec. 13).

Another enforcement method to protect the public and also to protect the reliable merchant from being undercut by an unscrupulous competitor, is the system of licenses. Under the present law, licenses are required for those who sell and repair weighing and measuring devices (51:1-114), dealer of live poultry (51:11-38) and dealers in solid fuel. (51:8-5). S. 274 adds to this number, licenses for weighmasters (51A:9-1), for dealers in both solid and liquid fuels (51A:9-13), dealers of lumber, lumber products and related products, (51A:9-85), and sellers of soil amendments from vehicles (51A:9-64). The reason for the addition of these groups to those already licensed is quite apparent to readers of newspaper accounts of scandals in these areas.

In conclusion we urge that S. 274 be reported out favorably by your Committee and the public be given the protection which they need and which this bill so adequately performs. I thank you for the opportunity of speaking at this Hearing.

Weights and Measures - S.325

(Forsythe)

Analysis Prepared for Consumers League of New Jersey

S. 325 is not a revision of Title 51

It supplements, amends, and repeals Title 51 and leaves the statute pretty much in its hodge-podge state. It preserves a few features of Title 51, and adapts some parts of the Model Law proposed by the National Bureau of Standards. It removes some protections given in Title 51.

Definitions, Standards, Organization (of Division of Weights and Measures)

It repeals Article 1; most of Article 2 (Standards) leaving untouched F. Grain, Coal, Charcoal etc. but repealing sections on Ice and Laundry (E & D); repeals Article 3 (Organization) but amending the provisions about Weighmasters. It repeals Article 4 (Penalties; Evidence; Enforcement).

S. 325 while not repealing Chapter 4, Article 3 (lumber and lumber products) it incorporates the provisions in S. 24 (Keegan bill) on lumber etc.

It repeals Chapter 276 (1941) on ice cream and frozen products.

It leaves untouched the other chapters of Title 51 -- gold, silver and alloys; platinum and alloys; anthracite; solid fuel; liquid fuel; liquefied gases; also Title 4 on horse manure and poultry dealers.

The Chapter on Pension Funds is not changed.

Model Law

Much of the Model Law is followed including the term "sealer of weights" instead of superintendents of weights and measures in municipalities and counties -- a broader term which more nearly covers their actual duties.

S. 325 introduces the term "intrastate commerce" which affects the point at which responsibility for short weight, or failure to meet other standards, can be placed.

It leaves ambiguous the appointment of director, deputy director and Superintendents of the State Division.

It provides that regulations by the Director shall be followed instead of writing standards into the law.

Soil amendments, carpeting and linoleum are not covered.

S.21 introduced by Senator Joseph M. Keegan is a comprehensive revision of Title 51, our Standards, Weights and Measures Law. It streamlines the format, it preserves the best features of the present Law, it adds new protections needed by consumers in this modern marketing age. If enacted, Title 51 would be replaced by Title 51A.

Piecemeal Amendments No Longer Adequate: The time has come to end the piecemeal method of amending our Weights and Measures Law. At least seventeen Legislatures have made amendments and additions since 1911. Chapter 1 has become a catchall of 133 sections covering a multitude of unrelated subjects from the powers of the enforcing agency to the standards of a wide variety of products. To add to the confusion, not all the new laws ended up in Chapter 1. New chapters were added for specific products, each with its own set of definitions, penalties and enforcement procedures. These amendments have resulted in a format that can only be characterized as a structural monstrosity. The householder wishing to know his protection against short weight or inferior merchandise, must wade through a maze of sections to secure the information. The businessman discovers that the information he needs is scattered among a bewildering array of subject headings.

Orderly Format* of S.21: The orderly format in S.21 of classification of subjects and enforcement procedures is much easier for the average citizen to understand. It also helps the businessman. If he wishes to know whether he should take out a license, the business man need only look in Chapter 9 of the Licensing Acts. All definitions are listed alphabetically in Chapter 1. An orderly format makes enforcement easier and aids the dissemination of information to the public which is one of the duties of the State Division of Weights and Measures.
* See Chart.

