

# Some Economic Implications of Milk Control in Oregon

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## FOREWORD

The Oregon Legislature in 1933 created an Act "to provide for the supervision and control of the milk industry in the State of Oregon." (Oregon Laws, Chapter 32, Second Special Session, 1933.) The Legislature anticipated the need for an adequate body of economic information to guide the Milk Control Board in exercising its jurisdiction over the economic well-being of the industry. It made provision, therefore, for the Milk Control Board "to investigate with Oregon State College all matters pertaining to the production, manufacture, storage, transportation, distribution, and sale of milk in the State of Oregon." (Section 3b.)

In June 1939 the Milk Control Board requested the Agricultural Experiment Station to undertake a study and investigation into the economics of producing and marketing fluid milk in Oregon. This investigation included a study of the economic problems of the industry in 25 counties of the state. Inasmuch as economic regulation is an important factor affecting the problem of producing and marketing milk for human consumption, the investigators gave special consideration to the economic implications of the Milk Control Act.

This report presents a discussion of the findings in 24 of the counties surveyed. The survey in Multnomah County is now in progress and the results will be presented in a subsequent report.

This discussion of the problems of the fluid milk industry should be of value in aiding the interested public to gain an understanding of the operation of the Milk Control Act and some of the basic problems of milk control.

Comments and criticism of the subject matter presented are solicited.

A handwritten signature in cursive script, reading "W. A. Schoenfeld". The signature is written in dark ink and is positioned above the printed name of the Director of Experiment Station.

Director of Experiment Station

## SUMMARY AND CONCLUSIONS

1. The Oregon Milk Control Act was passed in 1933 to bring about economic stability in the fluid milk industry. The legislature thus indirectly placed on the state the obligation of maintaining an adequate supply of wholesome fluid milk to meet the market demand, and of maintaining a price fair alike to the producer, to the distributor, and to the consumer.

2. In order to accomplish the objectives of the Act, the Oregon Milk Control Board was given power to establish minimum prices to producers, to market middlemen, and to consumers; to define market areas; and to license those persons or firms producing and marketing milk for human consumption. The Board has no power to regulate the production or marketing of milk sold for manufacturing purposes.

3. An influx of new producers into the field of fluid milk production occurred between 1930 and 1934. The abnormal increase in the production of milk without a corresponding increase in demand disrupted the marketing structure in some communities. Sanitary standards suffered considerably in many localities as a result of the fact that prices to producers were insufficient to cover production costs under existing sanitary requirements.

4. The butterfat content of milk sold in Oregon averages well above the national average for fluid milk. After 1934 the attempts of the Milk Board to standardize the butterfat content of milk sold at a given price met with opposition from many producers who marketed their milk directly and from many consumers who felt that the Board was forcing upon them a lower quality of milk. The orders of the Board have fixed minimum prices for milk of given butterfat maximums, but they have never prohibited the sale of milk of a higher butterfat content provided prices be raised proportionately.

5. The Board's policy of basing its minimum price structure on the butterfat content of the milk appears sound. The Board should continue its present practice of considering the customs and habits of the consumers in each locality prior to establishing the butterfat tolerance for milk sold at a given unit price.

6. Production costs varied widely between market areas. These variations were attributable to a lack of uniformity in the sanitary practices under which the milk was produced and marketed, and to differences in labor, feed, and shelter costs. The sanitary conditions under which fluid milk is produced are determined by the regulations and inspection service established by the city in which the milk is sold, or in the absence of such regulations, by the State Department of Agriculture. Milk produced under rigid modern sanitary regulation is much more expensive to produce and is presumably worth more than milk produced under less rigid standards. A uniform price schedule ceases to be uniform, therefore, if the sanitary standards under which the milk is produced are not uniform. In the judgment of the investigators, the Milk Control Board, in establishing prices, should consider the extent to which cost of production is affected by sanitary standards.

The costs of feed, labor, and shelter vary widely between market areas. For example, at the time of the investigation the price of hay in Malheur County was \$5.00 per ton and in Wasco County, \$16.00.

