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MEMORANDUM

TO: [REDACTED]

FROM: Rebecca Schlam, Legislative Research Librarian

DATE: October 6, 1960

SUBJECT: Legislative History of R.S. 51:1-96 and R.S. 51:1-97; Weights and Measures Laws.

R.S. 51:1-96

Laws, 1911, Chapter 201. Introduced as Senate 49 by Mr. Prince, January 30, 1911. There was no statement on this bill. This is a general weights and measures law probably influenced by the following report:

974.90 Robert L. Stevens Fund. Need of Supervision of
W419 Weights and Measures in the State of New Jersey.
1911 Report...January 30, 1911.

This bill was amended before passage and this particular section was amended in the Senate (February 21, 1911, Senate Journal, page 173) as follows:

26. [25.] Any person who injures or defrauds another by using, or causes to be used, with knowledge that the same is false, a false weight, measure, or other apparatus, for determining the quantity of any commodity, or article of merchandise, or [by knowingly delivering/ sells or exposes for sale less than the quantity he represents, is guilty of a misdemeanor.

The first annual report of the Department of Weights and Measures, 1912 page 24, recommends the amending of this section of the above law to make it stronger. It was amended in 1913.

Laws, 1913, Chapter 194. Introduced as Assembly 270 by Mr. Egan, February 4, 1913. This had no statement and was not amended before passage. It eliminated the phrase "with knowledge that the same is false" and substitutes the phrase

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"or has in possession with intent to use for the purpose of sale". It changes the previous phrase "is guilty of a misdemeanor" to provide for a \$100.00 fine for each offense.

In the report of the Department of Weights and Measures, 1917, page 8 and 9 the department urged further strengthening of this legislation.

Laws 1913, Chapter 11. Introduced as Senate 67 by Mr. Fithian. This bill was not amended before passage. Section 3 of the statement on this bill reads:

"It provides for an increase in penalties for three offenses to include imprisonment as well as fines."

It is possible that the drafters of this legislation were not aware of the 1913 amendments since they seem to be amending the original 1913 law, however, the changes they made from the 1913 situation are mainly in the penalty provisions.

Section 26 was last amended by Laws, 1953, Chapter 43, Senate 44. This was a general revision of Title 51 introduced by Senator Clapp. There was no statement on the bill.

R. S. 51:1-97

This legislation is not mentioned or recommended in the reports of the Department of Weights and Measures.

Laws, 1919, Chapter 197. Introduced as Senate 105 by Mr. Smith, February 24, 1919. This bill was not amended before passage. The statement on the bill is as follows:

"The purpose of this act is to prevent deception in the sale and distribution of commodities and is designed to prevent the giving of short weights."

Any person aggrieved may bring an action under this statute and it is intended to provide a flexible method for the bringing of such actions."

This legislation differs from the similar legislation which was already in existence (1918 law, see above) in its wording and in that although it provides for identical money fines as the 1918 law, it does not provide for the prison term. It also provides that the case may be heard in the Small Cause Court as well as the District Court and before the police magistrate.

Laws, 1921, Chapter 91. Introduced as Senate 216 by Mr. Reeves, February 21, 1921, amends this act.

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It has the following statement:

The purpose of this act is to provide a uniform system of procedure for the enforcement of the act for the prevention of misrepresentation in the sale of commodities. It is desired to make the procedure sections conform to established practice in the courts in which such actions are instituted and for expedition in hearing the same.

This section was changed in the following respect:

the amount of said penalty to be determined in the discretion of the District Court, small cause court or the police magistrate of any municipality having jurisdiction. An action for the recovery of a penalty for violation of the provisions of this act shall be in the nature of an action in debt, and may be brought in the District Court of any city, or judicial district in the small cause court of any county, and before the police magistrate and recorder of any city, town, township, borough or village, and jurisdiction is hereby conferred upon the District Court, the small cause court, the police court, and recorder's court of any city, town, township, borough or village to hear and determine actions brought as aforesaid.

Laws, 1933, Chapter 260. Introduced as Assembly 266 by Mr. Kreiser, January 30, 1933 again amends this act. The statement on the bill is as follows:

The purpose of this amendment is to further provide against short weight and measure practice by making those who deliver or cause to be delivered, any commodity amenable to penalties for violation.

The original introducer intended the following changes: the word "copartnership" to be added in the first line and the phrase "delivers or causes to be delivered" after the phrase "exposes for sale". However, a Senate Amendment adopted June 6, 1933 adds the word "knowingly" in the first line. The law was passed including this Senate Amendment.

This version of 1933 law was not in the first draft. This law was passed under the act of 1933, which was the first of the series of laws and measures.

1937 Revision.

This section was the same in the first, second and third draft. It is the same as in present revised statutes, except for numbering of section it refers to for penalty. These drafts refer to R. S. 51:1-89, General penalty.

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RS. 51:1-89 in
(Same as present Revised Statutes.) As finally published, however, (1937)
it refers to 51:1-96.

But, some changes were made from existing 1933 laws:

1. Wording of first line was changed from "any person, firm, copartnership, corporation or association that" to "any person who".
2. Wording of "any commodity, as defined in this act".
(Section 1. of 1933 act reads:

1. The term "commodity" as used in this act shall, for the purpose of this act, be taken to mean and include anything which is commonly sold by weight or measure or other apparatus for determining quantity.)

This wording was changed to: "any commodity commonly sold by weight or measure or other apparatus for determining quantity..."

3. The remainder of the law, providing for the penalties and actions for recovery, is eliminated and the phrase "shall be liable to the penalties set forth in section 51:1-96 of this title" substituted.

