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consumer federation of america

Washington, D.C.

May 1976

Citizen Action Fund Provides Help Through 16 Premieres

A great deal of hard work by local and national citizen activists, Warner Brothers, and Robert and Lola Redford, paid off in a huge success for the April 8 premiere showings of "All the President's Men." The premieres were just the beginning.

The Citizen Action Fund, sponsor of the premiere showings, was formed recently to initiate fundraising activities for independent public interest groups across the nation. Organized by Consumer Action Now, Consumer Federation of America, Environmental Action, the Environmental Policy Center, and Public Citizen, the Fund has achieved a successful start as a fundraising mechanism for citizen lobbying groups. Internal Revenue Service regulations which forbid groups "influencing legislation" from collecting tax-deductible contributions make it particularly difficult for public interest groups of this type to raise funds.

The projected gross figure for the sixteen Citizen Action Fund premieres is \$200,000. Local groups will receive sizeable chunks. Iowa Consumers League, Arkansas Consumer Research/Public Interest Citizen Action, and Consumer Advocate, all members of CFA, have all reported they expect to realize between \$4000 and \$5000. Other local groups also participated and will receive 65 percent of the receipts.

In Little Rock, an appearance by Lola Redford (Consumer Action Now) and a well attended wine and cheese reception following the showing added to the overwhelming success of the premiere. According to Arkansas Consumer Research/Public Interest Citizen Action's Executive Director Glenn Nishimura, "Things couldn't have gone better—we couldn't be more pleased with the results."

Consumer Advocates (the lobbying corporation of Consumer Action) and Project Survival jointly sponsored the San Francisco premiere complete with a cash bar and entertaining reception following the showing. All were sell outs. Ken McEldowney of Consumer Advocates felt that "The party and premiere were successful and encouraging. These events enabled us to reach people who had never heard of Consumer Advocates before. Probably more important is that traditionally it has been very hard for consumer lobbying groups which are not tax deductible to



Supporters mingle at reception preceding San Francisco premiere of All the President's Men. In associated ceremonies, labor leader John Henning, AFL-CIO, presents award for consumer journalism to Lynn Ludlow of the San Francisco Examiner.

Photos by Thomas R. Copi

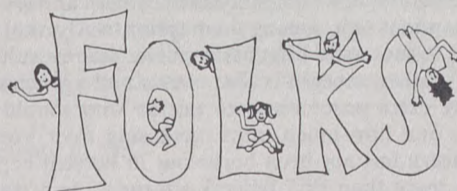


raise adequate funding. The premiere and subsequent event will make it easier for Consumer Advocates to raise money."

A champagne reception and brief awards ceremony highlighted the New Orleans premiere which benefited the Louisiana Consumers League. In North Carolina a wine and cheese tasting party added to the event which benefited the North Carolina Consumers Council, Carolina Action, NCPIRG, and the Conservation Council of North Carolina. ISPIRG and the Iowa Consumers League were extremely pleased with the excellent press coverage and citizen interest generated by their premiere. Robert Redford attended the Iowa premiere and answered questions from the audience for about 20 minutes. According to spokesperson Sheila Sidles, "The Iowa audience definitely got their money's worth."

Plans for future benefits are on the drawing boards.

Focus On Local KonsumerS This month: Cleveland Consumer Action



A recent survey conducted by the Council on Municipal Performance, a national research organization, rated Citizen Action and the Consumer Action Movement as the sixth and seventh most effective civic groups in the Cleveland area. Since that report was released, Citizen Action and CAM have begun the process of merging into one large organization, Cleveland Consumer Action, that has hired a full-time staff member and is planning further expansion.

CAM was first established as a chapter of the Consumers Education and Protective Association in January 1971, then as a separate organization in the Spring of 1974. Like CEPA, it emphasized individual complaint-handling employing a three-part grievance procedure that includes educational picketing and requires the participation of the complainant. In the past five years it has saved well over 1000 individuals more than \$150,000. Moreover, it has settled more than 90% of all justified complaints and has resolved every single one of the hundreds of legitimate grievances filed against new car dealers.

CAM has undertaken several other projects. The most ambitious of these was the writing of a comprehensive consumer code for the City of Cleveland and the submission of this proposed code on initiative petitions to City Council in May 1972. Within three weeks after the petitions were validated, Council passed their own Code and appointed a CAM (then CEPA) member director of the newly created Cleveland Office of Consumer Affairs. CAM has also conducted several price surveys, published a consumers guide, demonstrated frequently in support of or opposition to legislation, and has helped establish groups like itself in other cities. In the past two years, it has assisted San Francisco Consumer Action and the Ft. Wayne Consumer Center in the organization of active complaint-handling groups.