7. Production costs also varied widely within the same market area. Such differences arose in part from variations in sanitary practices, in part from variations in sizes of the units, and in part from variations in managerial efficiency.

8. Uniform conditions of production and distribution essential to maintain a uniform state minimum price schedule do not exist. Any attempt, therefore, to continue to maintain a uniform state price structure in the absence of a reasonable degree of similarity in conditions of production and distribution would result in unjustifiable inequalities in the industry.

9. The success of economic control of the milk industry must be measured in terms of the improvements in the quality of milk, and the extent to which the efficiency of the industry has increased.

10. The investigators are of the opinion that the maintenance of minimum butterfat prices, the elimination of unfair competition as to sanitation and quality, and the limitation in the number of licensees, have made it financially possible for the producers and distributors to organize their business on a more permanent and therefore a more efficient basis. In the long run the stabilized conditions afforded by milk control should enable producers and distributors to operate at a cost lower than would otherwise be the case. This in turn would justify lower minimum prices. The apparent lack of opportunity for producers and distributors to shift into other lines of business, however, may cause the Board to hesitate to establish minimum prices that would limit the production and distribution of market milk entirely to the most efficient operators.

11. The investigators believe that the administration of the Milk Control Act has tended to stabilize the industry to the advantage of the industry and the public. The administrative procedure of the Board has been evolved since the law became effective in 1934. Precedents to guide the Board were lacking, and the disturbed economic conditions during the earlier years of the Board's existence made the establishment of proper precedents slow and difficult. During the six-year interval since the passage of the Act, the Board has developed a workable administrative program, and is accumulating a body of economic data that should enable it in the future to come nearer and nearer to a full attainment of the objectives of the Act.

12. The Milk Control Act can be administered to the best interests of the public and the industry only if there is a widespread understanding of the objectives of the Act and the administrative procedure of the Board used to bring about those objectives. To avoid misunderstanding with respect to the purpose of the Act and to aid in its administration, a program to educate both the public and the industry is needed. This is a legitimate function of the Milk Control Board.

# Some Economic Implications of Milk Control in Oregon

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## INTRODUCTION

Milk is a highly perishable commodity. Produced and marketed under proper conditions of sanitation, it is a highly favored and an economical food. Produced and marketed under unsanitary conditions, it is a source of danger to public health. Whether the production and marketing of fluid milk for human consumption is controlled by public authority or remains uncontrolled, the problem is of vital public interest. In Oregon the Legislature deemed the problem of sufficient public concern to regulate sanitary control through the State Department of Agriculture or to permit municipalities to control milk sanitation and to exercise economic control over the industry through the Oregon Milk Control Board.

The Oregon Milk Control Act has been in effect since January 1934; thus the administration of the Act through the Oregon Milk Control Board has been in progress for six years. During this period the effects of the administrative regulations issued by the Board on the economic welfare of the people of Oregon have been far reaching. The powers conferred upon the Board to establish minimum prices to producers, to market middlemen, and to consumers; to define market areas; and to license those engaged in the production and marketing of milk for human consumption, were untried. It has been incumbent on the Board to develop a satisfactory and effective administrative procedure without the benefit of the experience of any other agency to guide it.

Each of the three boards that has been in office since the Act became effective has recognized the evolutionary character of control measures such as the Oregon Milk Control Act. Beginning the administration of the law without the facts essential to a perfect administrative procedure, the Board has assembled over a period of six years a substantial body of information to enable it to administer more effectively the milk control legislation.

