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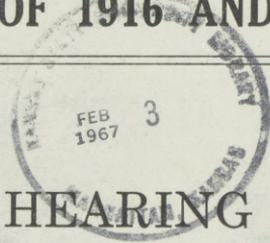
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# REPEAL OF THE STANDARD CONTAINER ACTS OF 1916 AND 1928

GOVERNMENT  
Storage



## HEARING

BEFORE THE

### COMMITTEE ON COMMERCE

### UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

### S. 17 and S. 1773

BILLS TO REPEAL CERTAIN ACTS RELATING TO  
CONTAINERS FOR FRUITS AND VEGETABLES, AND  
FOR OTHER PURPOSES

AUGUST 30, 1966

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# REPEAL OF THE STANDARD CONTAINER ACTS OF 1916 AND 1928

TUESDAY, AUGUST 30, 1966

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
Washington, D.C.

The committee met at 8:55 a.m. in room 5110, New Senate Office Building, Hon. Norris Cotton presiding.

Senator COTTON. The committee will come to order.

S. 17 and S. 1773, would repeal the Standard Container Act of August 13, 1916, and May 28, 1928, which established standard sizes for certain fruit and vegetable containers made of wood veneer.

These two acts are now obsolete as a consequence of new container types and changing marketing practices. By and large, fresh fruits and vegetables are no longer sold in baskets by volume measure but by weight or count.

S. 17 was introduced by the distinguished Senators from Maine, Mrs. Smith and Senator Muskie.

I have here a statement from Senator Muskie which he doesn't ask to have read but which will be inserted in the record at this point. Also, the reports from the various agencies involved that have been queried about this bill will be inserted in the record at this point.

(The described material follows:)

[S. 17, 89th Cong., 1st sess.]

A BILL To repeal certain Acts relating to containers for fruits and vegetables, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Acts of Congress listed below are hereby repealed:*

(a) The Act of August 31, 1916, entitled "An Act to fix standards for Climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and for other purposes" (39 Stat. 673, as amended; 15 U.S.C. 251-256);

(b) The Act of May 21, 1928, entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes" (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

SEC. 2. This Act shall become effective on

Staff counsel assigned to this hearing: Michael Pertschuk

[S. 1773, 89th Cong., 1st sess.]

A BILL To repeal certain Acts relating to containers for fruits and vegetables

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following Acts of Congress are hereby repealed:*

- (1) The Act entitled "An Act to fix standards for Climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and for other purposes", approved August 31, 1916 (39 Stat. 673; 15 U.S.C. 251-256); and
- (2) The Act entitled "An Act to fix standards for hampers, round stave baskets, and splint baskets for fruits and vegetables, and for other purposes", approved May 21, 1928 (45 Stat. 685; 15 U.S.C. 257-257i).

SEC. 2. This Act shall become effective on the first day of the first calendar month following the month in which this Act is enacted.

## STATEMENT OF SENATOR EDMUND S. MUSKIE

I wish to express support for legislation to repeal the Standard Container Acts of 1916 and 1928. I joined the senior Senator from Maine, Mrs. Smith, in sponsoring this bill while similar legislation has been introduced by the distinguished Chairman of this Committee, Senator Magnuson.

The Secretary of Agriculture in his reports to the Congress concisely presents the need for passage of this legislation. He points out that:

(1) Most vegetables and fruits are now sold by weight and count and therefore the volume of the container, as regulated by the Standard Container Acts, has lost its importance.

(2) Over 90% of fresh fruits and vegetables shipped by container in interstate commerce are not regulated under the Standard Container Acts.

(3) The costs required to administer the Acts can no longer be justified.

For these reasons, the Secretary recommends that the Acts be repealed.

This problem was brought to my attention because of the interest of the Keyes Fiber Company of Waterville, Maine, a firm with a well-established reputation in the packaging field. The Keyes firm is interested in manufacturing a quart and one half container, largely for use in displaying and marketing berries. Under the terms of the Standard Container Act, they are prohibited from doing so since the quart and one half size is not specifically cited in the existing Act.

On previous occasions, the Act was amended to permit the manufacture of different sized containers. However, the art of packaging is changing so rapidly that the establishment of exact sizes in legislation is no longer either feasible or desirable. The manufacture and labeling of all containers will be reviewed under the terms of the so-called "Truth-in-Packaging Act," S. 985, previously approved by this Committee and passed by the Senate.

The types of materials used for manufacturing containers have proliferated. Since materials such as wooden boxes and plastic bags, now widely used in the packaging of fresh fruits and vegetables, are not regulated under the Act, firms using regulated materials are placed at a distinct disadvantage.