One has the impression that up to the 1937 Revision the two laws had an entirely independent development. Cumulative Supplement to the 1910 Compiled Statutes places the 1911-1918 law (now R.S. 51:1-96) under Weights & Measures, while Ch. 197 of the Laws of 1919 as amended (now R.S. 51:1-97) appears under Sale of Goods. It may also be interesting to note that the Dept. of Weights & Measures bill (R.S. 51:1-96) was strengthened first during passage in 1911 by eliminating the phrase "by knowingly delivering" and again in 1913 by eliminating the phrase "with knowledge that the same is false". On the other hand the 1919 law (R.S. 51:1-97) had the opposite development, having been weakened in 1933 by an amendment added after introduction of the bill which inserted the word "knowingly".

Ann. Rept. - Weights & Measures - 1912

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Such a law is an absolute necessity and it would rid the State of the numerous odd sizes which are now used to defraud consumers. As a further precaution it would be advisable to have the capacity stenciled, or otherwise permanently marked, in a durable manner, on the outside of the basket. This would enable purchasers to ascertain at a glance just what they were getting and paying for.

I would also ask that a law be enacted making mandatory the use of standard dry measurement quart and pint boxes for the sale of small fruits and berries. All sizes are now permissible, but many of them are short. The law suggested would do away with these short baskets and boxes.

All superintendents of the State should be vested with police privileges. In some municipalities the superintendents already have them, but the majority have not, and when they encounter offenders are compelled to wait until a policeman can be secured to make the arrest. Such a proceeding should be unnecessary, and we would make it so by enacting a law on lines suggested.

An amendment should also be made to Section 26, Article 5, Chapter 201, Laws of New Jersey. Several times during the year just past we had cases dismissed from Court because we were unable to prove that the weights and measures in use were known to be false, notwithstanding the fact that the evidence was most complete. We would amend the section by striking out the words "with knowledge that the same is false," as we believe the use, ownership or possession of weights, measures and scales that are false is the most satisfactory kind of evidence, and should be so recognized in Court, without our having to prove that they were used with knowledge. The proposed amendment would permit the superintendent to judge when a tradesman is using incorrect standards without his knowledge.

We would also like to abolish present method of trying cases before juries, because it has not worked out as satisfactorily as we could wish. Offenders have succeeded in having their cases delayed and finally quashed. The trials, in addition, have proven very expensive. We would substitute for present procedure a law which would enable city magistrates to pass judgment. This method would be more agreeable than the present method, and would, we think, be far more satisfactory.

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serious to warrant more than a reprimand. The "checking-up" process on the part of officials is commendable and has a tendency to prevent the practice of fraud.

MOTORISTS SAFEGUARDED.

Gasoline pumps have supplanted measures to such an extent in the sale of gasoline that it is rather unusual to find the latter in use. This is not as strange as it may appear at first glance, because pumps are easier and quicker to operate and just as accurate as measures. These facts have been taken into consideration by superintendents, who have directed their efforts towards pumps to make sure that they measure correctly. Tests and inspections are made frequently for the purpose of detecting anything that may be wrong. If the pump is not measuring accurately, the sooner the fact is known and the pump adjusted the better for all concerned. Some motorists are of the opinion that the pumps, when they do get out of order, immediately work to the advantage of dealers. Such an opinion is wrong. Our experience has been that the pumps sometimes favor the dealers, sometimes consumers when they get out of order.

It is also worth mentioning that the type of equipment used for pumping purposes is constantly being improved upon. Every effort apparently is being put forth to insure accuracy in measuring gasoline, which is constantly growing in use. Officials are doing well in devoting time to this branch of inspection.

THE NET WEIGHT LAW VS. THE CONSUMER.

Briefly, the Net Weight Law, which has been in operation since the first of October, requires manufacturers of foodstuffs in packages to mark the net weight, measure or numerical count on the outside of the package. In other words, it forbids manufacturers to "weigh-in" wrappings, cartons, paper, etc. Consumers buying foodstuffs in package form to-day—and thousands never purchase in any other way—know just the quantity that they are getting for their money. They were not certain before. The act has been in operation only a short time, but its effects are already markedly beneficial. Ultimately, it will save consumers thousands of dollars, because the tendency to-day leans more and more to the sale of foodstuffs in packages. It means much to housewives to be able to see at a glance just what they are getting for their money. Already there are all kinds of teas, coffees, butter, sugar, dried fruits and vegetables—such as

beans and peas—and many other articles. Under the Net Weight Law manufacturers quantity is contained in the package. Measure the benefits of the act. It makes competition away with the fraud that was formerly practiced.

There is no legitimate objection to the sale in package form. The plan has a number of advantages to be mentioned its being sanitary. Eventually most articles of food will be sold in the form of package innovation may not come for a few years, but evidences now pointing to the time when package form will be generally adopted. When the time does come, sold exclusively in package form, our law will be in full force of the situation. //

To make the provisions of the law better understood it might be complied with more readily a pamphlet the Department compiled a list of decisions in various phases of the act. The pamphlet containing interesting data on the law and how it should be applied have been liberally distributed by officials by the new law. The present co-operation brought about by the pamphlet, although considerable.

STATE INSTITUTIONS VISITED.

The same careful attention that has been given in use in the various State institutions in evidence during 1916. The need for correction is as great almost in institutions as in measures because of the large supply of foodstuffs available. This is understood, and we have been careful to have the apparatus used in the service of the State. The inspections were very timely because the scales had become inaccurate and were operating to the disadvantage of tradesmen. The error was corrected all over the State.

In all, twenty-one institutions were visited. Some were visited oftener where such inspections were necessary.

EDUCATIONAL WORK CONTINUED.

For the purpose of furthering what has been done to educate the public—both buying and selling—issued during 1916 two very interesting pamphlets.