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THE STATES' ROLES IN CONSUMER PROTECTION

It is indeed an honor for North Carolina to be invited to participate in this conference on Consumer Legislation. I believe that we do have good consumer legislation in North Carolina, and I am grateful for the opportunity to have participated in its creation. For a number of sessions of our General Assembly, I had the opportunity to serve in our Senate, and to observe the activities of State government agencies which were designed to help the consumers of our State.

In 1967 and 1968, as a vital part of my campaign platform for the office of Attorney General, I stressed the need for a Consumer Protection Division within the Attorney General's Office. Soon after entering that office, specific proposals were made to our Legislature, and in 1969 a number of important provisions were made in the law of North Carolina to permit the Attorney General's Office to initiate several new activities.

The General Statutes of North Carolina had included a prohibition against antitrust activities since 1913. Designated as Chapter 75, this protective legislation gave to the Attorney General the power and duty to enforce this law. In 1969, an amendment was made to Chapter 75 to add a further prohibition against a specific type of commercial activity. This new section generally prohibits unfair methods of competition and unfair and deceptive acts or practices in the conduct of any trade or commerce. Similar to Section 5 of the Federal Trade Commission Act, this provision of our law is also enforced by the Attorney General's Office.

Another addition to the law of North Carolina was made in 1969, and enlarged the authority of the Attorney General to intervene in proceedings before regulatory agencies and bodies, both State and Federal. This amendment was made to Chapter 114 of our General Statutes, which sets out the organization of the Department of Justice and the duties of the Attorney General. Specifically, the Attorney General now has the authority to intervene, when he deems it to be advisable in the public interest, in proceedings before courts and regulatory agencies. He does so in a representative capacity, for and on behalf of the using and consuming public of the State of North Carolina, and he has the authority to institute and originate proceedings before courts or agencies in all matters affecting the public interest.

I believe that there are three major areas of responsibility for protection of the consumer and that these responsibilities should be carried out by the Attorney General of each state. Although none of these areas involves protecting consumers from what we usually think of as crimes - that is, crimes of violence against the person or property - each area does involve protecting the consumer from some sort of business activity which is destructive to an orderly society. For this reason, each area is important to the citizens of our country and to the maintenance of our free enterprise system.

MONOPOLIES AND PRICE FIXING

The first major area of our concern for the citizen which I want to discuss with you today lies in the field of monopolies and price fixing. Major manufacturers of many of the necessities of life are prone, at times, to conspire among themselves to fix ultimate prices in various and devious ways. When they do so, we must pay for the goods they produce at the price they set or go without. Through such collusive agreements the greatest element of balance in our free capitalistic system is removed - competition for the consumer's dollar.

Competition between sellers for a natural share of the market based upon consumer demands, quality, price, service after the sale, and efficiency in manufacturing, distribution, and advertising is one of the cornerstones of American liberty. It is the foundation of our economy.

For more than fifty years, North Carolina has had as a part of its basic law, statutes embodying the basic principal provisions of both the Sherman Antitrust Act and the Clayton Antitrust Act. Unfortunately, from the standpoint of the consumer, little attention has been paid to these statutes since their enactment. The impact of antitrust violations on the consumer is staggering. A recent study suggests that antitrust law violators presently drain the American economy of some 45 billion dollars annually in lost output. Other losses brought about by antitrust violations include inflated production costs and the suppression of technological innovations. The social impact of monopolies and price fixing is also of particular significance today in this period of social unrest. In fact, many of the nations's current social problems are often attributed to the wealth distribution brought about by antitrust violations.

The North Carolina Antitrust law is contained in Chapter 75 of the General Statutes. The influence of the Sherman Antitrust Act is shown in Section 75-1, and the equivalent of the Federal Clayton Act is contained in Section 75-5 of the North Carolina General Statutes, which, incidentally, preceded the enactment of the Clayton Act by Congress.

I realize that there is a great deal of federal activity in the field of monopolies and price fixing, both in the Justice Department and in the Federal Trade Commission. However, I feel that state enforcement of state antitrust laws is necessary in spite of federal activity for several reasons. First of all, there are important areas within the framework of competition which are wholly intrastate, or local, and hence, outside the scope of federal action. Secondly, there are areas of concurrent jurisdiction where the State may be better equipped than a federal agency to act on behalf of its citizens. Thirdly, the resources of the U. S. Department of Justice and the Federal Trade Commission are limited and federal action is just not practical in all instances of abuse.