Citizen Action was established in January 1973 as an independent consumer research group that proposed to collect and distribute information useful to consumers in the Cleveland area. Its main project has been the publication of a monthly newsletter, *bait&switch*, that features price surveys and investigative reporting on such subjects as shortweighing and restaurant sanitation. Studies done by *bait&switch* in such areas as prescription drug prices and gasoline prices have resulted in many Cleveland-area municipalities passing legislation to curb abuses noted by the research.

In the same period, Citizen Action has published a *Legislative Monitoring Service*, sponsored the Meat Boycott Information Center in Cleveland, conducted successful campaigns for unit pricing and see-through meat and vegetable packaging, and initiated a campaign for longer supermarket hours.

Cleveland Consumer Action (CCA), a non-profit tax exempt organization, and its proposed research arm, Cleveland Consumer Action Foundation, are continuing all the regular activities of Citizen Action and CAM and has initiated several new projects. *bait&switch* is being produced and distributed to more than 600 paying subscribers. Three neighborhood chapters, with nearly 100 active members, each meet weekly to hear and act on complaints. A recent chapter meeting was attended by more than 30 West Side consumers who cheered as several settlements were announced.

The most vigorous applause occurred after one consumer announced that she had received a \$111 check from an upholsterer who had lost a small claims case, but refused to pay the judgment. Attorneys for another consumer agency had tried and failed to collect the money. After being

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Food Stamps in Trouble

Fueled by antigovernment campaign rhetoric, the Food Stamp Program is in serious jeopardy in the House of Representatives. The House Agriculture Committee is currently marking up a Food Stamp bill which may have disastrous effects for millions of Americans.

The Committee now has before it three extremely restrictive measures—the Administration bill, the Buckley-Michel bill and the Poage bill. Nearly half the committee's membership now appears to support the basic provisions of at least one of these bills, which would reduce or terminate benefits for over half of all persons now participating in the program.

The House will probably begin consideration of a Food Stamp bill in June. It is not clear which provisions will be included in the final version. There are, however, five key measures which must be maintained even if they are not in the Committee bill. CFA urges you to contact your representative immediately to get their unqualified support for all of the following:

1. **Purchase prices:** Eliminate the food stamp purchase requirement so that more low income families may use food stamps. If this is not possible, then the purchase price should be set no higher than 25% of net income, as in the bill passed by the Senate. To raise purchase prices to 30% of net income, as proposed by the Ford Administration, would make many poor families pay more for their stamps.

2. **Deductions:** There should be a basic standard deduction of at least \$100 a month, with increases over this figure for large households. In addition, working families should receive an additional deduction in the amount of 20% of earned income, to cover taxes and work-related expenses such as commuting costs, union dues, child care, etc. (The new study by the House Agriculture Committee shows that under the current program, working families get substantially larger deductions than non-working families, and large families get bigger deductions than small families.)

3. **Continue to base eligibility on current income:** Eligibility should continue to be based on current income, not on income during the 30 days or 90 days prior to application. Basing eligibility on past income denies food stamps to many families currently in need (such as the recently unemployed), while providing stamps to families no longer in need. Workers who have just been laid off, or women whose child support has just been cut off, should not have to wait for 1-3 months before they can get food stamps.

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For the latest information on the status on the House food stamp bill, the Interreligious Task Force on U.S. Food Policy has set up a toll free telephone number. Please call them with specific questions at 800-424-7292 or, in Washington, D.C. call 543-2800.



THE MILWAUKEE JOURNAL



SPEAK OUT!

Citizen Participation in Government—

It's Time to Pass the Bucks

by Dave Lenny
Attorney/Lobbyist
Nader's Public Citizen
Congress Watch

It's no secret that consumer groups are desperate for money. This issue is at the top of every consumer group agenda. Why are we broke and what can be done about it? There have been four traditional avenues of funding: 1) private donations (sharply reduced during the recession); 2) foundation grants (which are typically "seed" funds given during the 1960's and now nearly exhausted); 3) court award of attorney's fees (curtailed if not obliterated by last year's Supreme Court opinion in the *Alyeska Pipeline* case which held that only by statute can attorney's fees be awarded); 4) statutory awards (50 statutes presently provide for the award of attorney's fees).

It is this fourth category which offers real hope. Every day federal agencies sanction or foster policies resulting in ballooning oil and gas prices, environmentally unsound power plants, and the proliferation of unsafe food, drugs, and other products. These decisions are usually made with little or no consideration of citizen views because, although citizens are allowed to participate in Federal agency proceedings, most citizens simply cannot afford to do so. It takes time, expertise, and money! There are a few citizen groups in many communities which attempt to influence government decisions on behalf of the public, but their energies and resources are limited.

