

MAINE STATE LEGISLATURE

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MAINE
LEGISLATIVE RESEARCH
COMMITTEE

REPORT
TO
NINETY-EIGHTH LEGISLATURE



MILK CONTROL

PUBLICATION NO. 98-1

JANUARY, 1957

STATE OF MAINE

SUMMARY REPORT

to

NINETY-EIGHTH LEGISLATURE

LEGISLATIVE RESEARCH COMMITTEE

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*** Replaced Representative Pullen
**** Replaced Representative McCluskey

January, 1957

To the Members of the 98th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you a part of its report on activities for the past two years. This report relates to the problem of milk control. Findings and recommendations relative to other matters assigned to the Committee by action of the Legislature will appear in subsequent reports.

The Committee was unfortunate in the loss of two of its original members, the late Representative George D. Pullen and the late Representative Leroy M. McCluskey. In their deaths, the State of Maine has lost much valued leadership. We of the Committee gratefully acknowledge our indebtedness to their wisdom and their contributions to the work of the Committee.

It is the hope of the Committee that the information contained in this report will be of service to the Members of the 98th Legislature.

LEGISLATIVE RESEARCH COMMITTEE

By: Roy U. Sinclair, Chairman.

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MILK CONTROL LAW

ORDERED, the Senate concurring, that the Legislative Research Committee be, and hereby is, requested to study and survey the operation of the Milk Control Law, particularly as it applies to the buying and selling of milk; and be it further

ORDERED, that the Committee report to the next Legislature the result of its study with such recommendations as it deems appropriate.

Part I.

INCEPTION AND DEVELOPMENT OF STATE MILK CONTROL LAWS

A. IN GENERAL.

The concept of state control of milk pricing is not predominantly characteristic of the majority of states; neither is it uniform in application. The fundamental purposes and policies underlying respective state enactments are substantially similar, though material variations exist with respect to the extent of control as well as in the complexity of statutory provisions. The concept of state price control as an instrument of legislative policy owes its origin to the emergency conditions prevalent during the depression of the 1930's. The New York legislature, in April 1933, was the first of a number of states to establish a state milk control program, acting on the report and recommendations submitted by a joint legislative committee specially created to study problems confronting the state milk industry. As enacted, the New York law established a state milk control board with sufficient regulatory powers for the control of the state milk industry at all levels. During the several years that followed, other states enacted milk price control legislation.

Maine adopted its law on February 27, 1935. Each of the state milk control laws enacted during the 1933-1935 period provided for wholesale, retail and producer price controls and almost without exception were adopted only as a temporary expediency, nearly all including a specific expiration date. The effect of improved economic conditions following the depression resulted in the repeal of a number of state milk control laws, the remaining states continuing controls at either the producer or the producer and retail levels. The tendency of states in recent years to adopt milk price control legislation has become negative, resulting in few such enactments.

B. CONDITIONS PROMPTING ENACTMENT.

The accepted reasoning advanced as justification for the original adoption of the several milk control laws is the adverse economic effect of the depression period. Such reasoning does not suffice to pin-point the actual responsible factors. Neither does it serve to clarify the relative magnitude of conditions which impelled state adoptions. An objective analysis of possible causes leads to the conclusion that essentially original milk control legislation may be attributed to the following depression factors: Inadequate returns to producers; deterioration of collective bargaining among producers; ruinous competition and unfair practices; and threat to public health and welfare. Each of these factors will be discussed briefly in the order mentioned.

1. INADEQUATE RETURNS TO PRODUCERS.

The exigencies of the period prior to enactment of

control legislation which emerged in a general economic crisis likewise had a corresponding effect on the producers' market. Prices of milk and other related and unrelated dairy and farm products continually declined during the period in contrast with a disproportionately slower reduction in wages and other costs. Taxes and fixed payments on existing indebtedness remained practically constant. The net effect was the impairment of herds and inadequate property maintenance. Liquidation of capital assets was difficult or impossible and the prevailing low prices of farm products afforded no opportunity to engage in other agricultural enterprises. The demand for non-agricultural employment was nearly non-existent.

2. DETERIORATION OF COLLECTIVE BARGAINING.

The superior strength of collective bargaining to insure more adequate returns was an accepted fact to the majority of producers during the interval immediately preceding the depression. It was during this period that classified price and pooling arrangements to control milk surplus likewise had their origin. The advent of the depression and attendant reduction in consumer income effectively disposed of the stable price structure and reasonable returns formerly secured by collective bargaining. For a short time, producer associations were able to maintain fluid milk prices, though returns for milk surplus succumbed much earlier to competitive prices. Under the collective bargaining arrangement, producer associations and asso-

ciation dealers were responsible for the producers' milk surplus, the producer receiving a so-called "blend" return based on production use. With the ever-increasing disparity between fluid and milk surplus prices, the "blended" return to producers gradually fell below the prevailing fluid milk price. Non-affiliated dealers, unburdened by the problem of milk surplus, buying from other producer sources in accordance with their need, were thus in a position to buy at a substantial margin over the "blend" price and still process for fluid sale at a lower cost. From a competitive standpoint, the non-affiliated dealer gained an advantage over the dealer buying at classified prices, being in the position to pass on cost savings to the consumer in the form of reduced prices or price discounts. Eventually, these conditions broke down association fluid milk prices, but not until after membership had substantially declined and the association's role in collective bargaining had been seriously curtailed.

3. RUINOUS COMPETITION.

As a corollary to the decreased effectiveness of collective bargaining, and a corresponding loss in market stability, the milk market became dominated by drastic competitive practices. An extraordinary period of price-cutting followed in the wake of reduced consumer income and a substantial decline in milk sales. Distribution costs remained relatively high, despite the

fact that milk sold at ruinously low prices. Producers, with the collapse of collective bargaining, were particularly hard hit and had little market protection. Price wars and milk strikes were prevalent and unemployment became commonplace. The situation was further aggravated by additional competition from former employees selling milk at reduced prices as peddlers or subdealers.

4. THREAT TO PUBLIC HEALTH AND WELFARE.

The effect of disorganized market stability re-emphasized the importance of inherent dangers to public health existing in the absence of a sound milk market. Inadequate returns to producers were manifested in a general lowering of quality and a tendency to disregard sanitary and health requirements. The intense competitive struggle fermented price wars, strikes and other disorders. Likewise, to reduce costs of production, marketing and distribution, producers and dealers indulged in unfair and destructive trade practices--ultimately to the detriment of the public at large.

C. PURPOSE OF THE LAW.

To counteract the tendency of economic instability purportedly latent in the milk industry, many of the several states, from time to time, have expediently adopted remedial legislation. Reasons and purposes justifying such enactments have been variously defined, but few with the exactitude found in the preamble to the milk control law of the State of Alabama

(Code, 1940, Title 22, §205), which is as follows:

"It is hereby declared that milk is a necessary article of food for human consumption; that the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare, and that the production, transportation, processing, storage, distribution and sale of milk, in the State of Alabama, is an industry affecting the public health and interest; that unfair, unjust, destructive and demoralizing trade practices have been and now are being carried on in the production, marketing, sale, processing and distribution of milk, which constitute a constant menace to the health and welfare of the inhabitants of this state and tends to undermine sanitary regulations and standards of content and purity, that health regulations alone are insufficient to safeguard the consuming public from future inadequacy of a supply of this necessary commodity; that it is the policy of this state to promote, foster and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including milk, and to stabilize marketing of such commodities; that fluid milk is a perishable commodity easily contaminated with harmful bacteria, which cannot be stored for any great length of time and which must be produced and distributed fresh daily, which supply cannot be regulated from day to day, but, due to natural and seasonal conditions fluctuates from day to day; that this surplus milk, though necessary and unavoidable, unless regulated, tends to undermine and destroy the fluid milk industry; that investigation and experience has shown that, due to the nature of milk and the conditions surrounding its production and marketing, that unless the producers, distributors and others engage in the marketing of milk are guaranteed and insured a reasonable profit on milk, that both the supply and quality of milk are affected thereby to the detriment of and against the best interest of the citizens of this state whose health and well-being are vitally affected thereby; that where no supervision and regulation is provided for the orderly marketing of milk, past experience has shown that in flush seasons of production, when surplus milk is great and the price which producers and others are able to obtain for milk is below the cost of production, that oftentimes strikes invade the market, followed by bombings and bloodshed, which oftentimes prevents the consuming public from receiving an adequate supply of pure and wholesome milk necessary for its health and well-being;

that, due to the nature of milk and the conditions surrounding its production and marketing, the natural law of supply and demand has been found inadequate to protect the industry in this and other states of the United States, and that, in the public interest, it is necessary to provide state supervision and regulations of the fluid milk industry of this state."

The foregoing statement of facts, policy and application of this law is hereby declared a matter of legislative determination.

The emergency preamble to the act creating the original Maine Milk Control Board (P.L. 1935, c. 13), though obviously less comprehensive in detail, sought to remedy essentially the same abuses. It states that:

"Whereas, the distribution and sale of milk and cream within this state is a business affecting the public health, welfare and general interest of all the people of the state; and

Whereas, unfair, destructive and uneconomic practices in the business of said distribution and sale of milk and cream have developed which threaten the disruption of said business and great loss to all persons engaged in said business and which create a situation which cannot be adequately controlled and remedied by existing statutes....."

In substance, the generally accepted purposes of control legislation seek to insure adequate supplies of milk of proper quality, to eliminate unfair and destructive trade practices, to uphold sanitary regulations and standards, to avoid surplus production and assure reasonable profit to maintain both supply and quality.

D. GENERAL CONTROL PROVISIONS.

The responsible causes for ultimate state control legislation created similar problems in many of the several states. The measures evolved to combat these prevailing conditions

generally took substantially the same form, and as a consequence, shared in a number of common denominators. Fifteen states currently established minimum producer prices: Alabama, California, Connecticut, Florida, Georgia, Maine, Massachusetts, Montana, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, Vermont and Virginia. Eleven of these fifteen states also established prices at the wholesale and retail levels: Alabama, California, Florida, Georgia, Maine, Montana, New Hampshire, Pennsylvania, Rhode Island, Vermont and Virginia.

The control laws of the fifteen states establishing minimum producer prices are essentially uniform as to basic definitions and provisions.

1. BASIC DEFINITIONS.

- a. Consumer. Any person or agency, other than a milk dealer, who purchases milk for consumption or use.
- b. Dealer. Any distributor, processor, producer-dealer and broker.
- c. Distributor. Any person purchasing milk and distributing the same within the state for fluid consumption.
- d. Licensee. Any person holding a license from the regulatory agency.
- e. Market or marketing area. Any city, town or community of the state, or two or more of the same, designated by the regulatory agency as a natural marketing area.
- f. Milk. Fluid milk and cream sold for consumption as such.
- g. Person. Any person, firm, corporation, association or other unit.
- h. Producer. Any person producing milk for fluid consumption within the State selling the same only to distributors.

- i. Producer-Distributor. Any person both producing and distributing milk for fluid consumption within the State.

2. BASIC PROVISIONS.

- a. Bonding. Alabama, California, Connecticut, Georgia, New York and Pennsylvania require milk dealers to post a bond to insure prompt payment of producers.
- b. Cooperation. Agency empowered to confer, cooperate and enter into agreements with other state and federal authorities for the purpose of achieving uniform milk control.
- c. Equalization Pool. California, Connecticut and New York provide for uniform producer prices to be paid to all producers supplying distributors in marketing areas affected by pooling of returns of all such milk.
- d. Excess Production. Alabama, Georgia and Massachusetts provide one minimum price for base milk, and a lower minimum price for excess milk or the milk produced above the base needs.
- e. Licensing. Distributors required to be licensed by regulatory agency which has the authority to grant, refuse, suspend or revoke a license according to prescribed standards.
- f. Mediation and Arbitration. Alabama, Florida, Maine, Massachusetts, Montana, New Jersey, New York, North Carolina, Rhode Island and Virginia provide that the regulatory agency may act as mediator or arbitrator in any controversy concerning fluid milk which may arise among producers and distributors.
- g. Price Fixing. Alabama, California, Florida, Georgia, Maine, Massachusetts, Montana, New Hampshire, New Jersey, Pennsylvania, Rhode Island, South Carolina, Vermont and Virginia provide for minimum wholesale and retail prices. All seventeen states provide for minimum producer prices.
- h. Regulatory Agency. Agency established with power to investigate, supervise and regulate the milk industry.
- i. Reports and Records. Licensees required to submit reports; the law either listing the

records to be kept or empowering the agency to require such records as are necessary or both.