The fact is that some antitrust matters are not interstate in nature and do not materially affect interstate commerce. Services such as laundries, dairies, barber shops, real estate brokerages, funeral establishments and many other locally oriented businesses are generally operating only in intrastate commerce. Any antitrust violations connected with these businesses then, should be prosecuted under state laws in state courts.

Recently my office brought a suit against an intrastate business operating in North Carolina. Five of the major milk processors in our State were making over 50 percent of the milk sales within a certain area. A sixth dairy had only two percent of the milk business. Everywhere this competitor was located the five large companies all sold their milk below cost, contrary to their practice in other areas of the State. We are seeking a permanent injunction against this unfair business practice, based upon the prohibitions contained in the North Carolina antitrust law.

The State can also play a major role in the antitrust area where it has concurrent jurisdiction with the federal government. As most of you know, the United States Department of Justice is limited to a fine of 50 thousand dollars as its remedy in an antitrust case. The Federal Trade Commission has no power of its own to imprison, fine, or assess or award damages. To most big businesses, even the 50 thousand dollar fine is a very small price to pay for a practice which may bring in millions. For this reason, reliance on federal laws to take care of all antitrust problems is just unrealistic. Of course, a private individual might want to bring a treble damage suit, but this is most often used

where a businessman seeks to bring a treble damage suit against one of his competitors to recover for damages which resulted from some anti-competitive business practice. Unfortunately, where it is not another businessman, but the ultimate consumer who is damaged by the activity, private treble damage suits are seldom practical. Such unfair business practices ordinarily involve a large number of consumers, but since damages to each individual consumer are usually relatively small, most of them will not go to court as individuals. I believe it is here that the State must step in. Effective antitrust enforcement requires knowing what to look for, having the skill, time and money to find it, and also having the ability to prove this special kind of case in court. These qualities are not super-human but they do not come automatically with a license to practice law. The key to the lack of enforcement of the antitrust laws in most states is probably the lack of adequate personnel and money. I understand that in many states there is no provision for a special antitrust assistant to the attorney general or for any special branch to handle antitrust litigation. The creation of such a special enforcement office, however, has played a leading role in the stepped-up activity in North Carolina.

Our Consumer Protection Division now handles all antitrust litigation which comes into our office, whether it comes in as a result of an investigation begun by a federal agency, or whether it comes in as a result of a possible violation of our own Chapter 75.

Under Chapter 75 of our General Statutes, the Attorney General of North Carolina is given the power and the duty to investigate certain activities of all corporations or persons doing business in North Carolina to determine whether there are violations of the Statutes of North Carolina defining and denouncing trusts and combinations in restraint of trade or commerce. In carrying out these responsibilities, the Attorney General is given the power to require the officers, agents, or employees of any corporation or business which may be in violation of North Carolina law, to submit to an examination by him, and to produce their records for his inspection. Should a business or corporation fail to comply with the demand for examination or for records, the Attorney General is authorized to apply for a court order requiring compliance with his demands.

To prevent abuse of this power, our General Assembly provided that any natural person examined by the Attorney General is immune from indictment, criminal prosecution, criminal punishment or criminal penalty by reason of anything disclosed by him upon examination. This immunity does not apply to any civil action instituted to obtain injunctive relief, however. The Attorney General is given the power to prosecute

civil actions in the name of the State of North Carolina and to obtain permanent or preliminary injunctions and temporary restraining orders in order to carry out the provisions of Chapter 75.

The first action undertaken by the Consumer Protection Division in the field of antitrust activity was as a party in connection with federal antitrust litigation. Shortly after I assumed office, I directed the Consumer Protection Division to file suit in behalf of North Carolina citizens against several nationally prominent drug firms in an effort to recover damages that resulted from a price-fixing scheme. In this action, North Carolina is representing a class of individuals composed of purchasers of certain broad spectrum antibiotics. Not long after this suit was filed, the Consumer Protection Division also joined in a treble damage action against the publishers of children's books. Both of these actions followed federal antitrust litigation.