Consider these examples:

- A West Virginia environmental group exhausted its meager funds (paying its attorneys at one-tenth the regular rate) criticizing an environmental impact statement on a local power plant. They ran out of money before the public hearings even started because of delays by the Federal Power Commission.

- A small citizen group in Washington, D.C. was the only advocate for consumers against over 100 industry representatives opposed to information labeling of liquor. The Treasury Department claimed as its basis for dropping the proposal "insufficient consumer interest."

Part of the cost of running the government clearly must include the cost of helping citizens participate in agency decisionmaking. After all, the high cost of industry's participation in these hearings (including attorney's fees and expensive expert witness fees) is passed on to the public in the form of high marketplace prices, and, as a business expense, it is tax deductible.

"Part of the cost of running the government clearly must include the cost of helping citizens participate in agency decisionmaking."

To enable and encourage citizens to take part in agency decisionmaking, Senators Kennedy and Mathias have introduced S. 2715, the *Public Participation in Government Proceedings Act*. The Kennedy/Mathias bill would provide a limited amount of money so that concerned citizens could hire attorneys and experts to advocate their views before agency decisionmakers, and to seek judicial review of illegal or arbitrary and capricious agency actions.

It is clear that without government aid the public will continue to be unrepresented or inadequately represented despite the accepted opinion that public participation is absolutely necessary for well-balanced agency decision-making procedure.

The same reasoning justifies reimbursement of the costs of challenges of agency action in suits for judicial review. The Administrative Procedure Act permits aggrieved parties to challenge agency actions in court, yet, due to the usual length and expense of such proceedings, few persons bring this type of litigation. For example, the *Alyeska Pipeline Co. v. Wilderness Society* case is estimated to have cost public interest organizations \$200,000 in legal and expert witness fees.

CFA has itself brought some actions for judicial review. In 1975, CFA together with other interested groups, successfully argued before the U.S. Court of Appeals (upheld by the Supreme Court) that the Federal Power Commission illegally exceeded its authority in exempting sale of natural gas from normal federal regulation for six months during the 1973-1974 winter energy crises, at a cost to consumers of an estimated \$50 million.

If the Kennedy/Mathias proposal is adopted, there will be numerous benefits from increased public participation in government proceedings:

- **Increased Safety.** When significant health and safety questions, such as whether or not to license a nuclear power

plant, whether to permit marketing of a potentially unsafe drug, or what safety standards should be met by automobile manufacturers, are considered by an agency, the public cannot afford a margin for error. The increased safety usually created when an outside party adds its views to the proceedings is well worth the small cost of financing such public participation.

- **Well-balanced Administrative Decision.** Currently, all different viewpoints are usually not represented at agency proceedings, resulting in decisions that ultimately favor the side able to afford to representation necessary to adequately present their view. This state of affairs has led to the common criticism of agencies that they are "run by the industries they are supposed to be regulating."

- **Strong Advocacy of Currently Unrepresented Interests.** Even though the mandate of most federal agencies is, in general, to protect the "public interest," they are still placed in the position of having to develop rules which incorporate all views the agency has had an opportunity to consider. Since the agency is in the position of having to be "fair" to all parties, it cannot be expected to vigorously advocate one side or the other. Thus, those who cannot afford their own advocate will not be well represented at the proceedings.

- **Greater Public Acceptance of and Confidence in Administrative Decisions,** (because the public has had a full opportunity to present views during the agency proceedings.)

- **More Vigorous work by Agency Personnel.** The mere presence of intervenors frequently results in more careful scrutiny of the issues and more sound actions by the agency.

- **Greater Articulation of Administrative Standards and Reasoning.** The presence of adversary parties compels officials to justify their decision in a way not necessary when the agency and industry "agree" on a new rule or regulation without the benefit of public participation.

In addition to the above-mentioned benefits of public participation in agency proceedings, there are similar benefits from suits for judicial review of agency actions:

- **Check on Government Illegality.** When agencies act outside the bounds of their Congressional mandate, a suit for judicial review of that action benefits the entire governmental process by providing a remedy for such illegalities.

- **Agency Accountability.** Suits for judicial review force federal officials to realize that no action taken can be arbitrary or capricious or be the "final word" on the subject.

There have been several questions raised about S. 2715. It has been suggested that providing awards of fees in suits for judicial review would be unprecedented in light of the "traditional American rule" that each party pays its own expenses, win or lose. This statement is completely inaccurate, however, since the "American rule" has several exceptions to it, among them (prior to *Alyeska*) the award of fees to successful litigants in public interest suits.

Another concern is that courts and agencies will need to have extra proceedings to decide who should be awarded fees and how much, thus increasing their workloads. This concern has not been borne out in current experience with the more than fifty federal attorneys' fees statutes on the books. No evidence was presented (in five days of hearings) to indicate significant problems in the area of court proceedings.