- j. Right of Entry and Inspection. Agency to have access and right of entry at reasonable hours in all places where milk is handled, and to inspect or copy books and records.
- k. Rules and Regulations. Agency to adopt, promulgate and enforce rules and regulations necessary for administration of the law.
- l. Subpoenas. Agency empowered to subpoena witnesses, administer oaths and compel the production of books and records.
- m. Terms of Payment. California, Connecticut, Georgia, New Hampshire, New Jersey, Pennsylvania, South Carolina and Vermont provide for agency supervision of the methods and dates of payment to producers.
- n. Unfair Trade Practices. Law may list unlawful practices or practices which shall be sufficient cause to refuse, suspend or revoke a license. Agency may be authorized to establish codes of fair trade practices or to prohibit unfair trade practices.

E. INCONSISTENT CONTROL PROVISIONS.

The milk control laws of the states of Arkansas, Idaho, Louisiana, Nevada, Ohio, Tennessee, Texas, Washington and Wisconsin are largely inconsistent with the characteristic patterns usually typical of such legislation. Nonetheless, these states by their various enactments retain certain degrees of control over given phases of their milk industry.

A brief resume of the pertinent provisions appears below:

- 1. Arkansas. Sale of milk at wholesale or retail levels below a price determined in a specified manner is unlawful; likewise, certain prohibited trade practices.
- 2. Idaho. Discrimination between sections or communities either by (a) buying at a higher price in one section or community than is paid by the same firm in another section or community, or (b) selling at a lower price in a section or community than is charged by the same

firm in another section or community declared unlawful; likewise, certain prohibited trade practices, including monopoly and unfair competition.

3. Louisiana. Much of the Louisiana Milk Control Act of 1938 was held unconstitutional. Those provisions held constitutional relate to audit of distributors' accounts to enforce the sale of milk in the classification in which it was purchased.
4. Nevada. The Nevada control law, while substantially similar to the typical control acts, does not establish or provide for price-fixing.
5. Ohio. Provides for weighing and testing of milk, dealer financial responsibility and adoption of a method to guarantee producer payment.
6. Tennessee. Defines and declares unlawful certain trade practices.
7. Texas. Provides for a code of fair trade practices to eliminate unfair competition in milk production and distribution.
8. Washington. Act expires September 30, 1956. Provides for minimum producer prices during emergency periods not to exceed 90 days. A given area not to be redesignated as an emergency area until the expiration of 30 days.
9. Wisconsin. Provides for dealer financial responsibility and audit of dealer accounts.

TABLE I.

SUMMARY OF PROVISIONS.

Regulating Agency	POWERS OF AGENCY						PRICE FIXING			
	Subpoena	Licensing	Mediation Arbitration	Cooperation Other States	Entry and Inspection	Rules and Regulations	Price to Producer	Wholesale & Retail	Excess Production	Equalization Pool
Alabama	X	X	X	X	X	X	X	X	X	
Arkansas*								X		
California	X	X	X		X	X	X	X		X
Connecticut	X	X	X		X	X	X			X
Florida	X	X	X	X	X	X	X	X		
Georgia	X	X	X	X	X	X	X	X	X	
Idaho*	X									
Louisiana*	X				X	X				
Maine	X	X	X	X	X	X	X	X	X	
Massachusetts	X	X	X	X	X	X	X	X**	X	
Montana	X	X	X	X	X	X	X	X		
Nevada	X	X	X		X	X				
New Hampshire	X	X	X		X	X	X	X	X	
New Jersey	X	X	X	X	X	X	X	X	X	
New York	X	X	X	X	X	X	X			X
North Carolina	X	X	X	X	X	X	X			
Ohio*										
Pennsylvania	X	X	X		X	X	X	X	X	
Rhode Island	X	X	X	X	X	X	X	X	X	
So. Carolina	X	X	X		X	X	X	X	X	
Tennessee*										
Texas*	X		X							
Vermont	X	X	X		X	X	X	X	X	
Virginia	X	X	X	X	X	X	X	X	X	
Washington*	X					X	X			X
Wisconsin*										

* Containing certain control features only

** In a state of emergency

TABLE I (Cont.)

SUMMARY OF PROVISIONS

	Terms of Payment	Audit of Accounts	Reports and Records	Unfair Trade Practices	Bonding, etc. of Dealers
Alabama			X	X	X
Arkansas*				X	
California	X		X	X	X
Connecticut	X		X	X	X
Florida			X	X	
Georgia	X		X	X	X
Idaho*				X	
Louisiana*		X	X	X	
Maine			X	X	
Massachusetts			X	X	
Montana			X	X	
Nevada*			X	X	X
New Hampshire	X		X	X	
New Jersey	X		X	X	
New York		X	X	X	X
North Carolina			X	X	
Ohio*	X				X
Pennsylvania	X		X	X	X
Rhode Island			X	X	
South Carolina	X		X	X	
Tennessee*				X	
Texas*				X	
Vermont	X		X	X	
Virginia		X	X	X	
Washington*			X		
Wisconsin*		X			X

* Containing certain control features only

** In a state of emergency

F. ADMINISTRATIVE ORGANIZATION.

The relative degree of similarity in substantive provisions generally characteristic of the several state milk control enactments does not uniformly obtain in matters of administrative organization. The state control laws are variously administered by agencies which differ considerably in terms of structure and departmental relationships. The temporary and emergency nature of original milk control legislation was a responsible cause for initiating the creation in some states of independent administrative agencies. Resulting legislation in other states accomplished a separation of ministerial from agency policy functions, routine responsibilities of administration and budgeting being performed by the department of agriculture and policy regulating functions being discharged independently by the agency. In a number of other states the control agency, though of independent status, by law includes the commissioner of agriculture as a duly constituted member. Irrespective of agency status, in a majority of states certain activities closely related to milk control are discharged by other state agencies, particularly the department of agriculture.

Over a period of time, the practical necessity of coordinating the various functions independently performed by other agencies with state control programs has resulted in a diversity of working arrangements between such agencies and the state control organization. The respective functions of the control agency and the state health department provide another obvious example of such a need.

There, notwithstanding the fact that the control agency is charged with insuring an adequate supply of quality milk, state laws have generally provided that matters of sanitation and pasteurization are outside the authority of the agency, such functions usually being assumed by the state health departments. This conflicting participation in activities closely allied with control functioning is a general condition prevalent to the majority of states maintaining such control machinery. The administrative organization of the various state milk control agencies normally fails to conform to any stereotype control structure, though each presupposes a consideration of certain significant features inherent to the administrative process. These state supervisory agencies function intrinsically either under the direction of a full-time or part-time board or commission or under a single administrator. With few exceptions, most state milk control boards or commissions consist of 3 members, generally appointed by the governor for a definite term of years. In those states sanctioning a control board or commission, the commissioner of agriculture is normally an ex officio member; and in at least one state, the commissioner of health has been likewise designated to serve in that capacity. The chairman of the board or commission, depending on the law of the particular state, is selected by the members of the commission, by the governor or by law. Tenure for appointed members varies from 3 to 6 years, except in those instances where appointees serve at the pleasure of the governor. Certain variations exist among the several states with respect to representation of special interests on the respective control agency.

In most states, the law requires that the board or commission be composed of representatives of producers, distributors, retailers and consumers, a few states specifically requiring disinterested consumer members. Some diversity also exists relative to membership qualifications, a number of states specifying definite requirements while others disregard any necessity for such provisions. Milk control board or commission members in some states are full-time employees; In other states, where control activities operate on a part-time basis, the members of the board or commission receive annual salaries or as in some states a per diem amount plus expenses, as determined by the governor, the legislature or the control law. Ex officio members generally serve without additional compensation. Depending on the particular state, control administration may be centralized or administered by decentralized local boards functioning only in regulated areas. The commissioner of agriculture is authorized in a few states to appoint administrators to enforce each separate marketing order. The authority vested in the board, commission or administrator to regulate milk prices varies considerably. The laws in some states authorize the board, commission or administrator, after investigation and public hearing, to fix milk prices to be paid in any and all marketing areas within the state by milk dealers and processors to producers, and the prices to be charged consumers by retailers, while other state laws authorize the board, commission or administrator to fix prices to be paid to producers in particular marketing areas. The relative strength and size of a particular state control agency fluctuates in proportion to assigned functions.

extent and number of regulated markets, and the degree of centralization or decentralization of activities.

TABLE II

Administrative Organization in the New England States.

State	Title of agency	Composition of the agency		Total members
		Ex officio members	Other members appointed by	
Vermont	Milk Control Board	Commissioner of Agriculture	Governor	3
Rhode Island	Milk Control Board	Director of Agriculture & Conservation. Director of Public Health.	Governor with consent of the Senate	5
New Hampshire	Div. of Milk Control (Milk Control Board)	None	Governor with advice and consent of the Council	3
Massachusetts	Div. of Milk Control (Milk Control Commission)	None	Governor with advice of Council. Commission appoints Director	3
MAINE	MILK COMMISSION	COMMISSIONER OF AGRICULTURE	GOVERNOR	6
Connecticut	Milk Administrator	None	Governor with consent of either Senate or House	1

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TABLE II (Cont.)

Administrative Organization in the New England States (Cont.)

State	Method of selecting chairman	Term of Office (Years)	Qualifications of Members	Executive officer of Agency
Vermont	(ex officio) Commissioner of Agriculture	4	None specified	Chairman of Milk Control Board
Rhode Island	Election by Board Members	6	1 producer 1 dealer 1 consumer	Executive officer of Milk Control Board
New Hampshire	Designated by the Governor	3	No more than 2 members of same political party	Chairman of Milk Control Board
Massachusetts	Designated by the Governor	6	1 producer 1 retail dealer 1 public representative. Chairman by training and experience	Director of Division of Milk Control
MAINE	ELECTION BY BOARD MEMBERS	4	2 PRODUCERS 1 DEALER 1 PRODUCER-DEALER 1 CONSUMER (All residents of state)	Chairman of Milk Commission
Connecticut		4	Training and Experience	Milk Administrator

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PART II.

ANALYSIS OF MAINE MILK COMMISSION LAW.

A. LEGISLATIVE HISTORY.

The period between 1926 and 1930 saw the development of general economic conditions which eventually culminated in the great depression of the 1930's. These economic changes were directly responsible for the creation of ruinous dairy surpluses, likewise effecting a tremendous loss in the market stability of fluid milk. Efforts of producers to gain relief from these intolerable marketing conditions eventually crystallized in cooperative marketing programs. The effectiveness of cooperatives as a means of affording necessary protection to producers was seriously undermined by dealers in winning over producers with offers of "full price" and other incentives.

As a result of the successful operation of milk control laws in other states, a bill, "An Act to Create a Milk Control Board," (L.D. 9), was introduced in the Maine Legislature in 1935. This proposed legislation was patterned after similar enactments in other states which provided for state control of the fluid milk industry. The bill was reported out of Committee in a new draft, (L.D. 632) under the same title and that it "OUGHT TO PASS." As an indication of the desirability of such legislation, the bill was passed as an emergency measure without opposition in either branch of the Legislature and became effective February 28, 1935, becoming Chapter 13 of the Public Laws of 1935. Subsequent changes in the law are noted in Table III, Summary of Legislative Changes.