At the present time, North Carolina is representing certain city and county governmental units throughout the State as well as the State of North Carolina in an antitrust action directed against certain major automobile manufacturers who simultaneously announced that they were discontinuing the fleet discounts which they had previously allowed governmental units on large orders of motor vehicles. It is estimated that these governmental units were damaged in excess of two and one-half million dollars on just one order of motor vehicles as a result of the discontinuation of the governmental fleet discount.

In addition to actions which the Attorney General's Office initiates for the benefit of the State or for the benefit of a class of individuals within the State, I believe that the State has another important role to play in the antitrust area of consumer protection. The law of North Carolina provides for the recovery of treble damages by individuals and businesses who have been damaged by antitrust violations. The State can have a great influence on this type of litigation by initiating investigations of suspected violations, and by making the results of these investigations available to private litigants. It is our hope that these private treble damage suits will become a useful tool in combating business practices which are unfair to consumers and to the ethical businessmen harmed by such practices.

In the past, a few states, as private litigants, have been able to recover significant amounts of their losses by bringing treble damage actions against those who sold them items at highly inflated prices. Until the formation of the Consumer Protection Division,

however, North Carolina had never attempted to recover any of its losses. We have changed this approach, and are now engaged in a vigorous effort to protect our citizens from the effects of violations of antitrust laws. I believe that all states should become involved in this type of activity for the protection of our consumers and for the protection of our free enterprise system.

REPRESENTATION OF THE PUBLIC INTEREST BEFORE REGULATORY AGENCIES

The second major area of our concern for the citizen which I want to discuss with you today lies in the area of rate-setting and other proceedings before regulatory agencies. As noted earlier, Chapter 114 of our General Statutes was amended in 1969 at my suggestion to place in the office of the Attorney General not only the authority but the duty of intervening in the public interest in proceedings before regulatory officers and agencies. I am sure that each of you here today shares my strong belief in the American free enterprise system which has brought us to today's level of economic prosperity and material abundance. We believe that generally a man, or any group of private investors, should have the right to enter into any business that he or they may choose and to operate such business in an open and competitive market. Yet we all know that, as a practical matter, some types of activities cannot be carried on in the best interest of the public in a competitive atmosphere. Examples of this are electrical generating and distribution systems, telephone and telegraph services, and rail services. There are other industries which are so closely related to the public health and well-being that even though the business can be carried on in a competitive framework, still these industries must be closely regulated. Illustrations of these may be found in the insurance industry, the milk industry, and those industries which collectively draw upon and use a substantial majority of the water resources of our State.

In all of these areas which so vitally affect the public interest, the people have the option of government ownership and control or operation by privately owned business enterprises. In the United States, the choice has invariably been operation by privately owned business enterprises. This choice has made it necessary to grant exclusive service areas to these public service industries. At the same time, however, the public has required some form of regulation of the entrepreneurs who operate these businesses. This regulation is designed to accomplish essentially two goals. First, it is designed to give the consuming

public within the franchise service area of the utility or public industry, adequate protection with regard to both the quality and the cost of the service rendered. This regulation is deemed necessary in order to afford the consuming public the protection which would be available if a competitive market existed. The second goal of regulation of these public service industries is to give or insure to each regulated industry a fair return on the investment made by its owners. We sometimes tend to forget that these regulated industries, for the most part, are still within the realm of private business and property ownership. They are entitled to the same constitutional guarantees which are available to other owners of private property.

In North Carolina our General Assembly has accomplished this public regulation by establishing administrative agencies. These administrative agencies are charged with the responsibility of maintaining healthy privately owned industries in the public service sector, with proper regard for both the public welfare and the interest of private enterprise. The Attorney General's responsibility in the regulatory area is to act for and on behalf of the using and consuming public before regulatory agencies in judicial type proceedings when a regulated industry appears before an agency either to decrease its services or to increase its charges for the services rendered. We provide the consumer with an advocate when the public interest requires it.