Since the repeal of this Act would curtail unnecessary Federal expenditures, while at the same time eliminate discrimination in the field of packaging, I urge that the legislation be approved thereby repealing the Standard Container Acts of 1916 and 1928.

COMPTROLLER GENERAL OF THE UNITED STATES,  
Washington, D.C., January 13, 1965.

B-119364.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate.

DEAR MR. CHAIRMAN: In reply to your letter of January 12, 1965, inviting our comments on S. 17, a bill to repeal the standard containers (fruits and vegetables) acts of August 31, 1916, and May 21, 1928, you are advised we have no information or comment to offer concerning the proposed legislation.

Sincerely yours,

JOSEPH CAMPBELL.

FEDERAL TRADE COMMISSION,  
Washington, D.C., May 4, 1965.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of January 15, 1965, requesting our comments on S. 17, 89th Congress, 1st Session, a bill "To repeal certain Acts relating to containers for fruits and vegetables, and for other purposes."

The bill would repeal two existing laws (15 U.S.C. 251-256 and 15 U.S.C. 257-257i), both of which fix standards for baskets and other shipping containers for fruits and vegetables.

As we understand the subject bill, it would repeal these laws, so as to enable fresh fruits and vegetables to be shipped in any size or type of basket, hamper and other containers.

We previously submitted to your Committee on July 29, 1964, our report on S. 2930, 88th Congress, 2d Session, which is identical with the subject bill.

The Commission does not have sufficient knowledge and experience with respect to the shipping and packaging problems with which the bill deals to express any opinion as to the necessity or appropriateness of its enactment.

By direction of the Commission.

PAUL RAND DIXON,  
Chairman.

N. B.:

Pursuant to regulations, this report was submitted to the Bureau of the Budget on March 2, 1965, and on May 4, 1965, the Bureau of the Budget advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

JOSEPH W. SHEA,  
Secretary.

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GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,  
Washington, D.C., April 6, 1966.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in further reply to your request for the views of this Department concerning S. 18, a bill "To amend the Act of August 31, 1916, so as to provide a standard for a dry one-and-one-half-quart container." and S. 17, a bill "To repeal certain Acts relating to containers for fruits and vegetables, and for other purposes."

These bills are concerned with the Standard Container Acts of August 31, 1916 (15 USC 251-256) and May 28, 1928 (15 USC 257-257i) which established standard sizes for certain fruit and vegetable containers made of wood veneer.

S. 18 would amend the Act of 1916 by the addition of a one-and-one-half-quart size to those standard sizes currently authorized. It is understood that the additional size is desired to enable the producers of the standardized wooden baskets to compete more favorably with newer types of containers that have become popular since 1916 and have not been standardized by Federal law as to size or shape.

In view of the inequitable situation that now exists, this Department would interpose no objection to enactment of S. 18 to amend the Act of 1916. However, we believe that a more appropriate solution can be achieved by enactment of S. 17 to repeal the Acts of 1916 and 1928 which are now obsolete as a consequence of the introduction of new container types and changing marketing practices.

In general, we see certain advantages for manufacturers of containers as well as the consumers in the standardization of container sizes and shapes. However, to be effective and equitable, such standards should be observed by all producers of containers and not by only a limited segment of the container industry. The Acts of 1916 and 1928 apply to only one type of container among many competing products.

Moreover, the problems which promoted the establishment of size standards in 1916 and 1928 have largely disappeared with regard to containers for fresh fruits and vegetables. This is a consequence of the growing practice of selling most produce at the retail level by weight or count rather than by volume measure.

For these reasons, we believe that the Standard Container Acts of 1916 and 1928 are obsolete and recommend that they be repealed.

Our support for repeal of the Standard Container Acts, which deal almost entirely with containers utilized at the wholesale rather than the retail level, in no way diminishes our support for S. 985, the Fair Packaging and Labeling Act which, with certain amendments, has the support of the Administration.

For similar reasons, we suggest that the Committee consider the extension of S. 17 to include the repeal of the Standard Barrel Act of 1915 (15 USC 231-236) and the Standard Lime Barrel Act of 1916 (15 USC 237-242). These statutes resemble the Standard Container Acts in many respects and are equally obsolete. While we are unaware of any inequity resulting from the Standard Barrel Acts, a recent survey among State weights and measures officials has confirmed our impression that these Acts no longer serve a useful purpose. This is because the barrel, as a unit of volumetric measure, now is of little importance in the commerce of the commodities covered by these statutes. Accordingly, we recommend that they also be repealed.

