

THE CONSUMER COUNCIL IN THE STATE OF MASSACHUSETTS

by

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The year 1963 marked the culmination of many years effort to get official establishment of a Consumers Council in the state government of Massachusetts. The campaign to get this into law started with the filing of a bill before the December deadline of 1962. This bill was filed by the late Senator Michael Galvin and was practically identical with similar bills filed from the Attorney General's office when Mr. Edward J. McCormack was operating with his own unofficial Consumers Council. The Galvin Bill as filed established a statutory Consumers Council in the Attorney General's office. Hearings on this bill were scheduled for early in February, 1963.

As a consequence of the 1962 elections, a new administration took over in the Governor's office and in the Attorney General's office. Shortly after the middle of January, when the Republican Attorney General, Edward W. Brooke, took office, he called me to his office to discuss the Consumer Council. At this meeting he asked me to act as chairman of the unofficial council that he wished to establish in his office on the same pattern that Mr. McCormack, the previous Attorney General, had used. Three holdover members from the old Council were reappointed. All the others were new. At this meeting I explicitly stated that I and the consumer movement in Massachusetts were committed to work for statutory establishment of a Consumer Council in the state government. I stated that I wished the Attorney General to be aware of this fact. He then asked if I would work with him and his council until such time as a statutory council was achieved. On this understanding I agreed to head the unofficial Consumers Council.

The next step in the development of this story is the February hearing before the committee on State administration. A meeting of the Brooke council had been scheduled before this hearing but had been postponed by the Attorney General. I, therefore, appeared at this hearing as an individual and stated my individual support of the statutory consumers council. Much to my surprise, the Assistant Attorney General who had been assigned to the consumer division, Mr. Harold Putnam, also appeared at this hearing. Speaking for the Attorney General, he put himself on record against the bill stating, in essence, that it was unnecessary. This raised an awkward dilemma for the proponents of this legislation. It is not easy to press for the establishment of an agency in an office whose head has stated that it is not necessary.

In this circumstance, the Governor of the Commonwealth, Mr. Peabody, sent a special message to the legislature asking for the establishment of a consumer agency under the Governor's office. Hearings were held on this bill with the usual support from cooperatives, labor unions, labor councils, credit unions and similar consumer groups. Again, however, the Attorney General's representative opposed the statutory establishment of a Consumer Council.

A favorable report on this measure was received from the committee on state administration and it was sent to the Ways and Means Committee. Here it received an unfavorable report and was sent to the Rules Committee where it languished for considerable time. Early in June a plea to the Senate President, Mr. Powers, succeeded in dislodging it from the Rules Committee and it subsequently was speedily voted by a substantial majority in the House.

It took from early June to late October to get it through the Senate. However, to accomplish this feat required tremendous negotiation, compromise and discussion.

The compromise consisted in accepting a Republican Amendment that established five agency heads as members of the Council. The same Republican Amendment had removed subpoena power and public hearings from the Council. The essence of the compromise consisted in the Governor and the consumer groups accepting the five agency heads in return for the opponents giving up on their desire to prevent us from holding public hearings. A further element of compromise consisted in our giving up the subpoena power in return for the addition of three more public members to the five to be appointed by the Governor. That is the form in which it was finally voted.

The powers and duties of the Council as contained in the bill are excellent.\* It is authorized to study, investigate and handle practically any consumer area in which there is a complaint. It is also given the explicit right to appear in behalf of the consumer before any hearing or trial in which consumer interests are affected. In fact, it is given the status of an aggrieved party at law for the purpose of judicial review of decisions in cases in which it has appeared. It is furthermore authorized

\*See Appendix A, for copy of bill as enacted.

to call on any state agency or political subdivision of the Commonwealth for any information it desires in its work. I stress all these points in order to make you aware that the bill as passed is a major accomplishment and a good piece of legislation given the political realities of 1963.

Governor Peabody deserves great credit for this major legislative accomplishment of his first administration. I may freely state to you that it would never be on the statute books today if it had not received the Governor's wholehearted and personal support. His allies in this fight were chiefly the members of the Massachusetts Consumer Association, most of whom devoted tremendous amounts of time and energy to this fight. This is the necessary background and orientation for you to understand the present state of consumer representation in Massachusetts.

#### The Performance of the Council to Date

The bill was signed October 31, 1963 and, with the necessary 90 day waiting period, it went into effect January 31, 1964. His Excellency, the Governor, called me on January 30 and asked if I would serve as chairman of his Council. Six members had been sworn in after confirmation by the Executive Council on December 30. Two other members have subsequently been appointed completing the required eight.\*

As of this writing we have had approximately six meetings, several of which were devoted to pending legislation in the House and Senate and the rest to organizational problems of the Council.

Noteworthy accomplishments include the sponsorship, jointly with Mrs. Esther Peterson, President Johnson's special assistant for Consumers Affairs, and the Massachusetts Consumer Association, of an all-day conference on consumer problems held on April 11.

Secondly, we have taken the first step in the development of a system of industry consultive committees. In the first week of April, in a joint announcement from the chairman of the Council and the Governor, an Automotive Consultive Committee to the Consumers Council was announced. This council, representing the automotive dealers of Massachusetts, will discuss with council members complaints in the automotive field. The first meeting of this group will be held shortly. In cooperation with this committee, a public hearing or all-day conference late in May will be held on consumer problems in the automotive area.

We now have two offices on the first floor of the State House very accessible to the public and we have just appointed the necessary staff to start processing the volume of complaints that have piled up since the establishment of the Council. Half of these complaints, incidentally, appear to be in the automotive area and they make the establishment of this consultive committee very useful and very necessary.