To understand the role of these regulatory agencies a basic understanding of both constitutional and administrative law is required. It is these laws which make it desirable for the Attorney General to participate, as the representative of the using and consuming public, before these regulatory agencies. In regulating these public service industries, the government requires them to come before a public regulatory body and prove to the satisfaction of such agency, which sits in a quasi-judicial capacity, that because of necessary expansion of facilities, investment in new equipment, upgrading in quality of service, or other similar reasons, it is in the public's interest that rates be increased or that a given type of service be eliminated or that the quality or quantity thereof be altered. In the consideration of any such application for increased rates or change of service by any such regulated industry, the regulatory agency is under a duty to base its determination solely upon proper findings of fact based upon competent and substantial evidence of record which is introduced before the agency at the public hearing held to consider such application. The agency must base its decisions only on those facts. If the agency does not do so, its decision is erroneous and will not be upheld in the courts. The decision

cannot be one that is arbitrary or capricious. If it is, then it is again subject to reversal by a court of law. This is a standard requisite of constitutional and administrative law, for the findings of fact and the final order or decision must measure up to the constitutional mandate of "due process of law." The regulatory agency must not deny the application of the regulated industry without proper evidence and findings of fact that the rate increases are not justified, or that the changes in services requested by the industry are not in the public interest. If it does so, the regulatory agency is denying the industry and its owners the use of their property without due process of law. Due process requires that the industry be given an opportunity for full, fair, impartial, and complete hearing on the evidence it presents to justify its request for additional rates or changes in service.

Therefore, where the regulated industry is able to appear before the regulatory agency ex parte (or alone) and present only its side of the case and its evidence, then the regulatory agency is virtually bound by the industry's evidence. When this is done, both the industry and the agency come under criticism by the public - criticism which may often times be unwarranted.

It is quite clear that when an industry makes its application to the regulatory body for additional rates or for a change in the services rendered, such application is made in the light of self-interest. Without a consumer's advocate, counsel for the industry seeking a rate increase needs only to make the necessary filing requesting the increase, and to introduce a bare minimum of evidence necessary to back up the request. Enlightened self-interest dictates that the evidence to be used by the industry should be marshalled in a light most favorable to the industry, for it is one of the fundamental precepts of our law that no man is required to build and present a case against himself. This premise is one of the cornerstones of individual freedom and it applies to a utility company with the same force and effect as it does to an individual, and rightfully so. Where there is no consumer's advocate, rate increases requested by regulated industries may follow as a matter of course, whether justified or not. Even when an increase is justified, the effect on the consumer of an uncontested proceeding may be harmful. There may well be a lack of confidence in both the industry and the agency and a conviction that the rates charged by the industry are more than adequate or even excessive in light of the quality of service that is being rendered by the industry.

I feel strongly that in order for this regulatory process to work for the benefit of both the public service industries involved and the public, the interest of the public

must be presented in evidence and argument in juxtaposition to the position of the industry. The most crucial point in the administrative and legal process in which the public's interest can be voiced effectively through evidence and argument is in the initial hearing upon application before the regulatory body. The consumer's advocate has the opportunity of giving the other side of the picture, and of presenting a different viewpoint backed by other evidence. There is the added benefit to the consumer of cross-examination of utility witnesses, which should measurably increase the regulatory board's capacity to view the matter from a balanced perspective. The resulting decisions from truly adversary proceedings should be fair both to the industry and to the public, for both sides of the matter will have been presented. It is also felt that an added dividend will be the restoration of public confidence in the adversary regulatory system.

Now it is unnecessary for me to tell you that such administrative proceedings, concerning a general rate increase for a public service industry, involve matters of considerable financial complexity and economic importance. Adequate representation of a client in a utility rate proceeding requires exceptional legal ability and, at the very least, a considerable comprehension of accounting and corporate finance of engineering terminology and testimony. Even assuming the possibility of a properly initiated class action, through privately employed counsel, the consuming public is not likely to find adequate means of representation. The relatively few experienced practioners in this field are almost always retained or are regularly employed by and represent the regulated industry or industries involved. Thus, the office of the Attorney General is the logical place to develop the staff of competent attorneys and accountants who possess the requisite expertise and technical background needed for working in the utility field.