We have been advised by the Bureau of the Budget that there would be no objection to submission of our report from the standpoint of the Administration's program.

Sincerely,

ROBERT E. GILES,  
*General Counsel.*

Senator COTTON. The first witness is John J. Dimond, Chief, Regulatory Branch, Fruit and Vegetable Division, Consumer and Marketing Service, Department of Agriculture. We shall be glad to hear from Mr. Dimond.

**STATEMENT OF JOHN J. DIMOND, CHIEF, REGULATORY BRANCH,  
FRUIT AND VEGETABLE DIVISION, CONSUMER AND MARKETING  
SERVICE, DEPARTMENT OF AGRICULTURE**

Mr. DIMOND. S. 17 and S. 1773 are similar bills to repeal the Standard Container Acts of 1916 and 1928. These acts prescribe standard sizes and capacities for certain types of baskets and hampers used in the shipment of fresh fruits and vegetables.

The Department recommends that S. 17 and S. 1773 be passed. This action would repeal the two Standard Container Acts referred to above.

The first of these acts is the act of August 31, 1916 (15 U.S.C. §§ 257-257i), known as the Standard Container Act of 1916. It establishes standard sizes for Climax baskets for grapes and other fruits and vegetables and fixes standards for baskets and other containers for small fruits, berries, and vegetables. The act provides for the examination of containers subject to regulation to determine their compliance with the law.

The second of these acts is the act of May 21, 1928 (15 U.S.C. §§ 257-257i), known as the Standard Container Act of 1928. It establishes standard sizes for hampers, round stave baskets, and splint baskets used for fresh fruits and vegetables. Specifications of containers covered by the act are submitted to and approved by the Department if such containers are of the prescribed capacity and not deceptive in appearance.

When these laws were enacted they covered the principal types of containers used for the shipment of fresh fruits and vegetables; namely, baskets and hampers. At that time, because of the large number of sizes of containers being manufactured, there was a great desire to bring about some degree of standardization in these containers. In the years since the enactment of these Standard Con-

tainer Acts, changes have taken place in the containers used for shipping fresh fruits and vegetables. Baskets and hampers have largely been displaced by newer types of containers, none of which are subject to Federal regulation, capacity, size, or shape. During the past 10 years, for example, the number of factories producing containers subject to the Standard Container Acts of 1916 and 1928 has declined from 183 to 129. The number of different containers manufactured by these plants has dropped from 726 to 584.

It is now estimated that less than 10 percent of the fresh fruits and vegetables shipped in interstate commerce are now packed in containers regulated under these Standard Container Acts of 1916 and 1928. In view of the limited volume of fresh fruits and vegetables currently being shipped in these regulated containers, the Department believes that the continued administration of these two acts is no longer justified. Furthermore, a savings of approximately \$16,200 can be achieved through repeal of these laws without detriment to the fruit and vegetable industry or the public.

I might add, Mr. Chairman, one of the Departments, the Department of Commerce, has made a survey on the matter of whether these acts should be repealed, and the State of New Hampshire, Mr. Laramie, recommended that they be repealed.

Senator COTTON. Thank you for your statement.

Referring to that inquiry by the Department of Commerce, do I understand an inquiry was made, a survey was made, census taken of all the States with respect to the repeal of these acts?

Mr. DIMOND. It is my understanding that they put an inquiry to each of the States, but I think only 33 have answered. The majority—I think there were 19 in repeal, 11 opposed, and 3 who answered and made no recommendation.

Senator COTTON. Did those that were opposed give reasons for their opposition to the repeal?

Mr. DIMOND. The information that I have on them, the copies that I have seen of these letters, none of them were particularly strong on it. They recommended that they be retained as guides for their State enforcement.

I am not certain that all States have such regulations. But the ones that do have it, it is on a periodic basis, I believe, with the availability of funds to have enforcement. Many of them prefer to rely on the Federal acts as a guide to enforcement.

Senator COTTON. There is a Standard Packaging Act, so that the repeal of these two specific acts referring to fruits would not leave a complete hiatus in the matter of regulation. Is that a correct statement?

Mr. DIMOND. I refer to our report of March 30 on this subject (see page 11), a letter addressed to Senator Magnuson. In the last paragraph, on page 2 of that letter, the Department referred to S. 985, the Fair Packaging and Labeling Act, where we recommended that a section of this act be amended to include the definition "Packaging container subject to the provisions of this act."

Senator COTTON. I am informed that the chairman of the committee has received an opinion from the Legislative Counsel's Office that such an amendment would not be necessary.

Mr. DIMOND. It was my understanding, the way the bill was drafted, that there was some question whether containers would be under it. I have limited information on the subject.