Smooth Transition from Title 51 to Title 51A: The use, wherever appropriate, of the language of the provisions in Title 51 ensures the advantage of experience and judicial interpretation of the Law and the Regulations based on it. S.21 also provides an orderly transition from Title 51 to Title 51A in Chapter 10 that the "rules and regulations heretofore promulgated by the Division of Weights and Measures shall continue in full force and effect." The importance of this transition can not be overemphasized because a large number of provisions in S.21 are word for word the same as Title 51. The language, for example, is unchanged in land descriptions, money of account, gold, silver and alloys thereof, platinum and alloys thereof, and a large number of commercial products such as laundry, ice, thread, turpentine and linseed oil, liquid and solid fuel. There should be no pain or strain in substituting Title 51A for Title 51.

Model State Act Inadequate: It has been advocated that the present Law be repealed and the Model State Act be substituted for it. The Model Act was adopted at the National Conference of Weights and Measures in 1965. A number of states with very few laws on the statute books have adopted the Model Act as a basis with adaptations for their own states. Since the Model Act is a barebones skeletonized law, it requires a large and voluminous number of regulations to put it into effect. If we adopted the Model State Act, we would be confronted with a host of wholly new regulations which would require hearings, judicial decisions and other delays. S.21 preserves the interpretations and precedents developed in 55 years of operation of our Weights and Measures Law as amended.

The scope of the Model Act is extremely limited with respect to the wide range of protections enjoyed by our citizens under our Law. For example, only quantity labeling on products is required in the Model Act. In contrast, New Jersey has quality standards as well; some dating back to 1877 in gold and silver quality marks, and continued for certain commercial products, such as the grade of lumber and lumber products.

Furthermore, the organizational plan of supervision outlined in the Model Act varies from the pattern developed in New Jersey and retained in S.21. Counties, municipalities and state officials have developed cooperative arrangements which have been accepted by persons in the trade and by the public as a whole. The average householder takes for granted that the scales will usually be accurate in the stores and that they are regularly inspected and sealed. He does not realize that this continuity of protection is supplied even when a county or municipality over 60,000 population does not employ weights and measures officials as required. In that event, our Law specifically authorizes the State Division to send an official to render this service with expenses paid from a fund provided for the use of the Division. (51:1-69 and 51A:2-25).

New Protections Added in S.21: A new provision covers all commodities in package form. One of the great defects of Title 51 is the failure to prescribe labeling of nonfood packages. This has meant that the citizens of New Jersey have no adequate protection, except for the general admonition against short weight, for such purchases as soap, detergents, cleaners in containers. Also, a purchase of a prepackaged roll of carpeting, linoleum, foam rubber or other textile does not need to bear a tag showing the linear measurement.

S. 21 provides that all commodities in package form must bear a weight label. (51A:7-3). All bolts or rolls of textiles, carpeting, linoleum and foam rubber must have a tag firmly attached thereto stating the net content of the material in terms of linear measurement. (51A:7-7)

Enforcement is also strengthened in the extension of the licensing requirement to businesses not presently licensed. These include dealers in liquid fuel, sellers of lumber and lumber products, weighmasters, and vendors of soil amendments. Weights and measures officials would be able to prevent the sale of illegally labeled containers through stop-use or stop-removal orders. (51A:20-4 and Model Act, Sec. 14)

There are some new provisions copied from the Model State Act of 1965. These requirements protect the consumer from containers which mislead as to quantity or the amount of fill. (51A:7-6 and Model Act, Sec. 27) Qualifying words tending to exaggerate the amount of the commodity, such as "jumbo", "giant", "full", shall not be used. (51A:7-6 and Model Act, Sec. 29) When a commodity is sold by weight, the price may not be misrepresented or tend to deceive the customer. (51A:7-8 and Model Act, Sec. 31) In advertising, there are restrictions as to articles in package form in that whenever the price is mentioned, the net weight, measure, count or size and grade must also be declared. (51A:7-8 and Model Act, Sec. 29)

An amendment to S. 21 has been proposed to enable State enforcement of the Federal Fair Packaging Act which goes into effect July 1. This would require that the net quantity of the contents be stated upon the principal display panels of the package. When the label gives the number of servings, the net quantity of each serving must be given.