The entire procedure embodied in this bill modeled after the Magnuson/Moss Warranty-FTC Improvements Act, which provided for counsel fees for citizen participation in FTC proceedings. The regulations implementing that law have been adopted. Although there have been some problems with the procedures (taken care of in S. 2715), over \$100,000 has been dispensed to citizens' groups make "necessary" contributions to FTC proceedings, including, for example, San Francisco Consumer Action and NYPIRG.

Fee awards will not encourage frivolous suits. The Justice Department testified that, "The monetary costs of litigation act as a sufficient deterrent to frivolous suits... and the courts have the equitable power to award fees against obdurate and malicious litigants." Even with fee awards to successful litigants, this situation is not changed, for the simple fact remains that to get a fee award you have to win.

S. 2715 may ease the burden on federal courts. It is true that S. 2715 will stimulate citizens to bring actions for judicial review they might not otherwise have brought—that, in fact, is one of the main benefits of this bill when one considers the examples previously listed of the need for such litigation. But the bill will not stimulate frivolous litigation, but only litigation challenging agency actions where the plaintiffs represent the public interest and think they have a very good chance of being successful.

The availability of the judicial review option acts as a deterrent against agency actions that are not in compliance with the law. The principle here is the same as in any law enforcement: if persons know the law will be enforced, they are more likely to obey it, resulting in less need for suits and

Senate Flip-flops on Byington Confirmation to C.P.S.C.

After rejecting the nomination of S. John Byington for a seven year term as commissioner of the Consumer Product Safety Commission, the Senate Commerce Committee did an astonishing flip-flop and confirmed him for a two and a half year term.

Even more distressing than this reversal is the likelihood that President Ford will now name Byington as Chairman of the Commission, which is charged with protecting the public against unreasonable risks of injury associated with consumer products.

Even before Byington was named as a CPSC candidate, CFA actively opposed his nomination primarily because of his lack of independence from the Administration and because he had misled consumer groups in reporting that he and his superior, Virginia Knauer, had urged the Ford Administration to support the Consumer Protection Agency.



S. John Byington confirmed over consumer opposition.

"The Commerce Committee reviewed Mr. Byington's record, found him unqualified and rejected his nomination," noted Carol Tucker Foreman, executive director of CFA. "If he was unqualified for a seven year term, he is obviously just as unqualified for a two and a half year term."

"The CPSC cannot afford two and a half years of inadequate leadership, as its effectiveness can be easily destroyed within that time period. To approve for a short period of time a candidate rejected on the grounds of lack of qualification, makes a mockery of the confirmation system."

thus a lesser burden on the courts. Additionally, a study by the Library of Congress found that, in an 18 month period ending in 1975, only 91 cases in the federal courts would have qualified for the attorneys' fees under this bill—hardly enough to "clog the courts" in view of the over 200,000 actions disposed of annually in such courts.

Finally, this bill may result in less work for the federal bureaucracy and courts. One example, offered by the Center for National Policy Review at the Senate hearings, is a case in point. They said, "A number of court decisions have established that minimum height requirements and employment tests for police recruits which disproportionately disqualify minority or female applicants violate Federal civil rights laws unless they have demonstrated relation to job performance. Through a rulemaking petition to the LEAA, the Center succeeded in securing an amendment to LEAA's regulations which outlawed the use of such criteria by local law enforcement agencies applying for LEAA grants... Clearly this single proceeding was a far more efficient means of bringing about compliance with federal law by local police departments than individual suits against each department."

Citizen Access to Courts

The benefits of S. 2715 would not be complete without another change in the law also proposed by Senator Kennedy, the Administrative Procedure Review Act of 1976 (S. 3296). Did you know that if the President assigns government employees, paid with your tax dollars, to work on his political campaign instead of government business, a taxpaying citizen is not allowed to challenge this illegal misuse of funds in a Federal court? Or, if the government is giving away millions of dollars worth of government patents in clear violation of Federal statute, the citizen has no recourse in the courts to stop this illegality?

These are two of the many cases where the government can spend tax dollars in violation of the Constitution, or where a Federal agency can act in violation of the law without fear of challenge, because of recent court restrictions on citizens "standing" to sue. "Standing" is a legal rule based on the Constitution's requirement that a case will not be allowed to come before a court unless both parties have a significant enough stake in the outcome to insure that the opposing positions will be adequately presented to the court.

Until recent years, the courts and the Congress had been developing broader "standing" rules so that more citizens could go to court to challenge government illegalities.

Unfortunately, the Supreme Court and lower courts have halted this trend: S. 3296 is a response to their actions. The proposed bill would mean the courts could concentrate on the merits of a case instead of involving themselves in arguments about who is allowed in court. The complicated law of standing would be clarified, and the Justice Department could not use "standing" as a knee-jerk defense to every suit brought against the government.