Senator COTTON. The Fair Packaging and Labeling Act, which I understand is the overall act on all commodities, simply excepts those for which there are special acts. Apparently the opinion of the Legislative Counsel was based on the assumption that if these two acts were repealed and ceased to exist, then automatically these commodities would come under the regulation of the Fair Packaging and Labeling Act, because the general exemption was only on those products concerning which there were special acts.

Mr. DIMOND. I can see how you would reach that conclusion.

Senator COTTON. I don't know if that is so, and we will check it. I am sure that is the case.

We thank you very much for your statement.

Mr. DIMOND. Thank you, Senator Cotton.

Senator COTTON. Mr. Wayne P. Cleveland, vice president, sales, Keyes Fibre Co., 420 Lexington Avenue, New York, accompanied by Edward W. Atwood, secretary and counsel, Pierce, Atwood, Scribner, Allen & McKusick, 465 Congress Street, Portland, Maine.

We will be very glad to hear from you and your associate.

Mr. Atwood, your statement as furnished to the committee will go into the record in toto. You are at liberty to read all of it to us, or you are at liberty to emphasize certain points and enlarge on it orally as suits your convenience.

**STATEMENT OF WAYNE P. CLEVELAND, VICE PRESIDENT, SALES, KEYES FIBRE CO., NEW YORK, N.Y., ACCOMPANIED BY EDWARD W. ATWOOD, SECRETARY AND COUNSEL, PIERCE, ATWOOD, SCRIBNER, ALLEN & MCKUSICK, PORTLAND, MAINE**

Mr. ATWOOD. Thank you, Mr. Chairman.

I will dispense with reading the statement because it would be a little bit redundant. It really repeats and relies upon and supports the position taken by the Department of Agriculture.

We also have seen a letter from Mr. Giles, General Counsel of the Department of Commerce, addressed to Senator Magnuson under date of April 6, 1966, expressing the same view. We recognize that the presentations of opinion and the recommendations of these Departments and the gentlemen in these Departments carries much more weight than anything we could say, because they are dedicated public servants with no profit motive, no private interest at all.

Mr. Dimond, who has just spoken, as I understand it heads the Division of that Department which has had enforcement of these laws under his jurisdiction. And his predecessors for 15 years join in that recommendation.

We are here so that you will hear the voice of a manufacturer of the products which are affected by these acts.

So far as our present production is concerned, the one part of the 1916 act with which we are vitally concerned is the second section which covers and relates to containers for small fruits, berries, and vegetables. We have run into complications with respect to that phase of the act. We have had those problems of ours under discussion

with the Department of Agriculture. We have received the utmost cooperation. Everything is working fine except that we feel that these acts, both of them, are obsolete. We feel that they lack clearness in some respects, which causes problems with respect to what we might do in the future with regard to other products for the packaging of produce.

We are conscious too of the fact, as called to the attention of this committee by Secretary Freeman, that considerable money will be saved to the public and to the Government if these acts are enacted because the costs of enforcement will be removed.

We note that in a letter which Secretary Freeman, of the Department of Agriculture, sent to Speaker McCormack on May 20, 1964, which was addressed not only to these two acts but also to the Tobacco Plant and Seed Exportation Act, Naval Stores Act, and the Wool Standards Act, that he concluded with the statement that if all of those acts were repealed, there would be a saving of slightly over \$2 million. I am commenting on that because some part of the letter is quoted in the text of our statement. I did not want the committee to think that I was saying national repeal of these particular acts would save that much money. It wouldn't. They are part of the parcel.

Mr. Chairman, I don't think we can add much more. It seems to us that these laws result in an unrealistic, unnecessary, and groundless limitation on manufacturers and retailers and consumers, and that they prevent the manufacturers from meeting the needs of the sellers of produce and consumers of produce.

Mr. Wayne Cleveland, vice president in charge of sales of our company, is very intimately knowledgeable on this question so far as the market practices and the products and so forth. He is here and would be delighted to answer any questions that the committee may have.

I know that is about the substance of our position.

Senator COTTON. Thank you, Mr. Atwood.

Let me ask you gentlemen this: If these two acts are repealed by the Congress, what, if anything, does their repeal permit you in the industry to do, or permit you to refrain from doing, that is not now your practice?