For these reasons the Consumers League recommends the revision of our Standards, Weights and Measures Law contained in S. 21. We believe that this revision will strengthen the protections needed by our citizens and will also safeguard the interests of the businessman threatened with the disastrous competition of unscrupulous or unreliable competitors.

Consumers League of New Jersey
20 Church St., Montclair, N. J.

February 24, 1967

WEIGHTS AND MEASURES

FORMAT OF TITLE 51 AND TITLE 51A COMPARED

	<u>Title 51</u>	<u>Title 51A</u>
Chapter 1	Definitions (3 only) Standards Department of Weights and Measures Weighmasters Second-hand weighing or measuring devices Penalties	Definitions and Construction ✓
Chapter 2	Money of Account	Division of Standards, Weights and Measures P. 16 57A3. 27
Chapter 3	Standard Meridian Line Land Descriptions	Penalties, Evidence, Enforcement ✓
Chapter 4	Standards for Commercial Products	Standards (of weight and measure) ✓
Chapter 5	Gold, Silver and Alloys Thereof	Standard Meridian Line; Land Descriptions ✓
Chapter 6	Platinum and Alloys Thereof	Money of Account ✓
Chapter 7	Anthracite	Commercial Standards ✓ Subsection P. 35, 36, 37
Chapter 8	Solid Fuel	Weighing, Measuring and Counting Devices
Chapter 9	Liquid Fuel	Licensing Acts Weighmasters Fuel Dealers and repairmen of second hand devices Vendors of soil amendments Dealers in live poultry Lumber, lumber products and related building materials
Chapter 10	Liquefied Gases	Repealers and Effective Date

Title 4, Chapter 9 - Horse Manure

Title 4, Chapter 11 - Dealers in Live Poultry

To The Chairman of the Committee on Bill S. 21

Mr. Hock, former Alcoholic Beverage Control Administrator, will present a copy of the Federal Alcohol Administration Regulations and State Division of Alcohol Beverage Control Laws and a copy of the Final Report of the Committee on Laws and Regulations at the Forty-Ninth National Conference on Weights and Measures at Washington, C. D. which showed in paragraph 2, Packages of Alcoholic Beverages. --Packages of alcoholic beverages, for which the labeling requirements are specified in Federal law, shall be exempt from the requirements hereinafter set forth.

Thanking you for your consideration to exclude all alcoholic beverages from this bill. In other words, from our part we are interested in beer regulations.

NEW JERSEY BREWERS ASSOCIATION

John McCaffery

Jack McCaffery

Stewart A. Schuman

SUBMITTED BY HERMAN KLUXEN

Gentlemen:

The following paragraph in S-21 of the Weights and Measures bill must be changed to read as follows:

"All weight tickets from motor truck scales can be destroyed after three years." The reason for asking this amendment is the burden of trying to maintain and keep these records for the indefinite period of time that is now in your law is just impossible to live with. At the present time we have 1/4 million tickets in storage. We will be forced to put up an addition on a building in order to house these tickets that are coming in daily.

Signed Conrad J. Ringlieb

Amendments to S-21 proposed by the testimony of D. W. Leeper appearing in behalf of the H. J. Heinz Company, of the New Jersey Canners Association, and of the National Canners Association before the Senate Business Affairs Committee on May 4, 1967.