Please write your elected officials in support of S. 2715 and S. 3296. For more information on either of these bills, contact Dave Lenny, Congress Watch, 133 C Street S.E., Washington, D.C. 20003.

Cooperative Fights Milk Prices

The Consumers Cooperative of Berkeley is waging an aggressive campaign to overturn California's 39 year old retail milk price law and has been fined \$19,000 by the state for its efforts. After years of unsuccessfully petitioning for hearings on the setting of minimum milk prices, the Co-op challenged the law on February 13 by lowering the price for a half gallon of whole milk from the state set minimum of \$.69 to \$.61. The Consumers Co-operative of Berkeley operates 13 markets in the Bay Area and has 82,000 member families. The price decrease lasted only one day as the Co-op complied with a temporary restraining order issued on February 14. A court hearing on March 8 and 10 resulted in a temporary injunction and the fine against the Co-op. A trial on the merits will take place in mid-July. Labelling it a "form of intimidation," Co-op spokesman Don Rothenberg stated "We do not expect to pay the fine."

Coop General Manager Roy L. Bryant declared, "The Governor and the Director of Food and Agriculture have ignored every logical argument on nutrition, morality, economics and common sense by refusing to allow us to sell milk at a lower price. . . In the price war now raging, we, not the State, will choose the most nutritious foods as we reduce prices to aid consumers."

Some state economists and milk industry officials argue that without milk price minimums, large food firms would engage in milk price wars which would have the ultimate anticompetitive effect of driving out small independents. Preventing such wars was the original purpose of the California laws enacted in 1935 and 1937 establishing minimum prices at the dairy farm, wholesale, and retail levels. In April of 1975 Director of Food and Agriculture L.T. Wallace suspended the wholesale minimums for most of the state. His principal reason was that some large firms were avoiding the minimums by farm-to-store integration or by joint ventures between store and processor. At the same time Wallace suspended retail milk price minimums for the Sacramento area, enabling consumers there to buy milk for \$.59-.63 while prices in the Bay Area remain at \$.69. "Mr. Wallace seems too timid to acknowledge the success of the experiment," charges Linda Akulian, president of the Consumers Coop of Berkeley. "The Sacramento experiment has roundly disproved industry's claims that reduced milk prices would result in chaos, higher prices, and milk shortages to consumers. Instead consumer group claims that milk price reductions would be immediate and permanent have been proven."

After extensive hearings last year, the consumer staff of the California Attorney General's Office recommended that the Legislature abolish both wholesale and retail minimums while providing strong protection against monopoly. The milk industry opposed that bill, claiming, ironically enough, that it would constitute excessive government interference in private enterprise. The Legislature passed a bill repealing wholesale minimums but retaining those for retail sales. This bill was supported by all segments of the dairy industry but was vetoed by Governor Brown in September, who stated that "the social benefit of such state (price control) intervention is presently under review by this administration."

While there has been no further word forthcoming from the Governor's Office since then, the Consumers Cooper-

Food Stamps (cont. from page 1)

4. **No cutbacks in assets:** The food stamp assets limits should not be restricted by requiring the assessing of homes, cars, furniture, clothes and the like. Such restrictions would knock hundreds of thousands of elderly and unemployed families out of the program, and would create an administrative nightmare for local food stamp offices.

5. **Keep the program simple: No monthly reporting, countersigning of food stamps, or photo-identification cards.**

a. To require every household to file a status report every month would make food stamp offices drown in paperwork, increase administrative costs by tens of millions of dollars, and penalize the elderly, blind, disabled and non-English speaking who could have difficulty completing these forms. USDA admits this provision would be cost-ineffective because of the administrative expense involved in printing, mailing, receiving back, and processing 60-70 million monthly report forms each year.

b. Countersigning of food stamps would also prove to be an administrative nightmare, would end all mail issuance of stamps in rural areas, would cause most banks to stop issuing stamps because of the length of time each transaction would take, would increase lines at grocery store check-out counters, and would enormously complicate the program.

c. Both countersigning and photo-ID's would prevent a child, friend, relative, or neighbor from shopping for someone who was ill or indisposed. Photo-ID's would also add substantial new administrative costs.

An effective letter writing campaign was a primary factor in causing the Senate to oppose Conservative attempts to gut the Food Stamp program. Your letter can make a difference. Please hurry as there is not much time left and constituent mail has been heavily anti-food stamp until now.