Mr. ATWOOD. Mr. Chairman, at the moment we are not being unduly restricted by these acts because of the fair and liberal attitude of the Department of Agriculture. However, the Department of Agriculture, when you get into the question of ambiguity, has expressed to us, and I think it is in the letter which Mr. Gardner of that Department wrote to me, that the word "small," when you say small fruits, berries, and vegetables, applies only to fruits and does not apply to vegetables. These products of ours are used very widely to package vegetables which are not small vegetables. Yet if that interpretation is correct—and I am very doubtful whether it is or not, but it is there, and it has been stated as the view of the Department—if that was strictly enforced, the way this act reads, any container, any vegetables, would have to be packaged in these multiples of quarts. It just isn't feasible. To us it is a very dangerous thing to have in the books if improperly administered.

At the moment we are not suffering, let us say that. But we are very much concerned with respect to our product development in the

future that an unreasonable application of this law, or an unreasonable interpretation by a court, would raise havoc in the industry.

Senator COTTON. You mean if some liberal minded bureaucratic official should come along and take this seriously, then you would be in trouble?

Mr. ATWOOD. Yes.

Mr. CLEVELAND. We have had difficulty trying to get an interpretation on whether this word "small" in the act refers just to fruits or whether it refers to fruits and vegetables. One interpretation is that it refers to small fruits, but all vegetables. One of the containers that we would like to make—this happens to be a pint and a quart which we do make—we would like to have a quart and a half, which is not covered, and it is used very extensively for packaging, among other things, as a size for peaches and string beans. If beans are packed in that, according to one interpretation, it is completely wrong.

Senator COTTON. What are the products of your company? What products does your company package or can?

Mr. CLEVELAND. It packages for all meats, produce—

Senator COTTON. You make the packages?

Mr. CLEVELAND. Yes, sir.

Senator COTTON. You do not package the products yourself.

Mr. CLEVELAND. No, sir.

Senator COTTON. Are those representative of the packages you make?

Mr. CLEVELAND. Yes, sir. Mr. Chairman, I did leave some brochures which would outline a good many of the other products. It is strictly manufacturing for packages, for containers, as opposed to the packaging itself.

Senator COTTON. Those exhibits that you have on the table are made of plastic?

Mr. CLEVELAND. Molded pulp.

Senator COTTON. Are they waterproofed?

Mr. CLEVELAND. Yes, sir. They have additives that give them moisture resistance. They are not waterproofed. They are resistant.

Senator COTTON. Are those for berries?

Mr. CLEVELAND. This size (pint) is used very extensively for berries, for blueberries, for strawberries. The pint is used extensively for that.

Senator COTTON. One container is a pint and the other is a quart?

Mr. CLEVELAND. Yes, sir. These two sizes of course are within the limits of the present acts. But variations of this are not. For instance the quart and a half which is for weight more or less than for an actual quart and a half. As Mr. Atwood pointed out, we can use it with an interpretation of the weights with the Department of Agriculture. We would feel much safer if it were repealed.

Senator COTTON. This committee recommended to the Senate and the Senate passed the so-called Truth in Packaging Act which I personally thought went too far. The purpose of that act was to reduce the number of sizes or quantities that appeared on the shelves of markets because it was supposed to be confusing to the housewife when she had to choose between too many sizes.

Do these two acts that we are now considering repealing in any way militate to hold down the number of sizes or varieties of containers?

Mr. CLEVELAND. I can only express an opinion, and it would be "no."

Senator COTTON. Their repeal would not open up the practice that at least a majority of this committee and the majority of the Senate are on record as considering a terrible practice, of having the housewife confronted with too many different sizes?

Mr. CLEVELAND. No, sir.

Mr. ATWOOD. Mr. Chairman, I think it is a different area in a sense. The type of packaging we are talking about is merely a container in which the retailer will place a certain quantity of produce, and the quantity that goes in is determined either by count or weight. It is an entirely different area than when you are talking about a package of corn flakes or something like that where you have a deceptive packaging problem. I don't see that what we are talking about here, or the repeal of these two acts, in any way opens up the field for greater deception of the consumer. But to the contrary, it enables the manufacturer and the packager and the seller to give the purchaser a container in which he can comfortably carry home the quantity he wants to buy. And the amount of it, determined by count and weight, and not just filling a package up to the top, smoothing it off, and saying here is a quart of berries.

Senator COTTON. Those containers are used mostly by the retailer?

Mr. ATWOOD. Exactly.

Senator COTTON. I seem to remember when I was a boy on a New Hampshire farm, which isn't far from Maine, that if these bureaucrats got busy talking about truth and packaging in berries, you could sell a quart of berries and by the time the customer got them home, shaken down, it would look as if they had been cheated. So it wouldn't be practical for a manufacturer to be packaging that sort of small fruit. It is just a matter of scooping out these berries by the retailer and having something to put them in; is that correct?

