

PLIGHT OF STATE CONSUMERS

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The consumer is not even a pawn in the political game in West Virginia: he is a step child of government. Caught between the forces of seemingly perpetual recession and preoccupation with the national spirit of acquisition he has been relegated to oblivion. Protection of his interests by state government, in this era of technological revolution, cold war, coexistence or no existence, strontium 90, subsidies and recession, languishes near the level of a do-it-yourself program.

Democratic government in the state, as elsewhere, responds to the will of the people as it is expressed in elections, lobbying, and other institutionalized means. Most powerful private groups receive representation of their interests in proportion to their degree of organization and amount of resources; the inarticulate and disorganized are represented on a similar basis. Largely because consumption is a function common to all and peculiar to none, rather than a specific group, state consumers have failed to organize. Moreover, absence of consumer consciousness and an organization to protect their interests has resulted in a neglect of state consumers which is perhaps second to none.

No state agency represents the interests of consumers as consumers, and benefits have been both indirect and relatively inconsequential. Positive assistance from both state and local governments has advanced only slightly beyond the stage of the frontier. Negative protection which does exist is intended to help farmers as farmers and prevent disease for the preservation of life. Help which is rendered is a by-product of other objectives.

As marketing and merchandising practices grow progressively more complex in the state, consumers become progressively more defenseless; and it is highly probable in West Virginia, at least, that consumers are becoming more confused and illiterate as buyers in an inverse ratio with modern business advancement.

Forty per cent of the food consumed in West Virginia is produced in the state and does not, therefore, come within the jurisdiction of the Federal Government. Moreover, 25 per cent of the meat consumed is also produced in the state.

The West Virginia Food and Drug Law has the dubious distinction of being the briefest in the nation. It was enacted in 1907 following passage of the federal food and drug act, and has been amended infrequently since that date. It is more notable for omissions than commissions and is presently grossly inadequate to cope with changing needs of state consumers. Serious shortcomings include: absence of provisions prohibiting misbranding; and regulation of therapeutic and diagnostic devices, and worthless or dangerous devices or "health gadgets."

Any person who "knowingly" violates the limited provisions of the Act is guilty of a misdemeanor and, upon conviction, is liable to a penalty not to exceed five hundred dollars, or imprisonment not to exceed one year, or both, in the discretion of the court. The "guilty products," of course, may be forfeited and destroyed. However, the Act does not include authorization to publish judgments, decrees and court orders, including the nature of violations and dispositions made.

West Virginia is the only state in the Union which does not have a meat inspection law. This means that 25 per cent of the meat consumed in the state goes uninspected, since it is a part of intrastate commerce. However, 90 per cent of fresh meat consumed in state hospitals, colleges and other institutions is not inspected or tested, according to a former state official.

Extremely limited provisions in the state food and drug law do provide a semblance of protection for consumers of meat slaughtered in the state. Marketing of calves less than four weeks old is prohibited; and, a "penalty" of not less than five nor more than fifteen dollars, or imprisonment not in excess of sixty days, or both, may be imposed. Furthermore, artificial coloring of meat or meat products is prohibited, and so, too, is addition of preservatives to these products. Finally, sanitation inspections of state slaughter houses began in 1958 and were advanced by legislation in 1959.

In 1959, the legislature actually devoted consideration to enactment of a meat inspection law. One chamber succeeded in passing a bill which would have aided consumers, ostensibly; although enforcement procedures were heavily weighted in the interests of packers. The second legislative chamber, however, "chopped" the bill, deleting provisions for both inspection of meat and enforcement officials. The bill which finally became law is especially inimical to the interests of consumers. While the annual twenty-five dollar license fee which is imposed on certain slaughtering establishments, is sufficiently innocuous, the provision for marketing meat slaughtered in the state with the assigned identification number of the slaughtering establishment may be mistaken by consumers to indicate inspection of the meat itself. Meanwhile, shortly after the 1959 legislature adjourned, a front page headline in the West Virginia University newspaper read "Food Poisoning at Dorm Traced to Infected Ham."

The general session of the 1961 legislature passed a bill in one chamber which it titled "Consumer Finance Act." The state's leading newspaper identified the bill as a small loan act, in reality, and stated that the fraudulent bill would die in the other chamber. It did. The same legislature thoroughly frightened friends of consumers by passage, in one chamber, of a so-called Fair Trade Act.

Agencies of state and local governments entrusted with limited protections for consumers include county health officers who conduct

random sampling, on occasion, in some counties, of meat for addition of preservatives, and some personnel in several departments of state government. However, it must be remembered that none of these is distinctly consumer oriented or seeking to protect consumers as consumers. Moreover, protections by local governments, largely negative in nature, may be summarily dismissed as "sanitation level" inspection.

The two most severe handicaps of state agencies involved in some very limited degree of consumer protection are inadequate appropriations and personnel. Departments indirectly involved in consumer protection activities are Agriculture, Education, Health, and Labor. The limited nature of their activities is demonstrated by a statement made to this writer by the Commissioner of Labor. He stated that the most consumer oriented activity of his department involved the weights and measures division. He was demonstrably proud of the achievement of having found the West Virginia standards of weight and measure, after a long search, at the State University. Federal law requires that those standards be certified once every ten years, although they had last been certified in 1915! The Commissioner was also proud to be able, for the first time, to accurately test heavy capacity scales. He said West Virginia was the last state to obtain the unit necessary "for the protection of its people and industry."

Earning an income is only part of earning a livelihood; the second step is exchanging income for livelihood. It is here that consumers need help; and it is precisely and especially in the matter of exchange of income for livelihood that West Virginia State Government is in a position where it could render its greatest service for all its citizens. Unfortunately, however, recognition of this opportunity as a major public responsibility has yet to achieve the requisite institutionalization for its accomplishment. Thus, if state consumers are to be protected, there should be provided representation in the executive branch with responsibility for representing consumer interests before legislative committees, courts, public service commission, and other governmental agencies whenever their interests are involved. Admittedly, this will require an enlightened leadership which has been lacking in the past.