It has been argued, and I have experienced the argument in my representation of the public in rate cases in North Carolina, that the regulatory body itself can adequately represent and protect the interest of the consuming public, while at the same time sitting as the sole and supposedly impartial arbiter or trier of the facts and judge of the law. It is argued by advocates of this approach that these regulatory agencies, such as our Utilities Commission in North Carolina, have staff investigators who can be called upon to produce independent evidence which may represent the public interest. On the contrary, it is my belief that an administrative hearing upon an application for a rate increase wherein the regulatory body purports to represent the interest of the consuming public is not in the best interest of the utility involved or the consuming public for three reasons.

First, the regulatory body attempting to act in such a situation is placed in the position of acting as an advocate in support of the public interest and at the same time as an impartial judge of the facts and issues presented. Second, the consuming public which is not openly represented by counsel will, for the most part, remain totally unaware of any effort which might have been made or any point which might have been raised in support of the interest of the consuming public. Third, without representation by its own counsel at such hearing the consuming public is denied the benefit of the adversary system. With respect to truth and fact finding, cross-examination is our tried and proven method of most effectively exposing not only false testimony, but, as is more frequently the case in utility cases, inaccuracies or insufficiencies in testimony.

I would like to emphasize that in acting as a consumer advocate in public utility rate cases, we consider that it is not the Attorney General's role to participate as the enemy of the utility, but simply to participate as the representative of the public - which has no other representative in these matters. We are simply trying to make sure that all points of view have been fairly represented before the regulatory body. As an example of our efforts to present points of view to the regulatroy agencies other than those advanced by the regulated industries themselves, I would cite a case in which we intervened in 1970. In this case Duke Power Company filed an application with our Utilities Commission in which it asked for a seemingly innocuous "fuel cost adjustment clause" to be attached to its existing rates. Upon scrutiny by our office, we determined that because of the escalating cost of coal, if such a fuel cost clause were approved, this would result in additional rates of between thirty-eight and fifty million dollars per year that would be paid by the power company's customers in North Carolina. We intervened in this case and presented the consumer's viewpoint to the Utilities Commission. The clause was subsequently defeated in its entirety.

However, I would like to further emphasize that we are not seeking to prevent any company from receiving a fair return on its money. We fully recognize that a public utility is entitled under the law to charge rates which, under good management, will enable it to earn a fair rate of return on the fair value of its property, and thus it will be able to attract on reasonable terms the capital which it needs for a growing and expanding business. We also feel that efficient and competent service is a factor that must be considered in the rate-making process and that without the proof of sufficient and competent service, the utility is in no position to request a rate increase. In the Lee

Telephone case in which we intervened in 1969, our Supreme Court, in a decision handed down approximately one (1) year ago, agreed with this contention.

While we must recognize and protect the rights of these regulated industries, we must also acknowledge and give consideration to the increasingly obvious fact that the general public is beginning to look with suspicion on our larger industries and especially those which enjoy state - granted privileges. While government involvement in business is foreign to many of our most fundamental beliefs, it appears to be an increasingly real possibility, particularly at the Federal level. It is my belief that the States, and particularly the State Attorneys General, who are directly responsible to the voters, are in a much better position to represent the interest of the public than are representatives of Federal Agencies. I also believe that the regulated industries concerned would much prefer that the public interest be represented on a State level rather than a Federal level.

In summary, I believe that with sincere and active representation of the general public's interest in proceedings initiated before a State regulatory agency by a major industry, we can accomplish the following things:

(a) We will better enable the regulatory agencies to reach balanced conclusions between the interest of the regulated industries and the interest of the public with regard to both rates and services rendered by the regulated industries.

(b) With active and competent representation of the public's interest by the Attorney General's Office at the administrative hearings, I believe that there will be a tendency for the industries to re-evaluate their positions, and to request only such increases and changes as are essential to both their continued profitable growth and their obligation to render vital services to the public.

(c) We can in large measure remove any aura of suspicion held by the general public that its interests are not being adequately protected by the regulatory agencies which have been established as our governmental control over licensed monopolies.