Mr. ATWOOD. That is true.

Senator COTTON. One more question, and this should probably be addressed to Mr. Atwood.

Having been a small town lawyer, I am always much impressed with anyone who comes in representing a big firm with five, six, or seven names to it.

Mr. ATWOOD. We are just a counsel firm.

Senator COTTON. Maybe so. Did you have occasion to examine the matter that we raised with the previous witness about whether the repeal of these would leave any hiatus, or whether the Fair Packaging and Labeling Act would automatically fill the gap?

Mr. ATWOOD. On my last visit to Washington, which must have been 3 or 4 weeks ago, Mr. Pertchuck called this point to my attention. I checked it and read the act. I came independently to the same conclusion which Mr. Pertchuck reported to me yesterday, that if these acts were repealed, and no change is made with respect to the point raised, that it automatically clears itself. I understand that is Mr. Pertchuck's conclusion.

Senator COTTON. So supervision remains.

Mr. ATWOOD. Right.

Senator COTTON. Thank you, gentlemen.

(The prepared text follows:)

## STATEMENT OF KEYES FIBRE CO.

Respectfully represents Keyes Fibre Company that:

(1) It is a Maine corporation with its principal place of business in Waterville, Maine.

(2) It is engaged primarily in the production and sale of a wide variety of molded pulp products including plates, dishes, food prepackaging trays, egg cartons, egg flats, egg trays, fruit packs and interior packaging materials for fragile articles. It has manufacturing plants in Waterville, Maine, Hammond, Indiana, Sacramento, California, and Wenatchee, Washington. Keyes Norway A/S (100% owned) has a plant in Viul, Norway. Canadian Keyes Fibre Company Ltd. (50% owned) has a plant in Hantsport, N.S., Canada. An affiliate, Société des Emballages Keyes, has a plant in Ile d'Elle, France. An affiliate, Keyes Italiana S.p.A., has a plant in Catania, Sicily.

(3) It is anticipated that the substance of this Brief Statement will be submitted orally to your Committee at the hearing on the above Bills on August 30, 1966 by Wayne P. Cleveland, Vice President-Sales of Keyes Fibre Company, and Edward W. Atwood, a Director and Secretary of Keyes Fibre Company and a partner in the law firm of Pierce, Atwood, Scribner, Allen & McKusick of Portland, Maine, which is its general counsel.

(4) S. 17 and S. 1773 would each repeal two Acts, one enacted in 1916 fixing standards for (a) Climax baskets for grapes and other fruits and vegetables and (b) *for baskets and other containers for small fruits, berries and vegetables*, and one enacted in 1928 fixing standards for hampers, round stave baskets, and splint baskets for fruits and vegetables. The products of Keyes Fibre Company and the requirements and needs of the users thereof and of the consumers of the products packaged therein are materially and adversely affected by the provisions of the 1916 Act relating to containers for small fruits, berries and vegetables but are not affected at all by the provisions of such Act relating to Climax baskets or by any of the provisions of the 1928 Act.

(5) Under the provisions of the 1916 Act, as interpreted by the Department of Agriculture, containers for small fruits, berries and vegetables may only be of the following sizes: dry  $\frac{1}{2}$  pint, dry pint, dry quart and multiples of dry quart. A container for produce which would contain the equivalent of  $1\frac{1}{2}$  quart is very popular with retailers for in-store packaging because it is versatile enough to be used for a number of different items and is popular with consumers as it packages a convenient quantity for the average retail purchaser. Also when the container is so used, the contents are, almost without exception, sold by weight or count rather than by volume measure. Yet if any of the items so packaged are "small fruits, berries or vegetables" the law has been violated. No sound reason exists to-day for such a limitation. It is incompatible with modern marketing methods and practices. This is recognized by the Department of Agriculture. We respectfully refer to the letter of Mr. Freeman, Secretary of Agriculture to your Chairman, Senator Magnuson, dated March 30, 1966, a copy of which is annexed hereto, recommending that these Acts be repealed. No more compelling argument for the repeal of such Acts could possibly be made than that set forth in such letter and we therefore heartily endorse it and incorporate it in this Brief by this reference. To the same effect, and equally forceful, was an earlier letter of Secretary Freeman, that of May 20, 1964, to the Honorable John W. McCormack, Speaker of the House, a copy of the pertinent parts of which is also hereto annexed.

These letters of Secretary Freeman highlight the following points, which we submit fully justify and call for repeal of these Acts, namely:

(a) Since the enactment of these Acts in 1916 and 1928, great changes have taken place in the containers used for shipping fresh fruits and vegetables;

(b) Most fruits and vegetables are now sold by weight or count and consequently slight variations in volume capacity of containers are no longer an important marketing factor; and

(c) The cost of administering these Acts is no longer justified.