The Board by law has been financially a self-sustaining agency since its inception. Limited income from poundage and license fees has restricted its actions materially, particularly its ability to obtain by research the economic information basic to a more effective administration of the Act. The Board has always recognized these limiting factors, but it was not until June 1939 that it was able to undertake a research program to aid in guiding its administrative actions. In September 1939 the Board, in accordance with the Act, requested the Oregon Agricultural Experiment Station to undertake a study of the economics of producing and marketing fluid milk for human consumption in Oregon. By June 1, 1940, twenty-four\* counties were studied by members of the Experi-

\* Baker, Benton, Clackamas, Clatsop, Columbia, Deschutes, Douglas, Harney, Hood River, Jackson, Josephine, Klamath, Lane, Linn, Malheur, Marion, Polk, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, and Yamhill.

ment Station staff. At the completion of the economic survey in each county a report was submitted to the Oregon Milk Control Board by the Experiment Station setting forth in some detail the economic conditions surrounding the production and marketing of fluid milk for human consumption in the county.

The objective of this report to the Oregon Milk Control Board is to discuss some of the factors affecting the operation of the Milk Control Act in Oregon exclusive of Multnomah County. It presents, in the main, the viewpoints arrived at by the investigators as a result of a survey of the conditions of producing and marketing fluid milk for human consumption in each of 24 Oregon counties.

The authors have chosen to consider the broad problem of fluid milk regulation. The premise of the discussion is essentially this: The fluid milk industry is of particular concern to a large part of the people. The Milk Control Act, a piece of legislation designed to regulate the economic activities of this particular industry, placed on the state the responsibility of accomplishing through control measures the desirable aims of maintaining an adequate and continuous supply of a wholesome and necessary food product produced and marketed under conditions of efficiency that are socially the most desirable. The theoretical desirability of the economic control of the fluid milk trade has been accepted by the authors as a worthwhile social objective. In accepting the objective, however, they have not failed to recognize that regulatory measures seeking to reform existing methods must be applied within the framework of our social and economic institutions. This explains, in part, our emphasis on the customs and habits of the people who are directly affected by the Milk Control Act.

A discussion of the economic aspects of the sanitary practices governing the conditions of production and sale of fluid milk for human consumption was necessary in this report.

## LAW INTRODUCED TO PROTECT PUBLIC AND INDUSTRY

The Milk Control Act was proposed and adopted in an effort to prevent the continuance of unfair and disruptive trade practices in the fluid milk industry. These trade practices grew up in the course of the evolution of the fluid milk industry from one of individual relationships between producer and consumer to one of indirect relationships. These relationships have tended to become more indirect in the highly populated areas in which the producer of milk and the consumer of milk are definitely separated. Minor disturbances occurred quite frequently in the fluid milk trade prior to the depression of 1929. These disturbances were mainly seasonal in character; therefore, they were short-lived. With the advent of the depression, conditions in the fluid milk industry were disrupted considerably by the movement of persons formerly employed in other occupations into the fluid milk business, and by a shift of farmers from other types of farming to milk production for the purpose of obtaining a greater cash income. The competitive practices resulting from these abnormal adjustments began to impair the efficiency of the industry, to make less certain the flow of a continuous supply of wholesome milk to the consuming markets, and to cause a general breakdown of sanitary standards, thereby endangering public health. These developments were harmful to the public interest. It was for this reason that the Legislature chose expressly to designate the fluid milk industry as a business endowed with a particular public interest, and to regulate the economic activity of the industry for public protection.

## CUSTOMS AND HABITS OF THE PEOPLE AFFECTED BY MILK CONTROL

A realization of the setting into which the milk control was introduced is essential to an understanding of the economic aspects of the problem of milk control as it has developed and as it exists today. An outstanding characteristic of the milk marketing industry in 1934 was the lack of quality uniformity. Sanitary quality both within markets and between markets varied widely. In some markets sanitation was controlled by the State Department of Agriculture. In others it was a function of the municipality. In any case there was a wide variation in the type of regulations governing the areas under state control compared to those under local control. Since each of the cities carrying on the work of milk sanitation had its own ordinance and its own system of inspection, state-wide uniformity of milk was impossible. Quality differences with respect to the butterfat content of milk and cream were likewise important. During the milk marketing history of the state large numbers of relatively high testing Jersey and Guernsey cows had been introduced for the production of fluid milk. The milk from these high-test herds was sold as whole milk, sometimes in competition with milk from lower test herds of Holsteins, more often in competition with milk the butterfat content of which had been standardized, and very frequently in competition with milk of similar butterfat content.