More than 60 irate owners of new and old lemons paraded up and down San Francisco's auto row last November 8. This novel way of putting the squeeze on auto manufacturers, dealers and repair shops was organized by Consumer Action. Many lemon-owners got their sour chariots fixed as a result: CA also distributed thousands of copies of its ideal new-car warranty. Shown here is the "queen of the parade," a Volvo with birth defects. Further information from: Jennifer Cross, Consumer Action, 26 7th St., San Francisco, Ca. 94103. (415) 626-4030. Photo by Sandy Swanson

of Berkeley has made milk a major issue for Brown and "would not be surprised to see some definitive action before (the Court date in) July." As a result of the temporary injunction and the state-imposed fine, 5 Co-op members had a two hour meeting with Gov. Brown's counsel Anthony Kline and Chief of Milk Stability Roy Walker. According to Co-op spokesman Don Rothenberg, the meeting went extremely well and "every point made (by the Co-op) was inadequately answered by Walker."

The Co-op's position is that the 40 year old law, designed before the days of supermarkets to protect small farmers and consumers, is now counterproductive. "Hundreds of small dairy farmers have gone out of business, and prices still go up," charged Rothenberg. "It is time to give the consumer the benefit of price competition."

If the Co-op is successful in court in July, they will have effectively nullified California's Milk Marketing Act through which the state is supposed to guarantee an adequate and continuous supply of fresh, wholesome milk at reasonable prices. This would be an awkward situation for Governor Brown, who would do better to act on his own initiative to correct the situation.

"Brown's main pitch is concern for jobs and little people, and he really hasn't done anything about jobs," asserts Rothenberg. "Here is a key consumer issue, and so far there hasn't been any creative leadership."

The Consumers Co-operative of Berkeley also charges that California selectively enforces the state laws requiring that food be sold at cost plus. According to Co-op General Manager Roy L. Bryant, "The Attorney General has ignored enforcement of this law and only chooses to enforce the milk price law. But we will choose products on which we lower the margin on the basis of their nutritional value. . . We would rather sell milk at a reduced price than fruit drinks made of chemicals and water. And we would rather take a sharp reduction on bread, than to do it on potato chips or cake."

FOLKS (cont. from p. 1)

evicted from his old place of business, the merchant disappeared. In the course of a month-long investigation, CCA tracked down both his new business address and his residential address, neither of which were listed in any published directory. The group then began picketing. A month later, the merchant sent the check.

CCA is also working on three new projects. The first is a massive survey of Cleveland-area banking services entitled *The Cleveland BankBook*. Scheduled for release on June 1, this 130-page study has already been called a "valuable resource for Cleveland consumers" by Rhoda H. Karpatkin, Executive Director, Consumers Union, and a "very valuable tool for anyone dealing with a financial institution" by Kenneth McLean, Staff Director, U.S. Senate Committee on Banking, Housing, and Urban Affairs.

For the past eight months, CCA has been the Cleveland area coordinator of Initiative 76, a statewide initiative petition drive to reform Ohio's utilities. Initiative 76 intends to put four proposals on the Ohio ballot in November. These include a lifeline rate for residential utility users, a Residential Utility Consumer Action Group (RUCAG) to represent the interests of residential utility consumers, and a safe nuclear power amendment that would require full insurance for all new nuclear power facilities.

CCA is also developing a fund-raising program, featuring door-to-door canvassing, that will employ methods developed by Citizens for a Better Environment. If successful, this campaign will allow the organization to hire several full-time staff members, including an organizer and an educational director, that will maintain existing projects and undertake new ones. The latter include the completion of a survey of area nursing homes, the organization of new complaint-handling groups, and the expansion of the organization to other cities in Ohio.

Is Uncle Sam Full of Beans?

In case you were worrying that our Government is not working to solve the critical problems of our times, take heart! This verbatim transcript of hearings before the Subcommittee on Agriculture and Related Agencies, House Committee on Appropriations, is proof positive that help is on the way for all American consumers—of beans.

Flatulence in Dried Beans

MR. MYERS. Thank you, Mr. Chairman. I am not going to ask about dry beans. I didn't realize dry beans was such a crop in this country and had so many problems. It has an impact on this committee, an impact on me, too, but in a little different way than that.

Have you done research on that?

MR. EDMINSTER. Would you respond to that, Dr. Pallansch?

MR. MYERS. If you have that kind of research, my family will appreciate it.

MR. LONG. Mr. Myers, I raised lima beans for years in the West and we had a problem of flatulence, which I think is still a problem. Maybe Dr. Pallansch will respond to my question as well as yours.

DR. PALLANSCH. My name is Mike Pallansch. I am Assistant Administrator for Marketing Nutrition and Engineering Sciences—

MR. EVANS. This committee provided \$350,000 to get rid of that problem years ago. We are still working on it somewhere, aren't we?