UNFAIR AND DECEPTIVE TRADE PRACTICES

We were one of the first States to adopt legislation which is patterned after the Federal Trade Commission's statutory authority to combat unfair and deceptive trade practices. The acts and practices which constitute violations of this law are not specifically described. Injunctions may be issued against any act or practice, however original and

imaginative, if found by the court to be unfair or deceptive. The scope of the law will ultimately be settled by the courts, but in our experience, the courts have had little difficulty in determining that some acts and practices are clearly unfair and deceptive and should be enjoined.

In North Carolina, the violation of our law which prohibits unfair or deceptive trade practices does not constitute a criminal offense. The State, through the office of the Attorney General, has the authority to bring a civil action against any person suspected of committing such an offense, and to seek an order of the court which will prohibit certain activity. Where circumstances warrant, the court may issue a temporary restraining order without notice to the party against whom it is directed, while offering an opportunity to the affected party to contest the injunction order at an early date.

We have sought the immediate relief available through temporary restraining orders only on rare occasions. One illustration of the type of practice which we believe should be subjected to a temporary restraining order is shown by a case we instituted in North Carolina against a group of men who were obtaining home-improvement contracts from rural homeowners upon misrepresentations that the work was required by State law. We did not want one more person be be victimized by these men. In another case, we requested a temporary restraining order when a roving band of salesmen attempted to sell a set of ovenware upon the representation that it was capable of being carried from the freezer to the cooking range, and back again. We determined that the product would explode if it came in contact with direct heat, and we sought to protect the public from such danger through immediate action by our office, which resulted in a temporary restraining order from the court.

As a temporary restraining order does not provide the defendant with an opportunity to be heard, its duration is limited to 10 days. At the expiration of that time, an opportunity must be given to the defendant to present his defense and argument that the injunction should not be maintained. In many instances, the nature of the action we seek to terminate is such that we begin by seeking an order setting a time (usually within 10 days) for a hearing to determine whether we may obtain a preliminary injuction from the court. In these cases, where relief is needed soon, but is not of an emergency nature, we ask the court to order a practice terminated at once, pending a final hearing on the matter. And, of course, in each such lawsuit we ask for a permanent injunction against certain practices.

In our request for injunctive relief, we do not ask that a court stop a person from doing business altogether. We seek the termination of certain practices only; but, in making this request we attempt to terminate all deceptive and unfair aspects of the defendant's business operations.

In one case, we sought the termination of the use by the defendant of the name "Unclaimed Freight" to describe a company, when our information indicated the defendant never sold merchandise which fitted that description, and simply used the name to lure unsuspecting customers into a place of business where "bait and switch" was a standard operating procedure.

In another case involving "bait and switch," we sought the termination of advertising which described only one grade of beef, which was not being sold because each customer who came into the business establishment was discouraged from buying that grade and encouraged to buy the more expensive grades which constituted 99% of the store's sales.

A company that attempted to sell courses of study for computer training has been ordered not to represent that its graduates are guaranteed jobs or that the decision to enroll must be made immediately because the salesman is only permitted to accept applications from two more residents of this State.

Some complaints about unfair or deceptive trade practices may be resolved without court action. In many instances, the businessman is aware that the practice which our office complains of is one which will certainly be enjoined by the court, and he wishes to terminate our investigation by a procedure which is less costly and would not involve a court record. A Voluntary Assurance of Compliance is a contract which is entered into by the Attorney General and a business operation if the business operation is considered sufficiently responsible to honor its contractual obligations. In the agreement, the Attorney General agrees not to take court action to terminate a practice alleged to be unfair or deceptive, and the business operation, without admitting the commission of an unfair or deceptive act or practice, agrees to discontinue the specified activity.

With these remedies, our office attempts to protect the consumers of North Carolina from unfair or deceptive trade practices. In addition, we receive many complaints from consumers regarding disputes with business organizations. We acknowledge all such complaints, and in many cases attempt to mediate disputes which do not appear to involve unfair or deceptive acts or practices directed against the general public. In accepting this role, where consumer fraud is not involved, we carefully avoid any attempt to coerce a business citizen into taking an action which he does not believe is warranted under the circumstances.

There are cases which come to our attention that cannot be resolved because the parties disagree as to factual matters, principally with respect to contractual agreements. In such cases, our office does not take a position as advocate for the consumer, but leaves the consumer to seek his own remedy through our small claims court, often with the assistance of an attorney retained by him or designated by a legal aid office.