As a result of competitive trade practices the consumers became accustomed to purchasing whole milk containing a high percentage of butterfat. Such practices later made extremely difficult the institution by the Board of a program fixing a minimum price on milk and cream of a given butterfat content. Since the Board chose milk with a butterfat content of 4 per cent as the point from which it developed its price schedule, the industry attempted to standardize at that point rather than charge the consumers a premium price for milk of a higher butterfat content. In some market areas it was necessary to reduce the butterfat content of the whole milk entering the market in order to sell the product at the Board's minimum price for 4 per cent milk. This practice met with consumer opposition.

A further feature of the problem in the larger markets of the state was the influence of organized labor on milk marketing costs, and consequently on milk prices—an influence that was not made less real because of lack of its recognition by the consumer, and an influence that had not come into existence in the smaller markets of the state.

## UNIFORM REGULATIONS INTRODUCED

The Milk Control Board introduced into this institutional picture a price regulatory measure and a licensing system for controlling the production and sale of fluid milk that are based on certain recognizable and basic assumptions. One of the most important of these assumptions is that of uniformity of the product to which the price is applied. In the case of a uniform price established on milk, uniformity of quality with respect to both sanitary cleanliness and to butterfat content is essential. An assumption is likewise present that a certain degree of uniformity exists with respect to the conditions of production and of distribution, for the application of identical regulations to two markets assumes that the conditions in one market are reasonably similar to those in the other. This carries no implication of a uniformity of conditions within a given market, for theoretically the price schedule is so constructed that all variations within the given market have been taken into consideration. In other words, no atten-

tion is given to differences in efficiencies of operation within a given market, but the price established is assumed to be that necessary to bring the required volume and quality of milk onto the market irrespective of such differences in efficiencies as may exist.

Other assumptions are that the regulations introduced by the administrative agency are for the common good; that the majority of the parties affected by the regulations desire the protections and benefits afforded to them; and that they are willing to accept the responsibilities placed on them as individuals.

### CONDITIONS ESSENTIAL TO UNIFORM STATE REGULATIONS DO NOT EXIST

With respect to the conditions that existed at the time of the institution of the Act we have little specific statistical information. Our conclusions must be drawn from the more or less generalized statements of conditions made at that time and recorded in various publications. Such is not the case with respect to the contemporary problem of milk marketing. The recently completed surveys of the fluid milk marketing situation existing in a number of Oregon counties have developed a considerable body of information having an important bearing on the problems of milk control in Oregon. The findings of these surveys indicate that the institutional pattern within which the Milk Control Act must operate at the present time is about the same as the pattern that appears to have existed at the time of the institution of the Act. The findings show conclusively, moreover, that the conditions of uniformity basic to an effective operation of the Board's orders have been and are virtually non-existent.

The Baker, Burns, Klamath Falls, Roseburg, Astoria, Seaside, and Tillamook markets indicated a degree of concentration of producing and marketing facilities. The individuals or groups of individuals engaged in producing and/or distributing milk to the fluid milk trade in these markets appeared to be working with each other or in competition with one another on a more or less harmonious basis. They recognized, perhaps, a certain common interest in the industry, the realization of which was contingent on the avoidance of the effects of friction in the industry. In contrast, the Salem, Eugene, Corvallis, and Linn County markets represented a lesser degree of concentration and a greater degree of friction in the industry. Each group was attempting to place the others in a position of competitive disadvantage. The methods used were substantially those that resulted in the market conditions existent in the years immediately prior to milk control; namely, price cutting, the offering of free goods and services, and the granting of rebates.