TABLE III.

SUMMARY OF LEGISLATIVE CHANGES

P.L. 1935	How af-1937	1939	1941	1943	R. S. 1944	1945	*1949	1951	R. S. 1954	1955
Ch.13	ected Ch.	Ch. Sec.	Ch. Sec.	Ch. Sec.	Ch. 28	Ch. Sec.	Ch. Sec.	Ch. Sec.	Ch. 33	Ch.
Sec.					Sec.				Sec.	Ch.
1	Am'd.		165 1	317 1	1		278 4	64 1		1
	Rpr.									
	Rev.									
	Am'd.									
	Am'd.									
	Rev.									
2	Am'd.	221		317 2	2		278 4	65		2
	Am'd.									
	Rev.									
	Am'd.									
	Am'd.									
	Rev.									
3	Rpr.			317 3	3		278 4			3
	Rev.									
	Am'd.									
	Rev.									
4	Rep.	138 1								
5	Am'd.	138 2	165 2	317 4	4	293 3	278 4			4
	Am'd.									
	Rpr.									
	Rev.									
	Am'd.									
	Am'd.									
	Rev.									
	Am'd.									341
6	Am'd.	138 3		317 5	5		278 4			5
	Am'd.									
	Rev.									
	Am'd.									
	Rev.									

TABLE III (Con't.)
SUMMARY OF LEGISLATIVE CHANGES (Con't.)

P.L. 1935 Ch.13 Sec.	How af- fected	*1941 Ch. Sec.	1943 Ch. Sec.	R.S. 1944 Ch. 28 Sec.	*1949 Ch. Sec.	1951 Ch. Sec.	1953 Ch. Sec.	R. S. 1954 Ch. 33 Sec.	1955 Ch. Sec.
7	Am'd. Rpr. Rev. Am'd. Am'd. Rev.	165 3	317 6	6	278 1,4	64 2, 3	370 1	6	
	N.S. Am'd. Am'd. Rev. Am'd.			6-A 278 2		64 5	370 2	7	471 6
	N.S. Am'd. Am'd. Rev.			6-B 278 2 278 4		64 6		8	
8	Renum. Rev. Am'd. Rev.		317 7	7	278 4			9	
9	Renum. (ality.) Un.. (Constitution)		317 7						
9	N.S. Ex.		317 8						

* No changes in 1937, 1939, 1945 or 1947.
Am'd. Amended
Ex. Exempt from Repealing Act
N.S. New Section

Un. Unnecessary

Rpr. Repealed and Replaced
Rev. Revised Statutes
Rep. Repealed
Renum. Renumbered

B. MAINE MILK COMMISSION AS REGULATING AGENCY.

1. MAINE MILK COMMISSION.

The Maine Milk Commission consists of 2 resident milk producers, one resident milk dealer, one resident milk producer-dealer and one resident milk consumer, appointed by the Governor with the advice and consent of the Council, to serve for a 4-year term. The Commissioner of Agriculture is an ex officio member of the Commission. Members of the Commission, other than the Commissioner of Agriculture, are paid on a per diem basis determined by the Governor and Council and are entitled to reimbursement for travel and other necessary expenses. The commission members elect the Chairman and are authorized to employ a secretary and necessary clerical assistants, prescribing their duties and fixing their compensation, subject to the provisions of the Personnel Law. Legal and other expert services are rendered insofar as possible by existing state departments.

2. COMMISSION AUTHORITY.

The present law vests the Maine Milk Commission with extensive authority to supervise, regulate and control the purchasing, distribution and sale of milk within the State. This authority by statute is both expressly subject and supplementary to existing state and municipal regulations. The Commission as established is unauthorized to change either state or municipal sanitary regulations or to compel pasteurization. The

Commission enjoys exclusive price fixing authority with respect to wholesale and retail milk sales; likewise governing matters of licensing and market designation. To implement effective administration of the law, the Commission has the right of entry and inspection, being further empowered to conduct hearings, subpoena persons and records, administer oaths and conduct examinations, and to adopt, promulgate and enforce necessary rules and orders. The Commission, when circumstances warrant, may act as either mediator or arbitrator in disputes or controversies arising between producers, dealers and consumers. To summarize the foregoing, exclusive of rights of entry and inspection and limitations in favor of existing state and municipal regulations, the authority of the Commission may be expressed in terms of the following powers:

- a. Power to supervise, regulate and control purchasing, distribution and sale of milk within the State.
- b. Power to conduct hearings, subpoena persons and records, administer oaths and conduct examinations.
- c. Power to grant, revoke or suspend licenses.
- d. Power to establish and change minimum wholesale and retail prices.
- e. Power to designate milk marketing areas.
- f. Power to adopt, promulgate and enforce necessary rules and orders.
- g. Power to act as mediator or arbitrator.

3. LICENSING PROVISIONS.

The Commission by law is the responsible agency for licensing milk dealers. The law requires no license where milk is produced or sold only for consumption on the premises of the producer or seller. In all other cases, dealers are prohibited from buying, processing, distributing or selling milk unless duly licensed by the Commission. Applications for the issuance of dealers' licenses must be submitted to and on such forms as are prescribed by the Commission. Licenses issued are valid for the period commencing on January 1st and ending on December 31st following. The Commission is given full authority to grant or, on the basis of proper evidence, to decline to grant licenses. It may also, upon notice and after hearing, suspend or revoke licenses issued. In the event the Commission suspends, revokes or withholds a license, or refuses to renew an existing license, the order does not become effective until 10 days after issuance, and then only if the holder or license applicant has been mailed a copy of the order. Persons aggrieved by any order of the Commission are given the right to appeal within 10 days following its issuance to the Superior Court in the county in which they reside or do business. Notice of the appeal must be served on the Commission. Appeal does not suspend operation of the particular order, except in those instances where the Superior Court Justice in his opinion finds that justice so requires and orders a suspension, a compliance with the

original order or a compliance with the order as modified by the Commission, pending determination of the appeal. After hearing, the Superior Court must either affirm or reverse the order or any modification made by the Commission. Conviction of violation of the orders or rules and regulations of the Commission or of any state law relating to the production, distribution or sale of milk is sufficient cause for license suspension, revocation or denial. The Commission is entitled to receive a fee of \$1 for each dealer's license issued, plus a 3¢ charge per hundredweight in monthly payments for milk processed or produced. Dealers are entitled to deduct 1 1/2¢ per hundredweight from amounts paid by them to producers, so that producers are also assessed 1 1/2¢ per hundredweight. Milk which is farm-processed into cream for the manufacture of butter is not subject to this assessment. All moneys derived from license fees and milk assessments are reserved as a continuing carrying account on a non-lapsing basis for administrative costs, except that two-thirds of such moneys are made available for milk promotion, education, experimentation, research and advertising programs by and under the direction of the Maine Dairy Council Committee. Such promotional activities are likewise encouraged by the Maine Milk Tax Committee, supported by revenues supplied by the Maine Milk Tax, levied on producers at the rate of 2¢ per hundredweight.

4. PRICE FIXING PROVISIONS.

The Maine Milk Commission Law specifically establishes

the authority of the Commission to fix minimum retail and wholesale milk prices. This authority not only governs minimum producer prices, but includes the minimum wholesale and retail prices charged for milk sold by dealers to dealers, dealers to consumers, stores to consumers, dealers to stores, producers to dealers, and any person to any other person. The Commission in exercising its price fixing authority must satisfy the statutory requirements of investigation and public hearing, due notice of hearing in all cases being essential. Compliance with the public hearing requirement may be waived by the Commission in those instances where the purpose of the change is to effect conformity with price regulations established by federal authority. The law stipulates that prices fixed by the Commission shall be just and reasonable, specifying the following factors or criteria to be considered in rendering its determination:

- (a) the insuring of an adequate supply of pure and wholesome milk;
- (b) conditions affecting the milk industry;
- (c) reasonable returns to producers and dealers.

These standards are indefinite, serving only to satisfy the requirements of delegated legislative authority to the Commission. No indication is given as to their relative significance or weight. The Commission lacks authority to fix prices for one or more of the specified sales unless it likewise estab-

lishes prices for all sales in the particular market. Once prices are fixed by the Commission, following investigation and hearing, on all sales within a given market, the Commission is obliged to furnish copies of the adopted price schedule to all registered dealers of the particular market. The Commission must also publish the schedule in appropriate newspapers, and this publication constitutes an official order of the Commission with respect to the minimum prices thus established.

5. REPORTS AND RECORDS.

The provisions of the Maine Milk Commission Law, in addition to defining the substantive features of control regulation, also establish certain enforcement provisions through report and record requirements. All licensed dealers are required to maintain records of their operations and to file reports. These requirements are fundamental to the enforcement program as administered by the Commission. The data gathered from prescribed records and reports forms a working basis for Commission audit, providing a method of checking the accuracy of the dealers' milk classification and producer payments. To further strengthen such requirements, the Commission is specifically authorized to require milk dealers to keep such records as may be deemed necessary for proper enforcement of the law. Exclusive of such records and reports as are required by the Commission, dealers are specifically required

to maintain the following records:

- (a) the quantity of milk received or produced together with the names, addresses and locations of the producers or milk dealers from whom it was received;
- (b) the quantity of milk sold, including use, location and market outlet; and
- (c) such other records and information as the Commission may require.

These records must be filed monthly in report form with the Commission, except that those dealers selling less than 100 quarts per day may file at intervals of 3 months. In addition to reports submitted to the Commission, dealers are required to furnish their producers with a record of the amount of milk purchased, the price per pound or quart, and the total amount paid for each pay-period. The record must include itemized deductions for transportation and other services. Where the "weight and test" method of payment is used, the record must also contain the butterfat test and Class I and Class II percentages. As a means of minimizing any existing deficiency, the Commission is authorized access to all books and records relating to milk. Any Commission member or representative by law is entitled to enter those places where milk is handled at reasonable hours for the purpose of ascertaining facts necessary to the proper administration of the law.

6. UNFAIR PRACTICES.

The ultimate effectiveness of milk control legislation to accomplish the purposes for which it was enacted depends almost entirely upon the continuation of established price structure. The potency of any price structure is substantially undermined by repeated violations of its provisions, the vast majority of milk control infractions being constituted by noncompliance with fixed minimum prices actively complemented by unjust and unfair trade practices. The procedures governing resale price fixing are complex compared to those establishing minimum producer prices. Enforcement of resale price provisions is less effective owing to the difficulty in detecting noncompliance with minimum resale prices. Generally, regulation of questionable trade practices is held a necessary incident to effective price regulation. Prevention of price competition invariably results in other competitive methods as a means of attracting customers and increasing sales. The inter-related strengths and weaknesses of the milk price structure with those of control legislation are not infrequently affected by these and other related factors. Undercover competition, as well as active and passive noncompliance, acceptance and condonation of illegal trade practices, appears to flourish in the absence of effective price enforcement and equitable control law administration. Effective enforcement of minimum prices also seems to infer strict regulation and control of unfair trade practices.

Activities such as price manipulation, below cost sales, price concessions in the form of rebates, discounts, premiums, free services or equipment, trading stamps, combination prices, extension of credit, tie-in sales, donations, advertising allowances, free samples and secret agreements illustrate but a few of the devices and means used to abrogate or circumvent fixed minimum prices.

The provisions of the Maine Milk Commission Law relating to unfair trade practices attempt to eliminate or discourage the abrogation of fixed prices with a minimum of detail and provide that:

"No method or device shall be lawful whereby milk is bought or sold at prices less than the scheduled minimum applicable to the transaction whether by any discount, rebate, free service, advertising allowance, combination price for milk with any other commodity, or for any other consideration."

PART III.