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\*See Appendix B for complete list of members of the Massachusetts Consumers Council.

I trust that the events on both Federal and State levels that have taken place in consumer representation during 1963 mark the first step toward the effective consolidation and cooperation of all the groups working in the consumer field. However, I call your attention to several very important considerations for the future expansion and development of consumer representation.

1. It is vitally necessary to find in each state in which we wish to see good consumer action some high public official willing to make a campaign on this issue. Mrs. Nelson and Mr. Summers have also emphasized this point.

2. The relative advantages of a single "Consumer Counsel" or a multiple-member "Consumers Council" need not detain us too long. Each state should move in whichever direction it can find the most support. Personally, I see several advantages in the multiple member Council. It does enlist broader segments of the population more actively in the direction of consumer activity. It may also be harder to sabotage if an elected official were tempted to do such a thing.

3. It will be necessary and useful to have citizen Consumer Associations in each state to act as a spur and a check on the adequacy of the official agencies of consumer protection. However, it would take me longer than we have tonight to discuss the problems involved in the formation and conduct of such Associations. We do suffer from a dreadful shortage of experienced leaders in this field and some of those with enough good will and talent are still political amateurs about whom officials remark: "With friends like this, who needs enemies?"

4. Finally, I do believe that we should separate activities dealing with consumer products (their safety, efficacy, adequacy, etc.), such as have frequently been associated with Food and Drug Divisions, from the broader areas of acting as the spokesman for the unrepresented consumer before boards, hearings, and courts. The latter activity is more properly the sphere of Consumer Councils.



## ACTS, 1963.--Chap. 773

## CHAP. 773 AN ACT ESTABLISHING A CONSUMER'S COUNCIL.

Be it enacted, etc., as follows:

SECTION 1. Section 17 of chapter 6 of the General Laws is hereby amended by inserting after the words "control commission," in line 15, as appearing in section 1 of chapter 623 of the acts of 1958, the words: , the consumers' council.

SECTION 2. Said chapter 6 is hereby further amended by adding after section 114 the following section, under the caption CONSUMERS' COUNCIL:

Section 115. There shall be a consumers' council, hereinafter called the council, consisting of eight members to be appointed by the governor, with the advice and consent of the executive council, for terms concurrent with that of the governor, one of whom shall be a member of the Massachusetts State Labor Council, AFL-CIO and no more than five of whom shall be members of the same major political party, and ex officio, the attorney general, the chairman of the public utilities commission, the commissioner of banks, the commissioner of insurance and the commissioner of labor and industries. The chairman of the council shall be designated by the governor from time to time. Said members shall serve without compensation, but shall receive their expenses necessarily incurred in the performance of their duties. The council shall meet monthly and at other times at the call of the chairman.

The council shall conduct studies, investigations and research and advise the executive and legislative branches in matters affecting consumer interests, co-ordinate consumers' services carried on by departments and agencies, further consumer education, inform the public, through appearances before federal and state committee, commission or department hearings, or otherwise, of such policies, decisions or legislation as are beneficial or detrimental to consumers, inform the governor and the attorney general and other law enforcement agencies of such violations of laws or regulations affecting consumers as its investigations or studies may reveal, and study and report all matters referred to it by the general court or the governor. The council may appear, through its chairman or a member or person designated by him, or through the attorney general, for and in behalf of the people of the commonwealth before boards, commissioners, commissions, departments or agencies of the commonwealth in any hearing or matter affecting the rights of the consuming public or in any proceeding seeking the curtailment of railroad services or an increase of rates or costs of services or commodities, and shall be deemed an aggrieved party for the purpose of judicial or administrative review of any decision or ruling in any such proceedings in which it has so appeared, any other provision of law to the contrary notwithstanding. The council may appoint an executive secretary who shall not be subject to chapter thirty-one, and shall with the approval of the governor and executive council fix his salary. The council may appoint such other assistants, consultants, investigators and experts as it deems necessary to carry out

the provisions of this section. Said council shall be provided with offices in the state house or elsewhere in the city of Boston. It may call upon any department, board, commission or officer of the commonwealth or of any political subdivision of the commonwealth for such information as it may desire in the course of its duties.

The council may hold public hearings and shall establish rules of procedure governing the conduct of its hearings which shall be made available in printed form to each witness prior to his testimony. Witnesses shall have the right to be represented by counsel and shall before testifying be sworn. The governor may request of the attorney general such legal assistance as may be necessary in carrying out the duties and functions of the council.

Approved October 31, 1963.

## Appendix B

MEMBERS OF THE CONSUMER COUNCIL, COMMONWEALTH OF MASSACHUSETTS, 1964

<u>Name</u>	<u>Address</u>
Rev. Robert J. McEwen, S. J. (Chairman)	Boston College, Chestnut Hill, Massachusetts
Nathan S. Paven	28 Sims Road, Quincy, Massachusetts
Louella Cotton (Mrs.)	19 Ware Street, Cambridge, Massachusetts
Charles G. Simon	Old Farm Road, Scituate, Massachusetts
Frank K. Hirons	18 Highland Street, Gardner, Massachusetts
Irene B. Chaves (Mrs.)	156 Westminister Ave., Arlington, Massachusetts
Guy J. Salerno	15 Lathrop Road, Wellesley, Massachusetts
Helen Tafe O'Donnell	AFL-CIO State Labor Council, Boston

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Ex Officio Members

Atty. General Edward W. Brooke

Hon. John B. Hynes, Commissioner of Banking

Hon. C. Eugene Farnam, Commissioner of Insurance

Hon. John A. Callahan, Commissioner of Labor and Industries

Hon. Norman Mason, Chairman, Department of Public Utilities

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