- Chap. 1 - 2, line 93 - 94 Delete "and any rule promulgated under such legislation".
- Chap. 1 -2, line 178 - 185 Delete the word "or" in line 179 and insert the word "measure" in line 178 after the word "revise".
- Chap. 2 - 7, line 5 - 8 Note: Question wisdom of such forced in-breeding, Suggest investigate alternate under Civil Service law if there be such.
- Chap. 2 - 14, line 14 Insert after "device", "and stop use, stop removal, and removal orders with reference to any" (package, commodity in package form, or amount of commodity).
- Chap. 2 - 14, line 18 Insert "under authority granted in 51 - 2 - 16".
- Chap. 2 - 14, line 20-20A Substitute "stop use, stop removal, or removal" for "condemnation or confiscation".
- Chap. 2 - 14, line 35 - 36 Delete "he deems it necessary or expedient to issue such orders" and replace it with "he finds that the law promulgated in this title is being violated".
- Chap. 2 - 14, line 48 - 50 Delete in view of 1-2 line 93-94 and 2-21A.
- Chap. 2 - 16, line 6 Insert after "and", "quantity measurements of".
- Chap. 2 - 16, line 10 Insert after "commodities", "as such terms are employed and with respect to such commodities as are identified in Chapter 7-26 through 31, 7-42 through 47, 7-50, 7-51, 7-54 through 59, 7-74 through 77, 9-90 through 92, and with respect to any other commodity as shall hereafter, by legislative action, be specifically placed under his jurisdiction." Delete from lines 10 and 11 "regulated by this act".

- Chap. 2 - 21,(B)(3), line 19 After the word "chapter", delete the rest of the sentence and add: "identified in Chapter 7-26 through 31, 7-42 through 47, 7-50, 7-51, 7-54 through 59, 7-74 through 77, 9-90 through 92 and for such other commodities as shall hereafter by legislative action be specifically placed under his jurisdiction."
- Chap. 2 - 21 (B), line 21 After "variations" insert "of quantity measurement and quantity declaration".
- Chap. 2 - 21 (C), line 30 Insert here the substance of 701 of the Federal Food, Drug, and Cosmetic Act. Delete all of lines 31 - 39.
- Chap. 2 - 21 (E), line 51 This section should be re-written to agree with 2-21C as amended to correspond with the Federal Act. Copies shall also be sent to all parties who file a written request or the same with the Director.
- Chap. 2 - 24, lines 1 - 9 Delete in its entirety. Note: Neither the Model Weights and Measures Act, the Model Food and Drug Act, or the Federal Food, Drug, and Cosmetic Act contain similar authority.
- Chap. 2 - 30, lines 10 - 11 After word "director" delete "may employ recognized sampling procedures", and substitute "shall employ sampling procedures recommended and as hereafter amended by the U.S. Bureau of Standards".
- Chap. 2 - 34, line 4 Insert "raw" after "for."
- Chap. 2 - 34, lines 5 - 6 Delete.
- Chap. 3 - 1, line 6 Insert after "offense", "committed after conviction of a first offense".
- Chap. 3 - 1, line 7 Insert after "offense", "committed after conviction of a second offense".
- Chap. 3 - 2, lines 1 - 5 Delete.

Page 3

Chap. 3 - 9, lines 5 - 7

Delete.

Chap. 7 - 1 (4), line 18

Delete "other than food in
package form".

Chap. 7 - 5, line 1 - 6

Delete

Note that this conflicts with 7-1,
lines 8-9, and definitely conflicts
with Model Law of all neighboring
states except Delaware, and with
Federal Food and Drug law.

CHAPTER VII—GENERAL ADMINISTRATIVE PROVISIONS

Regulations and Hearings¹¹

SEC. 701 [371]. (a) The authority to promulgate regulations for the efficient enforcement of this Act, except as otherwise provided in this section, is hereby vested in the Secretary.

(b) The Secretary of the Treasury and the Secretary of Health, Education, and Welfare shall jointly prescribe regulations for the efficient enforcement of the provisions of section 801, except as otherwise provided therein. Such regulations shall be promulgated in such manner and take effect at such time, after due notice, as the Secretary of Health, Education, and Welfare shall determine.

(c) Hearings authorized or required by this Act shall be conducted by the Secretary or such officer or employee as he may designate for the purpose.

(d) The definitions and standards of identity promulgated in accordance with the provisions of this Act shall be effective for the purposes of the enforcement of this Act, notwithstanding such definitions and standards as may be contained in other laws of the United States and regulations promulgated thereunder.