MARKET MILK

A. IN GENERAL.

The milk sold to a consumer for consumption in the fluid state is "market milk" and as such, is distinguishable from milk used in the manufacture of dairy products, such as butter, cheese, ice cream, condensed and dry milk. The utilization of fluid milk as "market milk" greatly exceeds all other uses, its production and marketing in recent years reaching record breaking volumes. The rapid growth of urban areas has been a responsible cause in stimulating and influencing the location, organization, production and over-all development of the fluid

milk industry, with the result that areas adapted to dairy production have developed into large milksheds for the purpose of supplying the needs of the urban consumer. An original and continuing source of supply of the fluid milk industry is predicated on family cow production, where farmers with a production in excess of their individual requirements utilize it to satisfy local neighborhood demand. The consumer purchasing milk under these circumstances is generally acquainted with its source as well as the methods of sanitation and handling. In urban areas such as the small city, demand is normally satisfied by milk locally produced on specialized dairy farms operating in the vicinity, often being delivered directly to the consumer by the producer. As cities increase in size, locally produced milk gradually becomes insufficient to satisfy the market demand, giving rise to a resulting dependency on distant sources. Milk must then be brought in from areas of production by truck or train often over considerable distances. Under these conditions, the producer is precluded from delivering his product to the consumer and marketing and distribution must necessarily be handled by intermediate organizations. The process which involves collection, transportation, processing and distribution is extremely complicated. The vast number of individual producers and the nature of the process denies the consumer any knowledge as to his source of supply. Such conditions warrant supervision to maintain quality and provide safeguards against the dangers of adulteration and contamination.

B. MARKET MILK PRODUCTION.

The economical production of "market milk" by the farm unit,

as a means of securing a fair return on capital and labor, necessarily requires proper farm management. The individual milk producer is confronted with the problem of maintaining a healthy herd of sufficient productive capacity to make economical milk production feasible. The costs must so relate to production as to yield a satisfactory return after marketing. In addition, the producer must maintain such conditions of sanitation as will insure an acceptable product. The over-all production of milk is responsive to the demand and price relationship. The demand for milk relates not only to that utilized as "market milk", but includes all other dairy products. Supply and demand strongly influence the allocation of total milk production to its various uses. Where the demand and price relationship for a product become less profitable, production will be diverted to other more profitable uses. Where production exceeds the demand at the prevailing prices, the price will drop. With a drop in price, production is less profitable and becomes reduced. Where milk production provides a greater profit than other farm markets, existing herds are expanded and others enter into production; ultimately with the effect of price reduction. These fundamental considerations of demand, cost and price as determinants of production in a proper analysis must accord considerable importance to the factors of transportation, processing and distribution. The channels of transportation responsible for moving the product from the centers of production to the consumer suffer considerable variation depending on the proximity of the market to the source of supply. Transportation and delivery costs provide a major item in the price charged to the consumer.

C. CLASSIFIED PRICING.

The system of classified pricing was introduced by producer bargaining associations during the 1920's and was later incorporated as an integral part of the control legislation adopted by a number of states. Essentially, it involves arranging the various milk uses into two or more classes and establishing a price for each class. The purpose of such classification is aimed at maintaining a higher price for milk distributed as fluid milk with a proportionately lower price assigned to that in excess of fluid sales and used for the manufacture of dairy products. Prior to the adoption of state control provisions, all classified prices were established by negotiation between producers and dealers. During this time, non-affiliated dealers by buying from unorganized producer sources in unregulated markets could easily adjust to the economic conditions of supply, demand and price by paying "flat" rates in lieu of classified prices fixed by the bargaining associations. Losses on milk surplus borne by association dealers were avoided by obtaining a greater margin on fluid sales in excess of processing and distribution costs. Independent dealers were able to obtain a definite economic advantage by minimizing surplus and maintaining a close adjustment over the requirements necessary to satisfy fluid demands. The limitations imposed as a result of inadequate auditing to determine the accuracy of dealers' reported use of milk, coupled with the fact that independent dealers could obtain fluid milk at "flat" or "cut" prices on unregulated markets seriously curtailed the overall effectiveness of the system of price classification administered by the producer organizations. During the 1930's these con-

ditions contributed to the ultimate breakdown of collective bargaining. The subsequent enactment of state and federal price regulations had the effect of remedying the conditions inherent to "flat" pricing. The various agencies by compelling all dealers to pay classified prices eliminated fluid sales below the average or "blend" price. Since the utilization of milk for each use was priced close to its net value, there was no longer any necessity for dealers' margins on fluid sales to cover surplus milk losses. Accurate milk classification by dealers was secured by enforcing an effective system of audit. At the present time, the arrangement of milk according to its utilization into classes depends upon the provisions of the individual state control laws. As a rule, milk utilized as fluid whole milk and fluid milk drinks is treated as Class I; milk in excess of fluid needs is treated as Class II or "surplus" milk. Since the returns for Class I milk are relatively higher than those for Class II, in order to insure the highest returns to producers, the greatest possible amount of production should be determined as Class I milk.

The Maine Milk Commission Law defines the classes of milk to be as follows:

"Class I milk" means all milk, the utilization of which is not established as Class II milk.

"Class II milk" means all milk the utilization of which is established:

- I. As being sold, distributed or disposed of other than as or in milk which contains not less than $1/2$ of 1% butterfat and not more than 16% butterfat and other than as chocolate or flavored whole or skimmed milk and
- II. As actual plant shrinkage; provided that

the quantity of shrinkage which is classified as Class II does not exceed 2% of the milk purchased in any pay period.

The control laws in a small minority of states provide a "flat" price for all dealer purchases; in Maine, in a few instances, "flat" pricing is allowed as an alternative to classified pricing.

TABLE IV.

PRICING PRACTICES OF STATE MILK CONTROL AGENCIES, 1955

State	PRODUCER				DISTRIBUTOR	
	Fix Prices	Prices	Price	Estab.	Estab.	Fix
	By areas	same	plans	market-	season-	resale
	or	all	used	wide	al	prices
	markets	areas		equali-	pricing	
				zation		
				pool		
Ala.	Min. and max. (1)	(2)	Class		Base surplus	Min. and max.
Calif.	Min.		Class	(3)	(4)	Min.
Conn.	Min. (5)		Class		Fall premium plan	
			(6)			
Fla.	X	(2)	Class			Min. (7)
Ga.	Min. and max. (8)		Class		Base surplus	Min. and max. (8)
MAINE	Min.		Flat or Class		Base surplus	Min.
Mass.	Min.		Class	(9)	(10)	(11)
Mont.	Min.		Class			Min.
N.H.	Min.		Class		(12)	Min.
N. J.	(13)	X	Class			(15)
			(14)			
N.Y.	Min.		Class	X	Fall prem; plan	
					Base surplus	
N. C.	Min.	X	Class			
Penn.	Min.		Class			Min. (17)
			(16)			
R. I.	Min.		Class	X	Base surplus	Min.
Vt.	Min., max. or both	(18)	Flat or Class			Min. and Max.
Va.	Min. (19)		Class	(20)	Base surplus	Min. (19)

- (1) Board has not exercised authority to fix maximum prices.
- (2) Slight variation among areas.
- (3) Although law authorized market equalization pools, none are in operation.
- (4) Law does not specifically authorize seasonal pricing plan. Such a plan is, however, in effect in one marketing area.

TABLE IV (Con.)

PRICING PRACTICES OF STATE MILK CONTROL AGENCIES, 1955

- (5) Fixing of producer prices mandatory only under certain conditions.
- (6) Although milk control law would seem to allow no alternative to classified price plan, dealers in some instances, i.e., those in smaller markets who handle little or no surplus milk, are required to pay a flat price. Also, each dealer must pay an additional amount to those producers from whom milk is purchased for sale as Grade A.
- (7) Required to fix minimum resale prices; may fix maximum.
- (8) Although the Georgia Board has power to fix minimum and maximum prices, Georgia price orders have provided only maximum prices.
- (9) Only in New Bedford.
- (10) In certain areas only.
- (11) Under certain conditions may fix minimum resale prices.
- (12) Generally follow same seasonal changes as established for Class I prices in New England Federal order markets.
- (13) Exercise of price-fixing authority is permissive.
- (14) In some areas, producers are paid bonuses for low bacteria counts.
- (15) Resale price fixing is permissive.
- (16) Dealer must pay a premium, the amount of which varies in accordance with the butterfat content of the milk, to those producers from whom milk is purchased for sale as Grade A.
- (17) Fixing of minimum prices mandatory under the order; fixing of maximum prices is permissive.
- (18) One market has producer prices above the state-wide level.
- (19) Price-fixing authority appears to be permissive. The control agency interprets the law as authorizing the fixing of both maximum and minimum prices, but fixes minimum prices only.
- (20) Only in the Richmond area.

D. RESALE PRICING.

Resale pricing has been developed for several reasons, including the following:

To minimize price-cutting and destructive competition among dealers;

To protect producers against price cuts and losses caused by dealers' insolvency;

To maintain state price structure by preventing the sale of low-priced, out-of-state milk;

To maintain distributor margins as a means of insuring reasonable returns to producers;

To minimize price manipulation by distributors for the purpose of strengthening their competitive position;

To check rebates and other unfair price advantages given customers with exceptional bargaining power; and

To make resale price determinations public rather than a matter for secret understanding.

Formerly most state milk control laws included either mandatory or permissive resale price provisions. Such controls are now limited to Maine, New Hampshire, Vermont, Rhode Island, Pennsylvania, Virginia, Georgia, Florida, Alabama, Montana and California. In Maine, the fixing of minimum resale prices is mandatory. The laws of most of the above states lack certainty in defining the products subject to resale pricing and generally fail to provide a definite basis for differential pricing. The fact that resale prices must be established in close relationship to producer prices works an evident limitation in determining the resale price. In each state, there is little or no distinction made between the respective price-fixing criteria, the various states merely providing that certain factors shall be considered in establishing prices generally. These criteria usually include: public

interest, adequate supply of quality milk, costs of processing and distribution and a reasonable return to dealers. The administrative problems encountered in resale pricing are manifold. Policy-wise, the prices established by an agency cannot be confiscatory or such as will reduce fluid consumption. The range of products subject to resale pricing usually includes the several types and grades of milk, various grades of cream, skimmilk, buttermilk and flavored milk drinks. The state in projecting resale prices have established price differentials for products sold in bulk as well as in glass and paper containers and also for gallon, half-gallon, quart, pint and half-pint quantities. More often than not, price differentials have been established between store and home sales. In addition, state resale prices have varied with the size and location of market areas. The necessity of maintaining a proper relationship among these prices in adjustment to fluctuating conditions requires effective agency administration. The fact that dealer operations vary with respect to volume, nature of operation, products and distribution outlets presents further complications. In practice, control agencies utilize distribution costs as the basic criteria in determining spread between minimum wholesale and retail prices. This involves an initial determination of dealers' operational costs followed by evaluation and a subsequent determination of reasonable costs. The value of such data lies in its comprehensiveness. For optimum effectiveness, costs must be determined for each of a variety of product sales at all distribution levels, with allowances for variations in container size, the type of sale

and attached services. The methods used in determining costs vary from state to state. In some states costs are determined as the average of available costs after the elimination of extremely high and low cost figures or through the selection of the highest cost figure necessary to unimpaired distribution. In other states cost ranges are determined for the various operations from costs determined by auditors on allocation of joint costs in conformity to standard auditing procedures. The agency in each instance makes the decision as to reasonable costs and distribution margins. A number of states have developed costs based on data presented by dealers at hearings conducted by the agency, while others have depended solely or in part on cost studies made for the agency by various state colleges. Studies of this nature have been used extensively by the Maine Milk Commission.