Absolutely accurate measurement of production and distribution costs in the market areas surveyed was not accomplished. On the other hand, the information obtained indicated conclusively that the items of production and distribution cost varied more or less between markets or between markets in given areas. For instance, the cost of producing milk in The Dalles, where hay was \$16 per ton, was materially higher than the cost in Malheur, where hay was approximately \$5 per ton. This is of material importance in the light of the commonly recognized fact that the cost of feed constitutes in the neighborhood of one-half of the cost of producing milk. Differences in labor costs in different markets exert their influences on production costs as well as distribution costs. Differences in climatic conditions in different areas, through their influence on the sheltering of the dairy cows, also exert influences on production costs that tend to result in variations in those costs as between the different areas of the state.

Sanitary requirements in the various markets are one of the most important factors influencing production costs. Within a few of the markets such as Astoria, Corvallis, and Klamath Falls, the requirements within the particular market were fairly uniform. They were likewise uniform as between these markets. On the other hand, the majority of the markets of the state possessed no such uniformity, either within the individual market or between markets.

Trade practices and consumer habits were not uniform with respect to the state as a whole. In some of the markets such as Albany, Ashland, Dallas, Redmond, and Tillamook, and particularly in the smaller markets of the state, the long cream-line habit of the consumer and the industry previously referred to is pronounced. In contrast to these markets in which the consumer buys his milk requirements directly from the producer, there are markets where one or more middlemen have assumed the tasks of assembling, processing, and distributing the fresh milk to the consuming public. In most communities such as Astoria, Burns, Klamath Falls, Medford, and Roseburg, this results in a standardization of the cream-line, and a standardization at a lower level than is common to the producer-distributor controlled market.

Fluid milk producers, producer-distributors, and distributors, the consumers, and the factory milk producers who may be considered as potential producers of fluid milk, have different group interests in their respective fluid milk markets. The proportionate sizes of these groups in the markets of the state vary materially. For example, Roseburg with a population\* of about 4,854 is served by 16 producers, 2 producer-distributors, and 3 distributors of fluid milk. In contrast, Ashland with a population of 4,617 is served by 2 producers, 13 producer-distributors, and 1 distributor; Grants Pass with a population of 6,000 is served by 10 producers, 13 producer-distributors, and 1 distributor; and Baker with a population of 9,294 is served by 1 producer, 3 producer-distributors, and 1 distributor.

### CONCEPT OF VESTED RIGHTS DEVELOPS UNDER SYSTEM OF REGULATION

The Milk Control Law was the result of an organized effort, particularly on the part of certain organized groups of producers, to bring about desired changes in the marketing of fluid milk through legal action. Under the licensing regulations instituted to carry out the objectives of the Act, certain individuals and groups of individuals have been more or less arbitrarily assigned or allotted a recognized legal interest in the production or the distribution of fluid milk in a given market. These assigned legal interests have tended to become recognized by the holders thereof as vested interests of which they can neither legally nor morally be deprived.

In the Eugene, Portland, and Salem markets those producers engaged in the production of milk for human consumption as of a given date were each allotted a share of the milk market. The share of the market as allocated by the Oregon Milk Control Board is termed the producer's quota. This arrangement prevented new milk producers from sharing in that market unless such a producer purchased the right from an existing quota holder. In effect the quota system assumes that a market franchise is granted by a state agency to a special group of producers to serve a market area. This plan is similar in many respects to the system of granting trading rights or franchises to traction companies and power companies. Since the quota system was instituted by the Board it has been modified to permit new producers to enter the market as the market expands, or to take up

\* Preliminary census figures for 1940.

the lapsed quotas arising as a result of old producers failing to fulfill their obligations of supplying their allotted share of market milk. A definite effort has been made to forestall the purchase and sale of quota rights by preventing the sale of quotas when such sales are not a part of a bona fide sale of the entire business or a part of the entire business of the seller.

An understanding of the development of this concept of vested interests and its results is important to an understanding of the milk control problem. Many of the difficulties encountered in administering the Act have intimate relations with the results of the development and spread of this concept. The immediate result has been the formation of pressure groups each attempting to bring its influence to bear on the Board in such a manner as to further its own interests, usually at the expense of the interests of the other groups. The amount of the pressure brought to bear on the Milk Control Board is dependent on the degree of organization realized by the particular group. The groups here under discussion are the producers, the distributors, and the consumers. There are, of course, certain overlappings of group interest with respect to certain individuals who may be engaged in more than one function in the fluid milk business. On the whole, however, the above division of interests is the division that is of principal importance.