* (e) (1) Any action for the issuance, amendment, or repeal of any regulation under section 401, 403(j), 404(a), 406, 501(b), or 502 (d) or (h) of this Act shall be begun by a proposal made (A) by the Secretary on his own initiative, or (B) by petition of any interested person, showing reasonable grounds therefor, filed with the Secretary. The Secretary shall publish such proposal and shall afford all interested persons an opportunity to present their views thereon, orally or in writing. As soon as practicable thereafter, the Secretary shall by order act upon such proposal and shall make such

order public. Except as provided in paragraph (2), the order shall become effective at such time as may be specified therein, but not prior to the day following the last day on which objections may be filed under such paragraph.

(2) On or before the thirtieth day after the date on which an order entered under paragraph (1) is made public, any person who will be adversely affected by such order if placed in effect may file objections thereto with the Secretary, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. Until final action upon such objections is taken by the Secretary under paragraph (3), the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made. As soon as practicable after the time for filing objections has expired the Secretary shall publish a notice in the Federal Register specifying those parts of the order which have been stayed by the filing of objections and, if no objections have been filed, stating that fact.

(3) As soon as practicable after such request for a public hearing, the Secretary, after due notice, shall hold such a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard in person or by representative. As soon as practicable after completion of the hearing, the Secretary shall by order act upon such objections and make such order public. Such order shall be based only on substantial evidence of record at such hearing and shall set forth, as part of the order, detailed findings of fact on which the order is based. The Secretary shall specify in the order the date on which it shall take effect, except that it shall not be made to take effect prior to the ninetieth day

¹¹ F.D.C. Regs., parts 1.701-1.715.

* Regulations issued under 502(n) (3), 506(c), and 706(b) (5)(C) (1) follow the procedure outlined in this subsection.

after its publication unless the Secretary finds that emergency conditions exist necessitating an earlier effective date, in which event the Secretary shall specify in the order his findings as to such conditions.

(f) (1) In a case of actual controversy as to the validity of any order under subsection (e), any person who will be adversely affected by such order if placed in effect may at any time prior to the ninetieth day after such order is issued file a petition with the Circuit Court of Appeals of the United States for the circuit wherein such person resides or has his principal place of business, for a judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence, so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to affirm the order, or to set it aside in whole or in part, temporarily or permanently. If the order of the Secretary refuses to issue, amend, or repeal a regulation and such order is not in accordance with law the court shall by its judgment order the Secretary to take action with respect to such regula-

tion, in accordance with law. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive [now covered by U.S.C. title 28, sec. 1254].

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended.

(5) Any action instituted under this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(g) A certified copy of the transcript of the record and proceedings under subsection (e) shall be furnished by the Secretary to any interested party at his request, and payment of the costs thereof, and shall be admissible in any criminal, libel for condemnation, exclusion of imports, or other proceeding arising under or in respect to this Act, irrespective of whether proceedings with respect to the order have previously been instituted or become final under subsection (f).

[Regulation] §1.1 *General regulation.* (a) The provisions of regulations promulgated under the act with respect to the doing of any act shall be applicable also to the causing of such act to be done.

(b) The definitions and interpretations of terms contained in section 201 of the act shall be applicable also to such terms when used in regulations promulgated under the act.

Examinations and Investigations

SEC. 702 [372]. (a) The Secretary is authorized to conduct examinations and investigations for the purposes of this Act through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in the Commonwealth of Puerto Rico or a Territory the Secretary shall attempt

Taken from: U. S. BUREAU OF STANDARDS HANDBOOK 44

Definition of Single Service Measure Containers

MEASURE-CONTAINERS

(See also General Code Requirements)

A. APPLICATION. (Pertaining to the application of code requirements.)

A.1.—This code applies to the following measure-containers;

- (a) Retail measure-containers intended to be used only once to determine at the time of retail sale, and from bulk supply, the quantity of commodity on the basis of liquid measure. The retail measure-container serves as the container for the delivery of the commodity.
- (b) Prepackaged measure-containers intended to be used only once to determine in advance of sale the quantity of a commodity (such as ice cream, iced milk, sherbet, sour cream, or yoghurt) on the basis of liquid measure. The prepackaged measure-container serves as the container for the delivery of the commodity, in either a wholesale or a retail marketing unit.