TABLE V.
RESALE PRICING UNDER STATE MILK CONTROL, 1955

State	Differential Store differential paper over glass	Differential paper over glass	Size of container for which resale prices are set					Quantity discount on retail sales	Sales discounts on multiple-unit containers				
			1/3 Pt.	1/3 Qt.	Pt.	Qt.	1/2 Gal.		Gal.	1/2 Gal.	1/2 Gal.	1/2 Gal.	1/2 Gal.
	Cents per quart	Cents per quart						Cents per quart	Cents per quart	Cents per quart	Cents per quart	Cents per quart	Cents per quart
Ala.		1			X	X	X	X	1/2 (1)	1/2	1 1/2		
Calif.	0-1 1/2 (2)				X	X	X	X	(3)	0-1/2 (2)	0-1/2 (2)	0-1/2 (2)	0.3/4 (2)
Fla.				(4)	X	X	X		1/2	1/2 (5)		2 1/2	
Ga.		1	X	(5)	X	X		X	2-3				
MAINE		1	X	(6)	X	X							
Mont.			X			X	X	X				(7) 2	(7)
N.H.		1	X		X	X			(8) 1				
Penn.	1- 1 1/2 (2)		X		X	X							
R. I.	1	1	X	X	X	X	X			1/2		1/2	
Vt.			X		X	X		X	(9) 3				
Va.	0-2 (2)		X		X	X	X		1-2 (10)				

(1) If two single quart packages are jointed together into a single non-separable unit, they sell at the same price as a single half-gallon container.

(2) Varies by market areas.
See next page for other notes.

- (3) Flat price per quart plus a delivery charge of 3 cents for each delivery of fluid milk in Alameda-Contra Costa marketing area; flat price less 1/2 cent per quart for deliveries in excess of 60 quarts per month in Los Angeles, Orange and San Bernardino-Riverside marketing areas.
- (4) In some areas.
- (5) One-half cent per quart discount for all milk sold in 1/2 gal. containers or in 2 single quart packages when securely joined together.
- (6) 10-ounce package.
- (7) On cash-and-carry sales only.
- (8) Retail price of 8 or more 1-quart bottles delivered at one time to one customer at one address for home consumption may be 1 cent per bottle less than the scheduled retail single quart price. Also, all milk in pint bottles charged at the pint schedule except single pints sold in combination with one or more quarts, at which time the single pint may be charged for at one-half the scheduled quart price.
- (9) When sold cash-and-carry to consumers at processing plant in quantities of 4 quarts or more.
- (10) In some areas, 1 cent per quart to retail customer buying 6 or more quarts of milk per day per calendar month for home delivery; 2 cents per quart per customer buying 12 or more quarts per day per calendar month for home delivery.

TABLE VI.

SUMMARY OF PRICE SPREADS FOR FLUID MILK DISTRIBUTION
IN CONTROLLED AND UNCONTROLLED MARKETS, BY MARKET
SIZE, JANUARY 1954

Type and size of market	:Number : of :Markets	Price Spread					
		Retail	Whole- sale	Store	Whole- sale plus store	Store differ- ential	
						Single Quart	High
		Cents per quart of milk					
Population							
Under 50,000							
Controlled:							
Average	: 7	: 10.3:	: 7.9:	: 2.1:	: 10.0:	: 0.3:	
Range	:	: 9.3-11.1:	: 7.1- 8.6:	: 2.0-2.5:	: 9.1- 10.6:	: 0.0-1.0:	: 0.0- 1.0
Uncontrolled:							
Average	: 11	: 10.3:	: 7.8:	: 2.3:	: 10.1:	: 0.2:	: 0.9
Range	:	: 7.8-12.1:	: 5.8- 9.7:	: 1.0-3.0:	: 7.8- 12.1:	: 0.0-1.0:	: 0.0- 3.5
Population							
50,000-99,000							
Controlled:							
Average	: 8	: 10.7:	: 8.6:	: 1.9:	: 10.5:	: 0.2:	: 0.3
Range	:	: 9.2-13.2:	: 7.2-10.8:	: 1.5-2.3:	: 9.2- 12.3:	: 0.0-1.0:	: 0.0- 1.0
Uncontrolled:							
Average	: 15	: 11.6:	: 9.1:	: 2.4:	: 11.5:	: 0.1:	: 1.0
Range	:	: 8.7-13.2:	: 6.7-10.7:	: 2.0-3.5:	: 8.7- 13.2:	: 0.0-1.0:	: 0.0- 4.5
Population							
100,000-199,000							
Controlled:							
Average	: 5	: 10.8:	: 8.2:	: 2.2:	: 10.4:	: 0.4:	: 0.5
Range	:	: 10.4-11.1:	: 7.2- 8.9:	: 2.0-2.5:	: 9.4- 11.1:	: 0.0-1.0:	: 0.0- 1.0
Uncontrolled:							
Average	: 18	: 11.6:	: 8.8:	: 2.5:	: 11.3:	: 0.3:	: 1.1
Range	:	: 9.3-16.6:	: 6.5-12.6:	: 1.5-4.0:	: 8.6- 14.6:	: 0.0-2.0:	: 0.0- 2.5
Population							
200,000-399,000							
Controlled:							
Average	: 8	: 10.6:	: 8.1:	: 2.1:	: 10.2:	: 0.4:	: 0.5
Range	:	: 8.8-11.4:	: 7.2- 8.8:	: 1.5-3.0:	: 9.4- 11.4:	: 0.0-1.0:	: 0.0- 1.0
Uncontrolled:							
Average	: 10	: 11.5:	: 8.9:	: 2.3:	: 11.2:	: 0.4:	: 1.4
Range	:	: 10.5- 13.5:	: 7.5-10.5:	: 1.5-3.5:	: 9.1- 12.5:	: 0.0-1.5:	: 0.0- 5.0

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TABLE VI. (Con't.)

Type and size of market	Number of Markets	Price Spread						
		Retail	Whole- sale	Store	Whole- sale plus store	Store differ- ential		
						Single Quart	High	
		Cents per quart of milk						
Population 400,000-999,000								
Controlled:								
Average	3	11.6	8.6	2.2	10.8	0.8	1.3	
Range		11.0-12.3	7.5-9.3	1.5-2.5	10.0-11.6	0.0-1.5	0.0-1.5	
Uncontrolled:								
Average	11	11.2	8.3	2.2	10.6	0.7	1.9	
Range		9.6-13.4	7.1-10.9	0.5-3.5	8.7-12.9	0.0-2.0	0.5-5.0	
Population 1,000,000 and over								
Controlled:								
Average	2	10.7	7.6	1.8	9.4	1.2	1.2	
Range		10.6-10.8	6.6-8.6	1.2-2.5	9.1-9.8	1.0-1.5	1.0-1.5	
Uncontrolled:								
Average	2	11.8	9.1	2.2	11.4	0.5	4.5	
Range		11.5-12.2	8.5-9.7	1.5-3.0	11.2-11.5	0.0-1.0	(4)	
All Markets								
Controlled:								
Average	33	10.7	8.2	2.1	10.3	0.4	0.5	
Range		8.8-13.3	6.6-10.8	1.2-3.0	9.1-12.3	0.0-1.5	0.0-1.5	
Uncontrolled:								
Average	67	11.3	8.6	2.4	11.0	0.3	1.3	
Range		7.8-16.6	5.8-12.6	0.5-4.0	7.8-14.6	0.0-2.0	0.0-5.0	
Grand Total:								
Average	100	11.1	8.5	2.3	10.8	0.3	1.0	
Range		7.8-16.6	5.8-12.6	0.5-4.0	7.8-14.6	0.0-2.0	0.0-5.0	

- (1) Market size based on 1950 population data.
- (2) All averages are simple averages, not weighted by market size or volume of sales.
- (3) The "high" store differential refers to difference between single-quart, home-delivered price and the lowest reported out-of-store price--usually a multiple-unit price.
- (4) Both markets report high store differentials of 4.5 cents.

E. PRICE DIFFERENTIALS.

Resale prices established by state milk control agencies have ordinarily allowed price differences varying with: Location and size of market; type of service; quality of milk; kind and size of container; and quantity of milk sold.

1. LOCATION AND SIZE OF MARKET.

Resale prices are necessarily subject to a certain amount of variation among market areas due to their location and size. As a rule, markets located in milk-deficit areas are obliged to secure higher prices in order to offset their additional supply costs. For this reason, state milk control agencies have adopted the policy of specifying minimum resale prices for individual market areas, rather than establishing "blanket" resale provisions.

2. TYPE OF SERVICE.

The subject of price differentials has become extremely controversial in resale price administration with respect to the amount of differential permitted between store prices to consumers and prices for home-delivered milk. Retail distributors and labor unions, with the frequent support of producer organizations, have sought to minimize store differentials. Wholesale distributors and chain stores, together with various consumer factions, have consistently agitated for the maximum possible allowances. Those for minimizing differentials argue that home distribution tends to promote milk consumption and that decreased milk consumption would result from increased store sales; and that an

expansion in store sales would be accompanied by a reduction in home distribution and increased delivery costs, with an over-all tendency toward lower consumption. They further contend that stores resort to the frequent use of milk as a loss leader. Those favoring store differentials maintain that the consumer who elects to perform his own services in carrying his milk home should be entitled to do so at a price saving. The results of a number of studies made of retail delivery and store distribution costs have adequately demonstrated that store distribution is possible in larger cities at a substantial saving to the consumer over home delivery costs. This has not been shown to be true of the smaller cities and towns. The effective use of cost data by state milk control agencies in determining relationships between delivery and store prices should necessarily emphasize those differences in conditions which affect their relative costs. The fact that wage increases tend to result in greater differences in the unit costs of these services has a considerable significance as to possible price allowances. Those conditions favorable to store distribution generally exist where stores are conveniently situated with respect to consumers, where home delivery is inconvenient or undesirable, or where customers are in a position to obtain the price savings connected with cash-carry buying. Apparently, milk consumption is stimulated through the availability of low-priced milk. There is a complete absence of data to substantiate the contention

that home delivery increases milk consumption, though various studies have shown that reductions in delivery volume inevitably result in higher home-delivery costs and lower efficiency. These conditions are apparently borne by consumers who prefer the convenience of home delivery over price advantage or by those who, because of circumstances, are unable to obtain the benefits of store distribution. It would seem evident that home delivery costs depend to some extent upon store sales, costs tending to increase in relation to the volume of store sales. The contention that stores use milk as a loss leader is probably true in a number of instances, though there is little evidence to indicate that stores make it a continual practice. Invariably, state milk control agencies have been forced to contend with rising costs in milk distribution as opposed to demands calling for wider differentials between store and home delivery prices or for the establishing of such differentials. Spencer and Christensen* in their analysis conclude that: "In the main, the milk control agencies that fix resale prices have resisted this pressure for widening or establishing store differentials and have kept the retail prices at stores in the larger cities closer to the delivered prices than they would have been without regulation. It is probable, however, that in most markets of less than

* Spencer, Leland and Christensen, S. Kent, "Milk Control Program of the Northeastern States--- Part I," Cornell University, Agri. Exp. Sta. Bul. 908, Nov. 1954.

50,000 population, store differentials would not have been established even though dealers and storekeepers had been allowed to determine retail prices competitively." It should be pointed out that chain stores have repeatedly requested state milk control agencies for lower minimum prices and have been refused. In Maine, irrespective of distribution outlet, the Milk Commission still continues to fix the same minimum resale price and it has never established store differentials at any time since its creation. With respect to those state milk control agencies authorized to regulate resale prices, the evidence would seem to indicate that they have been a responsible factor in retarding the development of store differentials.

3. QUALITY OF MILK.

The milk control agencies of a number of states have established minimum resale prices for the different grades or qualities of milk. Price differentials have generally been provided for special or premium milk, such as milk containing a higher percentage of butterfat than standard milk, homogenized milk, Vitamin D milk, and Vitamin D homogenized milk. The necessity for establishing grade or quality differentials seems to be to offset competitive advantage, since differences in grade and quality have a competitive effect on sales as well as price.