DR. PALLANSCH. I will refer to that briefly. This is a terrible thing to be brought up as an expert before this committee. There is some work conducted to increase the digestibility of the bean and reduce the gas formation in the intestinal tract. This is carried on at the Western Regional Research Center in California and the real problem with the work is the ultimate tests depend upon the use of human subjects.

MR. MYERS. Not here.

DR. PALLANSCH. To date, progress has been made, and the factors that are responsible for this effect in the bean are thought to be a complex sugar type molecule, which are called oligosaccharides. These digest very poorly and the present work is designed to remove these. Of course, the bean now has to be precooked before these sugars can be extracted. It now looks like it is feasible to remove these in certain types of bean products.

MR. EVANS. I would like to complement you on the use of the English language.

MR. MYERS. I was wishing you would use the English language so I could understand it.

Two full-time positions as educational director and organizer for Cleveland Consumer Action are available starting late July or early August. For more information, call 216-687-0525 weekdays or write to CCA, Room 532, Terminal Tower, Cleveland, Ohio 44113.

For the past year and a half, Citizen Action and CAM have participated actively in the Consumer Federation of America and other national consumer activities. Their members have written one of SLOP's case studies ("How to form a complaint-handling group") have served (and chaired) SLOP's steering committee, have chaired a Consumer Assembly workshop, and are currently represented on CFA's Board of Directors. In addition, a member of Citizen Action and CAM served as a consumer participant in the grocery industry research that condemned price-removal in UPC stores.

To receive a copy of *The Cleveland BankBook*, send \$2.50 to Cleveland Consumer Action, Terminal Tower, Cleveland, Ohio 44114.

Legislative Wrap-up

Citizen Participation in Government Proceedings

On May 12, 1976, the Senate Judiciary Committee marked up and favorably reported on S. 2715, the Public Participation in Government Proceedings Act (See Speak Out, page 2, for explanation of the bill). An amendment offered by Sen. Quentin Burdick (D-N.D.) and accepted by the Committee provides that each agency must furnish every applicant for attorneys' fees a written explanation as to whether the application has been accepted or rejected and the reasons therefor. It was also agreed upon that authorization for the bill would be limited to three years.

Senators Edward Kennedy (D-Ma.) and Charles McC. Mathias (R-Md.) are to be particularly congratulated for their leadership in introducing the bill. Joining them in support of this important pro-consumer legislation were Senators Philip A. Hart (D-Mich.), Quentin Burdick (D-N.D.), James Abourezk (D-S.D.), Birch Bayh (D-Ind.), and Hugh Scott (R-Pa.).

On the House side, the same bill (as amended in the Senate Judiciary) has been introduced by Rep. Edward I. Koch (D-N.Y.) and Peter Rodino (D-N.J.). Letters should be sent *immediately* to Chairman Peter Rodino of the House Judiciary Committee asking that the bill be referred to Rep. Robert Kastenmeier's (D-Wisc.) Subcommittee on Courts, Civil Liberties and the Administration of Justice, where the legislation will likely receive the most favorable treatment. (refer to H.R. 13901)

A bill (H.R. 12762) introduced by Rep. Robert Drinan (D-Ma.) has already been referred to Rep. Walter Flowers' (D-Ala.) Subcommittee on Administrative Law and Governmental Relations. This bill, which is similar to the Kennedy-Mathias/Koch-Rodino bills, is nonetheless unacceptable to consumers.

We are seriously concerned about the judicial review section as presently drafted because it does not limit the payment of attorney's fees to qualified public and private intervenors acting on behalf of the public. The only criterion for reimbursement would be if the claimant prevails regardless of whether the participant was advancing the public interest and regardless of whether the participant could have afforded the cost of participation even without the reimbursement. This could lead to the incongruous result of industry representatives being paid even though under present circumstances the cost of industry representation before government agencies and the courts is tax deductible as a business expense and is passed on to consumers in the form of higher marketplace prices.

Fair Credit Reporting Act Amendments

On May 6, 1976, the Senate Judiciary Committee agreed to defer action on the Fair Credit Reporting Act Amendments (S. 1840). This was a major setback for an excellent and much needed piece of legislation which would sharply curb abusive practices by investigative credit reporters.

The deferral action was prompted by persistent negative questions posed by Senator Adlai Stevenson, III (S-Ill) who raised many of the questions by industry opponents of

the bill. Insurance companies were particularly opposed to the requirement that they disclose the source of their information. (Often neighbors, relatives, etc.) The theory seems to be that "Inaccurate bad information is better than no information at all". We disagree.

It is important to write *immediately* to the following members urging prompt favorable treatment of S. 1840: Senators Proxmire (D-Wisc.), Sparkman (D-Ala), Williams (D-N.J.) McIntyre (D-N.H.), Cranston (D-Cal.), Stevenson (D-Ill.), Biden (D-Del.), Brooke (R-Mass.), Packwood (R-Ore.).