Of interest is the view of the fruit growing industry in the State of Washington that such laws as the Acts sought to be repealed stifle improved methods of fruit packaging. See letter of Mr. Foster, Secretary-Manager of the Wenatchee Valley Traffic Association to Senator Magnuson dated March 22, 1966 (copy attached).

In conclusion, we submit that for a number of sound reasons the Acts in question should be repealed by the enactment of S. 17 or S. 1773, namely:

*Obsolescence.* This is the major reason and is fully discussed in the letters of Secretary Freeman above referred to.

*Ambiguity.* The 1916 Act fails to define "small fruits, berries and vegetables" and it is not clear whether the word "small" as used applies only to "fruits" or also to "berries" and "vegetables".

*Expense.* The expense of administering these Acts is not warranted.

We therefore urge that your Committee act favorably with respect to either S. 17 or S. 1773.

Respectfully submitted,

KEYES FIBRE CO.  
By WAYNE P. CLEVELAND,  
*Vice President, Sales.*  
EDWARD W. ATWOOD,  
*Secretary and Counsel.*

Dated August 29, 1966.

DEPARTMENT OF AGRICULTURE,  
*Washington, D.C., March 30, 1966.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reply to your request of January 13, 1965, for a report on S. 17, a bill to repeal the Standard Container Acts of 1916 and 1928 which prescribe standard sizes and capacities for certain types of baskets and hampers used in the shipment of fresh fruits and vegetables.

This Department recommends that these Acts be repealed.

The Act of August 31, 1916 (15 U.S.C. §§ 251-256), known as the Standard Container Act of 1916, establishes standard sizes for Climax baskets for grapes and other fruits and vegetables and fixes standards for baskets and other containers for small fruits, berries, and vegetables. The Act provides for the examination of containers subject to regulation to determine their compliance with the law.

The Act of May 21, 1928 (15 U.S.C. § 257-257i), known as the Standard Container Act of 1928, establishes standard sizes for hampers, round stave baskets, and splint baskets used for fresh fruits and vegetables. Specifications of containers covered by the Act are submitted to and approved by the Department if such containers are of the prescribed capacity and not deceptive in appearance.

When these laws were enacted, baskets and hampers were the principal types of containers used for the shipment of fresh fruits and vegetables. At that time, because of the large number of sizes of containers being manufactured, a strong movement developed in the industry, particularly among container manufacturers, to bring about some degree of standardization in order to reduce the resultant unnecessary costs, confusion, and deception.

In the years since the enactment of the Standard Container Acts, great changes have taken place in the containers used for shipping fresh fruits and vegetables. Baskets and hampers, formerly the principal types used, have been displaced in large part by newer types. During the past 10 years, for example, the number of factories producing containers subject to the Standard Container Acts of 1916 and 1928 has declined from 183 to 129, or a reduction of 31 percent, while the number of different containers manufactured by these plants has dropped by 20 percent, from 726 to 584.

Of the large and increasing number of containers now widely used, such as fiberboard cartons, wirebound and nailed crates, wooden boxes and lugs, mesh, paper, and plastic bags, some were not in use at all for fruits and vegetables at the time these Acts were passed. None of these newer containers are regulated by Federal law as to shape, size, or capacity.

Moreover, most fruits and vegetables are now sold by weight or count. Consequently, slight variations in the volume capacity of containers are not longer an important marketing factor. Largely because of the growth in the use of containers not covered by the Standard Container Acts, it is estimated that less than 10 percent of the fresh fruits and vegetables shipped in interstate commerce now are packed in containers regulated under these Acts.

In view of the limited volume of fresh fruits and vegetables currently being shipped in containers subject to regulation under the Standard Container Acts of 1916 and 1928, the continuing trend toward wider use of types of containers not subject to Federal regulation, and the fact that most fruits and vegetables are now sold by weight or count, the Department is convinced that continued administration of these laws is no longer justified and that a saving can be achieved

through repeal of these laws without detriment to the fruit and vegetable industry or the public.

Although practically all of the containers regulated under these Acts are used as shipping containers and not as consumer packages, there are some such as berry boxes, which are still used for marketing products to the consumer on a volume basis. While we recommend that these Acts be repealed, we believe that the interest of consumers should continue to be protected through the prohibition of unfair and deceptive packaging and labeling practices. Such prohibitions are contained in S. 985, the "Fair Packaging and Labeling Act", which, with certain amendments has been endorsed by the Administration. So that there will be no gaps in consumer protection, we recommend that S. 985 be amended to provide that the containers now regulated under the Standard Container Acts would not be freed from regulations by the repeal of these Acts but would, in that event, become subject to the provisions of S. 985. Such an amendment is needed since Sec. 8(3) of S. 985 now excludes from the definition of "package" containers subject to the provisions of the Standard Container Acts.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program and the Bureau favors the amendment of S. 985 as indicated above.