4. KIND AND SIZE OF CONTAINER.

State milk control agencies in fixing resale prices have frequently established price differentials for

different size containers which generally reflect the various differences in packaging and distribution costs. Trade practices, such as higher prices per quart for milk sold in pint or half-pint containers and lower prices per quart for multiple quart sizes have partially been accepted by state milk control agencies and have resulted in appropriate price differentials. Irrespective of the greater use of 2-quart containers and gallon jugs, none of the control agencies in the northeastern states as yet permit a lower retail price per quart for multiple-unit sales than for quart sizes. The milk control agencies of a majority of states have not authorized a price for milk sold in gallon jugs. In fact, the use of gallon jugs as milk containers is illegal in a number of milk control states, even though their use finds wide acceptance in many state markets. Policies governing the resale pricing of milk sold in paper or glass containers likewise depends upon the individual state agency. In Maine, until recently (April 1st, 1956), the price of milk in paper containers was fixed at one cent per quart above that sold in glass. In this respect, Maine policy differed little from that of a number of states. Milk dealers repeatedly requested state agencies to fix both higher and lower minimum prices for milk sold in paper containers. Those arguing for higher minimum prices contended that the use of paper containers involved extra processing costs which should be reflected in the established minimum price fixed by the agency. Dealers desiring

lower minimum prices have contended that higher prices in effect penalized the more efficient operators. State milk control agencies on the basis of diffuse cost data presented by dealers have accepted both points of view as an examination of their respective control provisions on this point will show.

5. QUANTITY OF MILK SOLD.

Quantity discounts to consumers have been permitted in only part of the controlled states. For competitive reasons, consumers in unregulated states are frequently given price reductions by dealers depending upon the quantity of milk purchased, though this practice is generally more characteristic of sales to wholesale customers. Milk control agencies in a few of the regulated states have permitted price reductions to schools, hospitals, institutions and various state agencies; a small number have provided discounts to the wholesale trade. The majority of state milk control agencies, however, have failed to allow quantity discounts, apparently for fear that their use would only add to the difficulty of enforcing minimum resale prices. In Maine, quantity discounts are illegal, except as provided in established schedules of the Maine Milk Commission.

F. SEASONAL PRICING.

The practice of seasonal pricing has received little attention by state milk control agencies until recently, the tendency being to disregard seasonal reductions in both Class I

and retail prices. The matter of seasonal adjustments seems to have been deferred by agencies for the more serious problems connected with upgrading producer prices and enforcement. Prior to the adoption of state price controls, seasonal pricing was an accepted practice in most markets. During the months of December through May retail prices were reduced one or two cents per quart with corresponding increases between July and December. This practice was accepted by a few states following the adoption of state milk control, resulting in seasonal adjustments in their minimum retail prices. More recently, seasonal pricing has been adopted by a number of other states which establish resale prices. Until the last few years, the Maine Milk Commission had formulated no definite policy with respect to the seasonal adjustment of retail prices.

"The present arrangement is to raise the price 2 cents a quart July 1, and another one-half cent October 1. Seasonal reductions of one cent and one and one-half cents are made March 1 and April 1, respectively."*

G. FEDERAL MARKETING ORDERS.

The Federal Government through the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) has jurisdiction over the minimum pricing of milk in or affecting interstate commerce. The Secretary of Agriculture, pursuant to the provisions of the act, is empowered to act jointly with the various states in establishing appropriate

* Spencer, Leland and Christensen; S. Kent, "Milk Control Program of the Northeastern States— Part I," Cornell University, Agri. Exp. Sta. Bul. 908, Nov. 1954.

orders. The act does not authorize resale price fixing as between handlers or to consumers. State jurisdiction over milk distribution comes within the police powers of the state as properly regulating an industry "affected with a public interest." In the use of such police powers, the state does not invade federal jurisdiction over interstate commerce. Where the Federal Government has not entered the field, states may adopt price-fixing regulations as to milk produced within its own borders destined for interstate commerce. The majority of such state regulations have established minimum producer prices, a lesser number fixing resale prices as well. States through such regulations cannot regulate "outside" milk or prevent milk within their borders from moving in interstate commerce in order to protect local needs. States are, however, permitted to establish resale prices on "outside" milk retailed within the state. At the present time, all Federal Marketing Orders are issued by virtue of the Agricultural Marketing Act of 1937. The policy of Congress with regard to milk distribution is set forth in the act substantially as follows:

".....To establish and maintain such orderly marketing conditions..... in interstate commerce as will establish prices to farmers (parity prices)... The prices which it is declared to be the policy of Congress to establishshall be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products... Whenever the Secretary (of Agriculture) finds...that

the (parity) prices.... are not reasonable in view of the (above conditions) he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest."

According to the provisions of the act, producer prices must be established on a "classified use" basis. Federal orders may provide "for the payment of prices which will be uniform either to all producers selling to a given handler (individual handler pool), or to all producers of all handlers under the order (marketwide pool), subject to appropriate differentials."

The Secretary of Agriculture has authority to regulate producer prices in a given market where the producers concerned request and approve the order, and such an order will accomplish the purposes of the act.

"An order may provide that payments to a new producer, 'for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification.....'" By the provisions of the act ".....no marketing....order.....shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production

area in the United States."

The Federal orders used in effectuating the purposes of the act have shown a decided preference for marketwide pools. As of April 1, 1955, 42 markets operated with marketwide pools as against 14 having individual handler pools. The fact that the Marketing Agreements Act requires only two-thirds producer participation for approval of marketwide pools in contrast to the three-fourths necessary for individual handler pools seems to be the generally accepted reason for this result.

PART IV.

CONCLUSIONS AND RECOMMENDATIONS

Majority Report

The Legislative Research Committee has studied and surveyed the operation of the Milk Commission Law (Milk Control Law) and held a number of public hearings to provide all interested parties with an opportunity to be heard. In addition, the Committee has met on several occasions with the Milk Commission, the Commissioner of Agriculture and Representatives of the Maine Agricultural Experiment Station and studied many authoritative publications. Reference to these publications are included in the bibliography to the report. In attempting to predicate its recommendations on the soundest possible foundation, the Committee has emphasized those aspects of the control law which are of the greatest interest and concern to producers, dealers and consumers. The report closely examines the origin and development of state milk control laws and in general stresses those features incident to price fixing. The provisions found in other state enactments have been summarized and their theory and application discussed in the report wherever pertinent. The Committee has sought to develop an impartial, factual presentation of the operation of the Milk Commission Law in the light of operative features and experience of other states in this particular field. The evidence presented at Committee hearings has not been indicative of any unique departure of conditions in Maine from those experienced in other states, though it has been stated at hearings that Maine, because

of geographical location, has a better opportunity to operate a milk control law. Evidence taken by the Committee has led to the conclusion that the people of Maine are subject to excessive price control regulation. The Committee believes that the authority of the Milk Commission should be closely adjusted to conform to the actual economic needs of the industry. An overall conclusion, concurred to in principle by all members of the Committee, is the proposition that price control at best constitutes an economic encroachment by the State and its perpetuation, based on economic need, should be subject to continuous scrutiny. Such an exercise of police power by the State, the Committee feels, is excusable only in instances of extreme economic emergency and should be promptly abandoned the moment stability is restored. The Maine Milk Control Law was enacted during the period between 1932 and 1935 when the legislatures of some 27 states adopted legislation of this type to stabilize serious market conditions arising from the depression. Since that time, there has been a pronounced tendency toward the repeal of such laws. In all, 15 states currently regulate producer prices, while 11 of these also establish retail prices. The milk industry has become increasingly subject to additional regulation in the form of federal control, but such control is limited in application to the producer level. Sixty-four markets presently operate under Federal Milk Marketing Orders. Maine has not been subject to federal intervention in its milk industry. The Milk Commission Law, as established in this state, authorizes

the Milk Commission to fix and establish, after investigation and public hearing, the minimum wholesale and retail prices to be charged for milk distributed for sale within the state, wherever produced. The Committee has accepted the proposition that producer price controls, as an assurance to producers, are presently essential to Maine milk market stability. It further accepts a necessary retention of retail controls, but only as an incident to support of producer price control. The Committee is not in favor of a perpetuation of these controls for the purpose of guaranteeing fixed profits to either producers or dealers. The Committee believes that the law should be so administered as to provide a foundation for sound market prices. It does not believe that its administration should impede the industry in developing desirable price schedules and marketing programs.

The Legislative Research Committee, based on its research and study of milk control in Maine, makes the following specific recommendations to the 98th Legislature relative to the Milk Commission Law and its administration:

SPECIFIC RECOMMENDATIONS

1. STATEMENT OF INTENT. That the Milk Commission be required, by amendment to the Milk Commission Law, to administer its functions subservient to a fundamental policy promoting the eventual self-sufficiency of the milk industry.

REASON. The Committee has not been convinced that the Milk Commission has consistently acted in the spirit in which the law was written and has frequently disregarded its respon-

sibilities in failing to promote and adopt beneficial changes and improvements. This recommendation is in keeping with the temporary nature of economic controls previously enunciated and stresses the importance of cooperative effort on the part of the Commission, the Commissioner of Agriculture and the industry to work toward the elimination of conditions necessitating retention of the present law.

2. LICENSING. That the Milk Commission be required, by amendment to the Milk Commission Law, to suspend or revoke a dealer's license in the event that such dealer is delinquent in payment to his producer.

REASON. The Committee in its conclusions has indorsed a present retention of the Milk Commission Law. The law, however, includes no provision whereby the producer is assured of payment for his product by his dealer. The inclusion of a provision requiring the suspension or revocation of a dealer's license conditioned on non-payment to his producer would strengthen the present law by providing necessary protection to producers against the insolvency and financial irresponsibility of their dealers.

3. COMMISSION MEMBERSHIP. That the Commission Law be amended to provide for the addition of two consumer members to the present membership of the Milk Commission.

REASON. The Milk Commission presently consists of 1 dealer, 1 producer-dealer, 2 producers and 1 consumer, with the Commissioner of Agriculture as ex officio member. The Committee believes that the addition of two consumer members

to the Commission would provide a more equal representation with those interests of the industry represented, eliminate criticism directed toward the Commission for this reason and increase the confidence of the general public in the administration of its functions.

4. INSTITUTIONS. That the Milk Commission Law be amended to provide for the exclusion of private, non-profit institutions from the minimum prices fixed and established by the Milk Commission.

REASON. The Committee believes that private institutions, operated on a non-profit basis and which serve a beneficial public interest, should be allowed those same benefits accruing to state institutions and the school lunch and school milk programs.

5. STORE DIFFERENTIALS. That the Milk Commission be required, by amendment to the Milk Commission Law, to fix and establish a price differential between milk sold in stores and home delivered milk.

REASON. The Committee feels that the present policy establishing the same retail price for both store and home delivered milk is inequitable. Milk delivered and sold at the home is in nature an additional service to the consumer at greater cost to the dealer and should merit a proportionately higher price over milk sold in stores, with the price saving accruing to those consumers who choose to purchase their milk at stores.

6. VOLUME DISCOUNTS. That the Milk Commission Law be amended

to provide consumers with price discounts for multiple sales of home delivered milk.

REASON. Under the present law and its administration no reduction in price is permitted for multiple sales of milk. The Committee believes that standard business practices whereby the price is reduced on quantity purchases should have equal application to the sale of milk. The Committee, in view of its recommendation for store differentials, urges that such a reduction be allowed only with respect to home delivered milk.

7. FARM SALES. That the Milk Commission Law be amended to provide for the unregulated sale of milk produced and sold on the premises to consumers.

REASON. The Committee believes that the milk producer who produces and sells milk on his own premises should be removed from the price-fixing jurisdiction of the Milk Commission, thereby being permitted to fix his own price to his consumers.