This code does not apply to rigid containers used for milk, cream, or other fluid dairy products, which are covered by the Code for Milk Bottles.

S. SPECIFICATIONS. (Applicable with respect to the design of measure-containers.)

S.1. UNITS.

S.1.1. FOR RETAIL MEASURE-CONTAINERS.—The capacity of a retail container shall be 1 gill (or $\frac{1}{4}$ liquid pint or 4 fluid ounces), $\frac{1}{2}$ liquid pint, 1 liquid pint, 1 liquid quart, $\frac{1}{2}$ gallon, 1 gallon, or a multiple of 1 gallon, and the container shall not be subdivided.

S.1.2. FOR PREPACKAGED MEASURE-CONTAINERS.—The capacity of a prepackaged measure-container shall be $\frac{1}{2}$ liquid pint, 1 liquid pint, 1 liquid quart, $\frac{1}{2}$ gallon, 1 gallon, $2\frac{1}{2}$ gallons, $3\frac{1}{2}$ gallons, or a multiple of 1 gallon. However, any capacity less than $\frac{1}{2}$ liquid pint shall be permitted.

S.2. CAPACITY POINT.—The capacity of a measure-container shall be sharply defined by

- (a) the top edge,
- (b) a line near the top edge, or
- (c) the lowest portion of a shoulder, cap seat, lid seat, or indentation near the top edge of the container.

NEW JERSEY LAUNDRY AND CLEANING INSTITUTE

24 LYONS AVENUE
NEWARK, N. J. 07112



TELEPHONE
WAVERLY 6-4000

May 4, 1967

Senator A. Donald Bigley, Chairman
Senate Business Affairs Committee
State House
Trenton, New Jersey

Dear Senator Bigley:

In the name of the New Jersey Laundry and Cleaning Institute, state trade association for the professional laundry and dry-cleaning industry in New Jersey, we wish to submit for the consideration of your Committee the below recommendation on proposed weights and measures legislation.

As background, let us report that we have, through the Chairman of our industry's Weights and Measures Committee, Mr. Lambert Petzinger of the Little Falls Laundry, Little Falls, New Jersey, and our association's legal counsel, Mr. John H. Yauch, Sr., Yauch and Fagan, Newark, New Jersey, been in contact with Mr. Samuel H. Christie, Jr., Acting State Superintendent, Division of Weights and Measures, on several occasions over the past several years on proposed changes as they would affect our industry. Their suggestions have been made, and filed with Mr. Christie.

In regard to the proposed legislation, S-21, we wish to state that we believe there is no practical application, or logical reason, to attempt to cover professional laundry service.

We are not aware of any problems or customer complaint which require laundry service sold on a pound basis to be covered by this legislation. And, for example, drycleaning, sold by the pound is not so covered. From a practical point of view, a very small percentage of family laundry service sold by our outside route salesmen is on a pound basis, since the old damp wash service is a thing of the past. Practically all service, such as sheets, pillow cases, shirts, pajamas, etc. is now sold

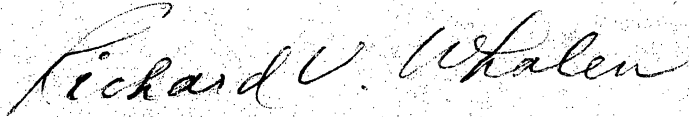
on a price per piece basis.

We also wish to point out that in the so-called "model" weights and measures laws now in thirty states, that laundry and dry-cleaning services has been eliminated from this type of legislation. We feel sure that there is no problem in these states, and we foresee no problem in New Jersey.

We appreciate the opportunity to submit this recommendation with your Committee, and thank you for your consideration.

Very truly yours,

NEW JERSEY LAUNDRY AND CLEANING INSTITUTE



Richard V. Whalen
Executive Secretary

b

P.S. While we realize that your Committee is not considering S-325 at this time, we would recommend that S-325 would be an acceptable substitute for S-21.