Sincerely yours,

ORVILLE L. FREEMAN.

DEPARTMENT OF AGRICULTURE,  
Washington, D.C., May 20, 1964.

HON. JOHN W. McCORMACK,  
*Speaker of the House of Representatives,*  
Washington, D.C.

DEAR MR. SPEAKER: There is enclosed a proposed bill to repeal the Standard Container Acts of 1916 and 1928, Tobacco Plant and Seed Exportation Act of 1940, U.S. Grain Standards Act of 1916, Naval Stores Act of 1923, and Wool Standards Act of 1928.

Over the years, economic conditions and marketing practices have changed so that the need for these Acts is no longer as great as when the legislation was passed. Therefore, to promote greater efficiency and economy in Government, in accordance with the President's request, we are recommending the repeal of these Acts. The portion of these activities that needs to be continued will be performed under the Agricultural Marketing Act of 1946. This would include financing the grain inspection service on a voluntary fee basis. Savings in appropriations realized by repeal of these Acts, involving limited or special interests, would be available for use in areas of more vital public importance.

The following paragraphs set forth in more detail the reasons for the Department's proposal:

*Standard Container Acts of 1916 and 1928* prescribe standard sizes and capacity for certain types of baskets and hampers used in shipping fresh fruits and vegetables. When these laws were enacted, baskets and hampers were used for a large part of the fresh fruits and vegetables shipped in containers and standardization of the volume capacity was needed to prevent deception. Since that time, there have been many changes in shipping containers for fresh produce. Containers not in existence at that time have been developed and have become important. The containers now most commonly used are crates, lugs, boxes and bags. Also the construction material has changed significantly with fiber board, paper, and film now being commonly used. These containers have not been standardized by Federal law as to capacity or shape. Most fresh fruits and vegetables are now sold by weight or count rather than by volume measure so that deception due to slight variations in container volume is no longer an important marketing factor. Less than 10 percent of the fresh fruits and vegetables are now marketed in the regulated types of baskets and hampers. This Act, therefore, is of very limited usefulness and the cost of administering it is no longer justified.

The repeal of the above Acts would result in a reduction in direct appropriations from the general fund of the Treasury of about \$2,013,000 on an annual basis.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,  
*Secretary.*

WENATCHEE VALLEY TRAFFIC ASSOCIATION,  
Wenatchee, Wash., March 22, 1966.

Senator WARREN G. MAGNUSON,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR MAGNUSON: It appears S. 17 would repeal antiquated U.S. standards for fruit and vegetable containers of which many, if not all, are no longer in use. We urge that you seek enactment of this legislation.

Our industry has consistently opposed state and federal standards for fruit containers. New containers are continually being developed to deliver fruit to consumers with fewer bruises and in better condition. The trend is toward consumer packages such as three and four pound bags and small trays of six or eight apples over-wrapped with film. Master containers for these small packages will continue in an experimental stage for a considerable period of time and in the meanwhile it is quite likely new packaging will develop.

Packaging standards enacted into law are too inflexible and tend to stifle improved methods. We hope you will resist legislation that would require definite container specifications for fruits.

Sincerely yours,

MARTIN A. FOSTER,  
Secretary-Manager.

Senator COTTON. Is there anyone else here who desires to testify?  
We have no other witnesses on the list.

If not, we thank you. The hearing is adjourned.

(Whereupon, at 9:22 a.m., the committee was adjourned.)



WYOMING VARIOUS TRADE ASSOCIATIONS  
Hearings, February 28, 1933

Senator W. W. C. Harrison  
Chairman of the Committee

The various associations of Wyoming are organized for the purpose of promoting the interests of their members and the general welfare of the State. They are organized under the laws of Wyoming and are subject to the provisions of the Wyoming Statutes. The various associations are organized for the purpose of promoting the interests of their members and the general welfare of the State. They are organized under the laws of Wyoming and are subject to the provisions of the Wyoming Statutes.

Marvin A. Foster  
Secretary

Senator Cotton, is there anyone else here who desires to testify?  
We have no other witnesses on the list.  
If not we thank you. The hearing is adjourned.  
Whereupon at 1:30 p. m. the committee was adjourned.