The consumer advantages of S. 1840 include the fact that the legislation: 1) Insures that investigative reports will not be prepared unless the consumer has authorized it in writing after having been informed of the nature, methods and scope of that investigation; 2) Will require consumer reporting agencies to adopt reasonable procedures to assure the relevance, completeness, and accuracy of the information collected; 3) Entitles the consumer to a personal inspection of his or her file and to a copy of any item of information in the file; 4) Assures consumers that they will learn the facts, identity of the agency and of his or her right to learn the contents of a credit report when adverse information on that report has resulted in adverse action being taken on the credit application; 5) Prohibits the use of coded forms which effectively eliminate the opportunity of a consumer to read a credit report intelligently, and even more importantly to detect erroneous information; 6) Provides before medical information is collected, the consumer must be told of, and must specifically authorize its collection and dissemination to third parties, including any third party consumer reporting agencies; 7) Specifies that willful violations will result in a minimal punitive damages fine of \$1,000; and 8) Establishes that if information is reinvestigated and not deleted, and then proved false, negligence will be presumed.

Financial Reform

In the continuing and discouraging saga of Financial Reform, Chairman Reuss (D-Wisc) of the House Banking Committee has declared that comprehensive Financial Reform is officially dead for this year. The original package had been split into three bills to deal separately with 1) reform of the Federal Reserve Board; 2) expanded powers for thrift institutions; and 3) foreign banks.

Federal Reserve Reform

On May 10, 1976, the House of Representatives passed the much emasculated Federal Reserve Reform Act. (279 yeas, 85 nays, 1 not present, 67 not voting.)

Retained in the bill is a provision which specifies that the Chairman of the Fed serve a term which would basically coincide with the presidential term. Gone is the important provision which would have required that presidents of the regional banks (some of whom sit on the powerful Open Market Committee) be appointed by the President and confirmed by the Senate, in contrast to the totally inappropriate current situation whereby they are selected by commercial banks.

The 9 member regional Boards of Directors will now be expanded to include three additional members to be chosen

"without discrimination on the basis of race, creed, color, sex or national origin, and with due consideration to the interests of agriculture, conservation, labor education and consumers."

It is indefensible that the Banking Committee under Chairman Reuss' leadership yielded time and time again to the demands of bankers and Arthur Burns. The Committee did not even once accommodate CFA. Our requests included the suggestion that such vague and discretionary language be written more tightly so as to specify that consumers be selected who are representatives of bona-fide consumer organizations and who do not derive compensation from banks. CFA also had called upon the Committee to require an affirmative action hiring program by the Fed to end their long and scandalous tradition of not placing women and blacks in positions of responsibility.

In terms of Congressional oversight, the bill does require the Federal Reserve to make an accounting to Congress every three months on targets for monetary policy. Conspicuously absent is the earlier requirement that the Fed report on interest rates and on the impact of prospective market policies on employment and price stability. Once again the Committee (and the House leadership) caved in to bank and Fed pressure.

A bill encompassing an expansion of powers for thrift institutions will not be resurrected for committee action this year, and a bill limiting the powers of foreign banks will be marked up by the full committee before the Memorial Day recess.

Farmer to Consumer Direct Marketing Act of 1975

On May 12, 1976, CFA Information Director Midge Shubow testified before the Senate Agriculture Committee in favor of the Farmer to Consumer Direct Marketing Act of 1975. The bill easily passed the House and no trouble is expected in the Senate. The legislation will provide grants to help farmers and consumers set up direct markets around the country.

Natural Gas

The Senate Commerce Committee, acting with uncharacteristic haste, reported on May 18 a so-called "compromise" natural gas bill (S.3422) after only two hours of mark-up and less than one week after the bill was introduced in the Senate.

The bill, cosponsored by Senators Pearson, Hollings, Stevenson, Magnuson, Bellmon and Fannin, would cost consumers nearly \$8 billion a year in higher gas bills and is unacceptable in its present form to CFA's Energy Policy Task Force. The Task Force and its member groups are mounting an intense effort to insure that this bill is dramatically improved either on the Senate floor where rapid action is expected, in the House, or in Conference if House action is bypassed.

Under the provisions of the bill, the present 52 cent per mcf price ceiling on new natural gas produced onshore will be increased immediately to \$1.60 and deregulated completely after seven years; gas from offshore wells will remain regulated but will increase to \$1.35 per mcf; intrastate gas will remain unregulated; and boiler fuel use of natural gas will be phased out over a ten year period.



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**S. John Byington confirmed by full Senate
on May 26, by vote of 45 to 39.
See story P. 2.**

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