Recommendations 3 and 4 of the Majority Report, relating to Commission membership and private, non-profit institutions, respectively, are not concurred in by Senator Clarence W. Parker. The conclusions of Senator Parker, together with his recommendations, are expressed in his Minority Report, which follows:

Minority Report

The production, distribution and sale of milk constitutes one of the most important agricultural industries in Maine. There are approximately 5,000 Maine producers responsible for the production of this multi-million dollar commodity. In 1955, the gross farm income from this product alone was \$37,851,000. The milk industry should not be considered entirely from the standpoint of its economic value to the state, as milk is an essential food and it is important that an adequate supply be available to the consumer at all times. Milk production is greatly influenced by the prices paid to producers, and it is essential that this price be sufficient to maintain the level of production needed. The Milk Control Law was developed in response to disorderly conditions flowing from the depression for the purpose of stabilizing the milk industry for the benefit of producers, dealers and consumers. The Milk Commission, in fixing and establishing minimum producer and retail prices, has proved an effective instrument in maintaining market stability, insuring an adequate supply of quality milk and providing a reasonable return to producers and dealers. The law has existed for a period of over 20 years and requires some necessary changes. The adoption of those changes recommended by the Research Committee in toto would not be beneficial to the industry. Certain of the recommendations exceed the limits of reasonableness in undermining the effectiveness of the Milk Commission Law and raising the immediate possibility of impaired market stability.

The minority accepts those recommendations of the majority of the Committee in respect to store differentials, volume discounts, farm sales and licensing.

With respect to Commission membership, the addition of 2 consumer members to the present Commission membership, recommended by the majority, is not concurred in by the minority. The addition of 2 consumer members will offset the present balance which exists on the Commission, giving the consumer interest the largest membership on the Commission by any represented group.

The exclusion of private, non-profit institutions from the price-fixing jurisdiction of the Commission, recommended in the Majority Report, providing this recommendation were adopted by the Legislature, would severely curtail the ability of the Commission to control the unstable elements which are inherent to the milk industry. The minority does not accept this recommendation.

The recommendations made in the minority report with respect to Commission membership and private, non-profit institutions differ from those expressed by the Legislative Research Committee in its Majority Report, including a variance in conclusions. The Minority Report represents only the conclusions and recommendations of Senator Clarence W. Parker.

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A P P E N D I X

EXHIBIT I.

* RECORD OF APPOINTMENTS TO MAINE MILK COMMISSION*
*(Prior to August 5, 1949--MAINE MILK CONTROL BOARD)

Frank P. Washburn, Perry, Commissioner of Agriculture, Ex Officio	3/13/35- 1/1/40
Harold J. Shaw, Sanford, Producer-dealer, Chm.	3/13/35- 7/6/39
Walter H. Perkins, Portland, Dealer	3/13/35- 4/13/37
Wilbur T. Rowell, Brewer, Producer	3/13/35- 7/21/43
John A. Ness, Auburn, Producer	3/13/35- 8/3/39
George E. Donnelly, Portland, Dealer	4/23/37- 6/18/41
Earl P. Osgood, Producer-dealer	7/6/39 - Active
Robert H. Boothby, Livermore, Producer	10/19/39- 2/16/44
Carl R. Smith, Exeter, Commissioner of Agriculture, Ex Officio	1/1/40 - 8/1/45
Ralph E. Redfern, Portland, Dealer	6/18/41- 1/7/42
George E. Donnelly, Portland, Dealer	1/7/42 - 2/17/46
Leon R. Bowie, Durham, Producer	7/21/43- 9/18/47
Frank R. Bailey, Woolwich, Producer	2/16/44- 1/2/51
A. K. Gardner, Orono, Commissioner of Agriculture, Ex Officio	8/1/45 - 9/1/51
Donald L. Grant, Bangor, Dealer	2/7/46 - 6/29/55
Robert H. Boothby, Livermore, Producer	9/18/47-11/22/48
Ranson B. Kelley, Fairfield Center, Producer	11/22/48- 4/2/53
Stanley H. Blanchard, Cumberland Center, Producer	1/2/51 - 1/1/55
Ruth F. Loeb, Waterville, Consumer	8/27/51 - Active
Fred J. Nutter, Corinna, Commissioner of Agriculture, Ex Officio	9/1/51 - Active
Rex L. Varnum, Sebec, Producer	4/2/53 - Active
Dr. Ervin A. Center, Steep Falls, Producer	1/1/55 - 4/23/55
Albert L. Bean, Hudson, Producer	9/9/55 - Active
Alan H. Clark, Houlton, Dealer	10/7/55 - Active

EXHIBIT II.

Exhibition of Prices Changed in Portland Area from 1935 through
1954 Showing Retail Quart Prices, Producer Quart Prices,
Cwt. Price and Dealer Quart Spread.

<u>Effective Date</u>	<u>Quart Retail</u>	<u>Producers Quart</u>	<u>CWT.</u>	<u>Dealers Quart Spread</u>
April 7, 1935	\$.12	\$.055	\$ 2.56	\$.065
Nov. 1, 1935	.12	.0625	2.906	.0575
Feb. 16, 1936	.12	.06	2.79	.06
May 16, 1936	.12	.0575	2.67	.0625
Aug. 16, 1937	.13	.065	3.02	.065
July 15, 1941	.14	.0714	3.32	.0686
Jan. 15, 1942	.15	.0787	3.55	.0713
Jan. 16, 1943	.15	.0838	3.78	.0662
April 1, 1943	.155	.089	3.90	.066
June 1, 1946	.165	.092	4.30	.073
(End of O. P. A.)				
July 5, 1946	.195	.1161	5.40	.0789
Oct. 16, 1947	.205	.123	5.71	.082
July 1, 1948	.215	.13	6.06	.085
Aug. 1, 1948	.225	.1355	6.30	.0895
Oct. 1, 1948	.23	.14	6.52	.09
Jan. 1, 1949	.22	.131	6.08	.089
Feb. 16, 1949	.215	.126	5.86	.089
April 1, 1949	.205	.117	5.42	.088
July 1, 1949	.215	.126	5.86	.089
April 1, 1950	.205	.117	5.42	.088
July 1, 1950	.215	.126	5.86	.089
Oct. 1, 1950	.23	.136	6.31	.094
Aug. 1, 1952	.24	.141	6.55	.099
March 1, 1953	.23	.131	6.09	.099
April 1, 1953	.215	.117	5.43	.098
July 1, 1953	.235	.136	6.31	.099
Oct. 1, 1953	.24	.14	6.53	.10
Jan. 1, 1954	.24	.138	6.43	.102
March 1, 1954	.23	.129	5.99	.101
April 1, 1954	.215	.115	5.33	.10
July 1, 1954	.235	.134	6.21	.101
Oct. 1, 1954	.24	.138	6.43	.102
March 1, 1955	.23	.129	6.99	.101
April 1, 1955	.215	.115	5.33	.10
July 1, 1955	.235	.134	6.21	.101
Oct. 1, 1955	.24	.138	6.43	.102

EXHIBIT III.

Comparative Class I Prices

Portland and Boston 200 Mile Zone (per Cwt. of 3.7% Milk)

	<u>PORTLAND</u>				<u>BOSTON</u>				<u>Difference- Portland over Boston</u>			
	<u>1953</u>	<u>1954</u>	<u>1955</u>	<u>1956*</u>	<u>1953</u>	<u>1954</u>	<u>1955</u>	<u>1956*</u>	<u>1953</u>	<u>1954</u>	<u>1955</u>	<u>1956*</u>
Jan.	\$6.55	\$6.43	\$6.43	\$6.43	\$5.65	\$5.43	\$5.65	\$5.43	\$0.90	\$1.00	\$0.78	\$1.00
Feb.	6.55	6.43	6.43	6.43	5.65	5.21	5.65	5.43	.90	1.22	.78	1.00
March	6.09	5.99	5.99	5.99	5.21	4.99	5.21	5.21	.88	1.00	.78	.78
April	5.43	5.33	5.33	5.33	4.55	4.77	4.77	4.77	.88	.56	.56	.56
May	5.43	5.33	5.33	5.33	4.55	4.55	4.55	4.55	.88	.78	.78	.78
June	5.43	5.33	5.33	5.33	4.55	4.55	4.77	4.55	.88	.78	.78	.78
July	6.31	6.21	6.21	6.21	4.77	4.77	4.99	4.99	1.54	1.44	1.22	1.22
Aug.	6.31	6.21	6.21	6.21	4.99	4.99	5.21	5.21	1.32	1.22	1.00	1.00
Sept.	6.31	6.2.	6.21	6.21	5.43	5.43	5.87	5.43	.88	.78	.34	.78
Oct.	6.53	6.43	6.43	6.43	5.65	5.65	6.31	5.65	.88	.78	.12	.78
Nov.	6.53	6.43	6.43	6.43	5.65	5.65	6.31	5.65	.88	.78	.12	.78
Dec.	6.53	6.43	6.43	6.43	5.65	5.87	6.31	5.65	.88	.56	.12	.78

* Estimated

EXHIBIT IV.

LIVESTOCK AND LIVESTOCK PRODUCTS--Census of 1920 to 1954

<u>Cattle and Dairy Products:</u>		1954 (October)	1950 (April 1)	1945 (January 1)	1940 (April 1)
Cattle and calves	farms reporting.....	16,677	20,078	26,845	28,021
	number.....	227,523	204,875	230,894	215,883
	value-dollars..	19,849,281	23,551,294	17,593,294	9,393,739
Cows, including heifers that have calved	farms reporting number.....	15,412	19,193	25,898	27,153
	value-dollars..	115,655	107,702	140,255	138,206
		14,919,495	18,841,886	14,499,033	7,581,455
MILK Cows	farms reporting number.....	14,820	16,337	(NA)	26,988
		106,513	101,861	(NA)	132,160
Dairy products sold	farms reporting dollars.....	(NA)	10,093	12,752	17,586
		24,339,434*	22,070,916	16,826,837	9,192,067
Whole milk sold	farms reporting pounds.....	5,823	7,366	7,828	9,548
	dollars.....	518,664,765	409,949,973	385,515,605	302,279,671
		23,929,051	21,119,674	15,425,728#	7,751,281#
Cream sold	farms reporting lbs. butterfat. dollars.....	1,279	1,296	1,259	2,463
		661,056	607,011	742,362	1,804,065
		410,383	414,368	446,575#	572,784#
Butter, butter-milk, skim milk & cheese sold	farms reporting dollars.....	(NA)	2,769	4,730**	8,544**
		(NA)	536,874	954,534#	868,002#
Cows milked, day preceding enumeration	farms reporting number of cows.	14,264	16,927	(NA)	(NA)
		85,609	80,442	(NA)	(NA)
Milk produced, day preceding enumeration	gallons.....	206,459	210,353	(NA)	(NA)
Cows & heifers milked during any part of prec. yr.	farms reporting number	(NA)	(NA)	26,259	27,848
		(NA)	(NA)	116,814	123,448

(NA)- Not available.

* For 1954, whole milk and cream only.

Published values for 1945 and 1940 were computed on the basis of average prices. For this table, these values have been adjusted to equal the enumerated value of all dairy products sold.

** Butter sold.

EXHIBIT IV. (Con't.)