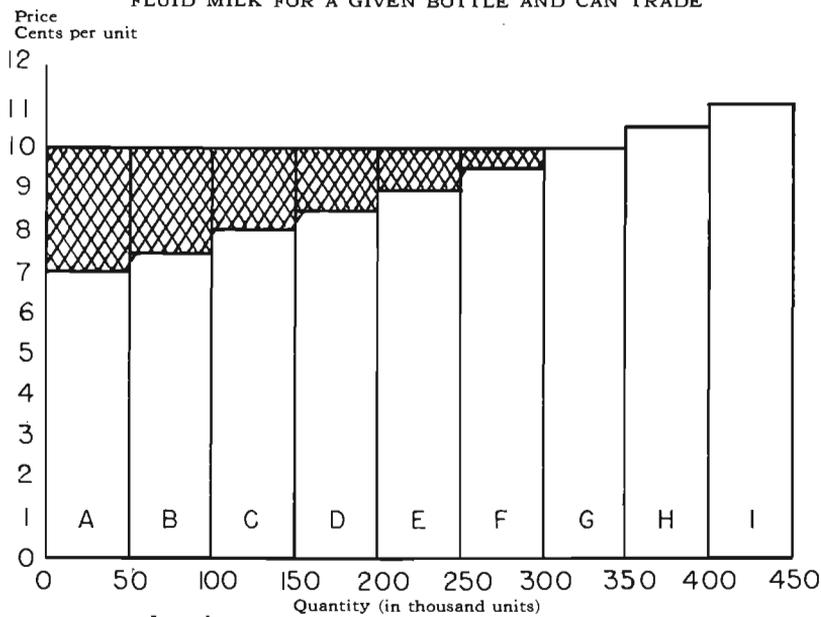
The interest of the producer groups is in obtaining as high a price as possible for the product produced. The producer is inclined to favor the consumer and to oppose the distributor in any situation involving a choice between the two. In other words, if it comes to a choice between an increase of the price to the consumer and a narrowing of the distributor's spread, the producer prefers to maintain the existing price to the consumer. The consumer's interest is always in a lower price, although the producer is likely to be favored if a lower consumer price is dependent on a choice between a lower price to the producer and a narrower distributor's spread. In general, the distributor's interest is in a wider margin to be obtained through a lower purchase price, if possible, although in the case of milk, which has come to be considered a necessity, the distributor is at times not averse to a wider spread obtained through an increase in consumer price.

These groups are continually attempting to exert an influence on the authority charged with the administration of the Oregon Milk Control Act. If the administrative agency follows consistently a program directed toward the maintenance on the market of an adequate and continuous supply of wholesome milk at a retail price consistent with the costs of producing and marketing under reasonably efficient conditions, the pressure groups serve a worth-while purpose of continually forcing the Board to appraise its actions in the light of current developments in the field.

The major problem of the Milk Control Board is to maintain an adequate supply of wholesome milk on the market at all times. To attain this objective the Board must establish a minimum price structure at a level sufficiently high to bring forth the necessary supply to meet the market demand. If the minimum price established is sufficiently high to cover the costs of each of the producers brought into the market, it is obvious that some of the low-cost producers will be in a position to earn a substantial profit from the sale of their products at the established price level. On the other hand, there will be certain groups engaged in supplying the market whose costs will be equal to their selling price. This condition is brought out in Chart 1 depicting the conditions of operation (costs) of each of several groups of producers in the market.