In North Carolina, a citizen who is injured by an unfair or deceptive trade practice can recover three times the amount of damages awarded by a jury. This treble damages provision was instituted at our request in 1969.

A case which originated in Union County several months ago utilized the new law. A couple shopping for a new home was allegedly the victim of a home builder who misrepresented the size of the lot, several essential features of the home, and the warranty which they would receive. A jury found the couple had been injured to the extent of $3500, and the court used the treble damages law to boost this amount to $10,500.

We believe that the business community of North Carolina is aware of the interest the Attorney General's Office has taken in terminating unfair and deceptive trade practices. We believe that the ethical businessman is also aware that in most cases the unfair business practice is unfair to both the consumer and the honest businessman who is injured by competitive practices he does not condone. The support we have received from the consumer and from the business community has been encouraging.

It is my belief that our efforts to protect the consumer have strengthened the free enterprise system. If our economic system is to be retained, and each citizen is to receive the opportunity to earn and profit financially from his own efforts, we need to provide some governmental control over those unfair business practices which stifle competition and cause widespread distrust of the system itself. I believe that the concept of free enterprise has never included an authorization for any businessman to deliberately deceive the public. The old slogan, "buyer beware," is no longer accepted in North Carolina. The legislation we requested and received in 1969 to combat unfair and deceptive trade practices sets out a new standard:

> "The purpose of this section is to declare, and to provide civil legal means to maintain ethical standards of dealings between persons engaged in business and the consuming public within this State, to the end that good faith and fair dealings between buyers and sellers at all levels of commerce be had in this State."

I believe that the States must accept their responsibility to protect their citizens from the consumer abuses which occur within their borders. We are closer to the people most affected by consumer problems and we can take immediate action to obtain relief for our citizens.

I believe it is most desirable that our primary consumer protection role be assumed in each State by the Attorney General. As the chief law enforcement official, he is in the most advantageous position to determine when legal action can be taken to eliminate consumer fraud. The ability to recognize legal issues, and a knowledge of legal remedies, are important advantages which the Attorney General's Office has,over other state offices and agencies. A strong interest on the part of the Attorney General should result in the most efficient and responsive consumer protection to our citizens. I believe that we have made significant advancements in North Carolina to protect our consuming public, and that our efforts have been greatly rewarded.

CONCLUSION

There are new problems for consumers which must be resolved by responsible governmental action. There are old abuses which need to be corrected. In 1971, the General Assembly of North Carolina enacted additional legislation to protect consumers. We endorsed, and assisted with the drafting of, new legislation to prohibit the multi-level, or pyramid investment schemes, which have taken many thousands of dollars from citizens who are led to believe that investment of money into such schemes can result in great returns if they can simply get other participants to climb aboard the bandwagon. The new law identifies these schemes as lotteries, and prohibits those programs which call for an investment of money to participate, then permit rewards upon the introduction of other participants. Another significant 1971 enactment was a comprehensive bill which places limitations upon the holder-in-due-course doctrine, limits the finance charges which may be collected in time payment sales transactions, provides restrictions upon home solicitation sales, along with a three-day cooling-off period, and prohibits all referral sales programs. We are pleased with the record of the 1971 General Assembly, and happy that the records of our Consumer Protection Division could be used to substantiate the need for additional consumer protection legislation.

There are many other consumer problems which should be remedied by State action. We have been protected in many states, over a long period of time, by state agencies acting to protect consumers from unsafe food and drugs, and inaccurate weights and measures. We have many effective State regulatory agencies and licensing agencies. Their experience, and their successes, prove there is great benefit to all citizens from effective State action.

I believe the States will meet the challenge of the need for adequate consumer protection and representation. We need strong legislation to deter consumer fraud, adequate and reasonable remedies for consumers with grievances, better programs for education of consumers, and adequate representation of the consumer's interest before regulatory agencies and in antitrust matters, and awareness and dedication on the part of public officials to whom this responsibility is given. Personally, I hope to continue and expand my efforts to help with the protection of the consumers of North Carolina.