LIVESTOCK AND LIVESTOCK PRODUCTS- Census of 1920 to 1954

<u>Cattle and Dairy Products:</u>		1935 (January 1)	1930 (April 1)	1925 (January 1)	1920 (January 1)
Cattle and calves	farms reporting number.....	34,911	30,746	(NA)	41,239
	value-dollars..	245,010	257,048	236,446	300,747
		7,010,522	15,287,798	10,199,162	18,270,810
Cows, including heifers that have calved	farms reporting number.....	34,380	(NA)	(NA)	(NA)
	value-dollars..	158,444	129,906	158,260	182,517
		6,020,872	11,069,690	8,158,295	13,400,170
Milk cows	farms reporting number.....	(NA)	28,951	37,671	39,346
		(NA)	124,952	151,277	175,424
Dairy products sold	farms reporting dollars.....	(NA)	22,891	(NA)	(NA)
		(NA)	12,527,189	(NA)	15,523,524
Whole milk sold	farms reporting pounds.....	(NA)	10,089	(NA)	12,020
	dollars.....	(NA)	241,314,787	157,283,508	242,440,304
		(NA)	7,134,849	(NA)	8,881,006
Cream sold	farms reporting lbs. butterfat. dollars.....	(NA)	(NA)	(NA)	(NA)
		(NA)	(NA)	(NA)	(NA)
		(NA)	2,685,423	(NA)	2,598,720
Butter, butter-milk, skim milk & cheese sold	farms reporting dollars	(NA)	13,103**	(NA)	19,895**
		(NA)	2,706,917	(NA)	4,063,798**
Cows milked, day preceding enumeration	farms reporting number of cows.	(NA)	26,123	(NA)	(NA)
		(NA)	97,618	(NA)	(NA)
Milk produced, day preceding enumeration	gallons	(NA)	217,868	(NA)	(NA)
Cows & heifers milked during any part of prec. yr.	farms reporting number.....	34,503	30,427	38,859	(NA)
		143,475	131,426	149,736	(NA)

(NA) Not available.

* For 1954, whole milk and cream only.

Published values for 1945 and 1940 were computed on the basis of average prices. For this table, these values have been adjusted to equal the enumerated value of all dairy products sold.

** Butter sold.

EXHIBIT V. (Page 1)

County Table

LIVESTOCK AND LIVESTOCK PRODUCTS

Census of 1954 and 1950

			The State	Andros- coggin	Aroostook	Cumberland	Franklin
CATTLE AND DAIRY PRODUCTS:							
Cattle and calves	Farms reporting	1954	16,677	779	2,895	1,075	773
	Number.....	1950	20,078	1,034	3,522	1,396	872
Cows, including heifers that have calved	Farms reporting	1954	227,523	13,311	34,161	13,692	11,508
	Number.....	1950	204,875	12,985	29,144	13,619	10,715
Milk cows	Farms reporting	1954	15,412	717	2,826	945	728
	Number.....	1950	19,193	982	3,444	1,313	834
Heifers and heifer calves	Farms reporting	1954	115,655	7,148	17,396	7,222	5,348
	Number.....	1950	107,702	7,187	14,541	7,466	5,336
Steers and bulls, including steer and bull calves	Farms reporting	1954	14,820	700	2,705	893	711
	Number.....	1950	18,397	945	3,185	1,245	816
Whole milk sold	Farms reporting	1954	106,513	6,858	14,372	6,573	4,802
	Pounds.....	1950	101,861	6,880	12,724	7,117	5,037
Cream sold	Farms reporting	1954	13,097	646	2,362	802	630
	Lbs. butterfat..	1954	88,735	5,191	11,770	4,840	4,605
Cows milked, day preceding enumeration	Farms reporting	1954	9,048	390	1,831	575	426
	Number of cows	1954	23,133	972	4,993	1,630	1,549
Milk produced, day preceding enumeration	Farms reporting	1954	5,823	345	608	355	289
	Gallons.....	1949	7,365	488	639	508	365
Butter churned week preceding enumeration	Pounds.....	1954	518,664,765	36,022,706	45,858,876	34,862,545	22,431,118
	Dollars,.....	1949	409,849,973	33,155,010	24,902,700	31,132,362	22,177,222
Cows milked, day preceding enumeration	Farms reporting	1954	23,929,051	1,788,200	1,874,676	1,658,434	1,072,383
	Dollars,.....	1949	21,119,674	1,809,532	1,193,202	1,661,487	1,101,726
Milk produced, day preceding enumeration	Farms reporting	1954	1,279	37	435	57	42
	Lbs. butterfat..	1949	1,296	33	460	83	30
Butter churned week preceding enumeration	Farms reporting	1954	661,056	31,081	173,877	37,401	23,704
	Pounds.....	1949	607,011	16,567	132,548	45,452	7,389
Cows milked, day preceding enumeration	Farms reporting	1954	410,333	20,263	94,581	21,334	18,090
	Dollars,.....	1949	414,368	11,596	89,315	31,010	5,902
Milk produced, day preceding enumeration	Farms reporting	1954	14,264	671	2,594	856	698
	Number of cows	1954	85,679	5,447	10,833	5,328	3,843
Butter churned week preceding enumeration	Farms reporting	1954	206,459	13,942	23,485	13,612	9,646
	Gallons.....	1954	206,459	13,942	23,485	13,612	9,646
Cows milked, day preceding enumeration	Farms reporting	1954	4,710	155	1,073	295	242
	Pounds.....	1954	33,018	1,215	9,033	2,119	1,536

EXHIBIT V. (Page 2)

County Table

LIVESTOCK AND LIVESTOCK PRODUCTS

Census of 1954 and 1950

CATTLE AND DAIRY PRODUCTS:			Hancock	Kennebec	Knox	Lincoln
Cattle and calves	Farms reporting	1954	576	1,656	455	623
		1950	761	1,713	622	687
	Number.....	1954	3,898	24,563	4,663	5,972
		1950	3,953	21,920	4,528	5,061
Cows, including heifers that have calved	Farms reporting	1954	518	1,509	404	547
		1950	721	1,678	580	650
	Number.....	1954	2,065	12,501	2,283	2,650
		1950	2,188	11,540	2,416	2,503
Milk cows	Farms reporting	1954	498	1,452	393	518
		1950	678	1,528	569	616
	Number.....	1954	1,965	11,898	2,173	2,403
		1950	2,074	11,141	2,343	2,366
Heifers and heifer calves	Farms reporting	1954	354	1,309	328	464
	Number.....	1954	1,295	10,037	1,819	2,529
Steers and bulls, including steer and bull calves	Farms reporting	1954	272	886	224	328
	Number.....	1954	538	2,125	561	777
Whole milk sold	Farms reporting	1954	176	639	141	145
		1949	263	743	192	198
	Pounds.....	1954	7,571,615	61,346,898	9,670,880	9,492,052
		1949	5,585,554	48,339,528	9,890,183	8,032,923
	Dollars.....	1954	383,903	2,953,427	473,473	482,344
		1949	307,753	2,569,779	551,359	435,105
Cream sold	Farms reporting	1954	69	114	28	17
		1949	90	76	28	22
	Lbs. butterfat	1954	41,893	64,342	14,539	3,306
		1949	64,176	70,669	14,359	2,569
	Dollars.....	1954	27,192	42,840	9,024	1,994
		1949	44,451	47,038	9,185	1,694
Cows milked, day preceding enumeration	Farms reporting	1954	483	1,396	385	480
	Number of cows..	1954	1,670	9,640	1,795	1,980
Milk produced, day prec. enumeration	Gallons.....	1954	3,627	22,729	4,283	5,019
Butter churned week preceding enumeration	Farms reporting	1954	211	410	122	163
	Pounds.....	1954	1,233	2,919	746	893

EXHIBIT V. (Page 3)

County Table		LIVESTOCK AND LIVESTOCK PRODUCTS			Census of 1954 and 1950	
			Oxford	Penobscot	Piscataquis	Sagadahoc
CATTLE AND DAIRY PRODUCTS:						
Cattle and calves	Farms reporting	1954	1,161	1,703	430	284
		1950	1,357	2,177	559	341
	Number-.....	1954	14,191	30,243	7,357	3,969
		1950	13,353	27,017	6,068	3,684
Cows, including heifers that have calved	Farms reporting	1954	1,065	1,582	408	256
		1950	1,309	2,084	542	324
	Number.....	1954	7,116	15,296	3,751	1,960
		1950	6,907	14,131	3,324	1,996
Milk cows	Farms reporting	1954	1,021	1,522	394	237
		1950	1,256	1,977	526	310
	Number.....	1954	6,538	14,666	3,383	1,749
		1950	6,381	13,556	2,926	1,907
Heifers and heifer calves	Farms reporting	1954	914	1,386	358	227
	Number.....	1954	5,607	12,685	2,907	1,594
Steers and bulls, including steer and bull calves	Farms reporting	1954	597	895	232	143
	Number.....	1954	1,468	2,262	699	415
Whole milk sold	Farms reporting	1954	421	770	179	96
		1949	551	990	210	121
	Pounds	1954	33,361,462	82,477,744	17,664,851	7,978,754
		1949	26,805,165	63,235,473	11,499,414	7,205,423
	Dollars.....	1954	1,565,938	3,706,873	804,851	433,637
		1949	1,395,805	3,109,268	593,273	405,883
Cream sold	Farms reporting	1954	77	122	39	17
		1949	90	123	33	16
	Lbs. butterfat..	1954	38,267	70,253	21,690	17,418
		1949	38,395	95,657	13,960	8,663
Dollars.....	1954	26,081	43,257	14,897	10,797	
	1949	27,993	62,324	11,153	6,037	
Cows milked, day preceding enumeration	Farms reporting	1954	990	1,461	383	233
	Number of cows.	1954	5,196	11,854	2,781	1,469
Milk produced, day preceding enumeration	Gallons	1954	13,640	29,575	6,618	3,844
Butter churned week preceding enumeration	Farms reporting	1954	354	354	128	84
	Pounds.....	1954	2,438	2,571	1,009	494

EXHIBIT V. (Page 4)

County Table		LIVESTOCK AND LIVESTOCK PRODUCTS			Census of 1954 and 1950	
		Somerset	Waldo	Washington	York	
CATTLE AND DAIRY PRODUCTS:						
	Farms reporting	1954	1,496	1,078	644	1,048
Cattle and calves	Number.....	1950	1,521	1,265	867	1,324
		1954	25,217	15,109	4,512	15,063
		1950	21,678	12,406	4,551	14,093
Cows, including heifers that have calved	Farms reporting	1954	1,373	1,001	600	933
		1950	1,423	1,213	820	1,226
	Number.....	1954	13,022	7,828	2,365	7,686
		1950	11,332	6,790	2,639	7,506
Milk cows	Farms reporting	1954	1,335	982	580	879
		1950	1,438	1,188	768	1,192
	Number.....	1954	12,313	7,451	2,252	7,022
		1950	11,100	6,645	2,450	7,214
Heifers and heifer calves	Farms reporting	1954	1,208	845	409	837
	Number.....	1954	10,373	6,078	1,624	5,781
Steers and bulls, including steer and bull calves	Farms reporting	1954	820	589	265	575
	Number.....	1954	1,822	1,203	523	1,596
Whole milk sold	Farms reporting	1954	693	479	126	370
		1949	806	578	213	501
	Pounds.....	1954	66,412,611	37,198,090	7,985,954	38,327,688
		1949	49,706,478	28,052,048	7,635,137	32,495,353
	Dollars.....	1954	2,862,330	1,547,873	412,137	1,888,572
		1949	2,390,518	1,317,078	452,704	1,827,100
Cream sold	Farms reporting	1954	91	48	57	29
		1949	50	39	76	47
	Lbs. butterfat..	1954	40,897	11,074	29,765	41,559
		1949	38,519	14,679	22,618	20,791
	Dollars.....	1954	27,604	7,219	19,675	25,535
		1949	25,163	10,346	16,282	14,879
Cows milked, day preceding enumeration	Farms reporting	1954	1,286	949	564	845
	Number of cows.	1954	10,054	6,132	1,925	5,662
Milk produced, day prec. enumeration	Gallons.....	1954	23,270	14,431	4,321	14,417
Butter churned week preceding enumeration	Farms reporting	1954	353	289	248	229
	Pounds.....	1954	2,567	1,541	1,698	1,006