In the illustration it is assumed that the minimum price established by the Board is 10 cents per unit, the established minimum price is sufficiently high to

CHART I.  
ASSUMED UNIT PRODUCTION COSTS OF SEVERAL GROUPS PRODUCING  
FLUID MILK FOR A GIVEN BOTTLE AND CAN TRADE



Legend:

1. Unshaded areas represent producers' costs.
2. Shaded areas represent producers' return above costs.
3. Costs include a wage to the management and a normal return on invested capital.

bring into the market 350,000 units of milk necessary to meet the demand, and the milk is produced and marketed under acceptable conditions of sanitation. Supplying the market at the established price would be many producers whose costs vary considerably due to differences in managerial practices and to differences in labor and feed costs that are not directly controlled by the operators.

Reference to the diagram will show that the members of group A are supplying the market at a cost of 7 cents per unit, which yields to them a profit of 3 cents per unit. The members of group C have costs of 8 cents, with a profit of 2 cents per unit. On the other hand the members of group G have costs of 10 cents per unit, which equal the established market price. If any producers from group H try to enter the market their costs would be in excess of the price received. If the minimum price established by the Board is fixed at 9 cents per unit, under the conditions assumed the quantity of milk needed to supply the market would not be forthcoming unless a sufficient number of producers from groups F, G, H, or I attempted to participate in the market at the prevailing price level of 9 cents. Such a condition is possible if the producers are not aware of their costs, or if they deem it economically inadvisable to withdraw from the market as long as they are able to realize anything above their actual cash expenditures.

Assuming that each group in our illustration is operating under conditions of decreasing unit costs, in a limited market, and under a fixed price schedule, then

any group attempting to increase its return by producing and selling more than its designated 50,000 units must do so at the expense of the other groups. Under these same assumptions the only means of increasing sales available to any individual or group of individuals is that of rendering additional services. Any loss of business on the part of any individual or group will tend to decrease its efficiency, thereby causing an increase in the unit costs for those losing the trade. To the extent that the loss of efficiency on one hand is made up on the other, no harm is done.

The Milk Control Act recognized the growth of disruptive influences that not only tended to restrict the working out of the tendency toward decreasing unit costs, but may even have served to prevent or reverse such tendencies; and the Act aimed to eliminate and control such influences in so far as they endangered public health and impaired economic stability of the dairy industry in the state.

The administration of the Milk Control Act has undoubtedly had some constructive effect toward the elimination of some of the disruptive influences operative in the industry between 1929 and 1934. On the other hand, the administration of the law appears to have tended to maintain the status quo with respect to those competitive forces that might rightfully be expected to result in increased efficiencies if allowed to operate normally and without interference.

### RECOMMENDATIONS MADE TO BOARD BY EXPERIMENT STATION

Definite conclusions with respect to conditions affecting the operation of the Milk Control Act in each of the twenty-four counties surveyed were given in the report to the Board made at the completion of the survey of each county. In general the individual county reports recognized differences in the local conditions affecting the production and marketing of fluid milk for human consumption. It was recommended to the Board that variations in production costs resulting from differences in wages, feed prices, and sanitary standards be reflected in the minimum price structure established by the Board in each of the market areas. It was recommended also that consumer habits in each market area be recognized by setting the maximum butterfat content of milk sold at a given price in accordance with the local consumption habits of the people in the locality. The Board is now effecting the necessary changes in its price orders to bring about these desired ends. As a result of the changes instituted by the Board, the average butterfat standard of milk sold in the state is equal to or higher than that sold in 40 states for which data were available.\* At the same time the price to the consumer per unit remains well below the national average for milk containing a like amount of butterfat.

It is not the purpose of this report to review the conclusions already submitted to the Oregon Milk Control Board. It is appropriate, however, to make certain observations relative to the problems of administering the Act that have been covered in this paper.

### CONDITIONS UNDER WHICH ACT CAN BE JUSTIFIED

The justification of the Oregon Milk Control Act as a social measure depends on whether it attains the objectives of aiding competitive forces in increasing the efficiency of the industry and passing some of the benefits of increased ef-

\* See—Fluid Milk Market Report, May 13, 1940. United States Department of Agriculture, Agricultural Marketing Service, Washington, D. C.

iciency on to the consumers in the form of better quality or lower prices. A perpetuation of existing conditions is no justifiable basis for such regulation as the Oregon Milk Control Act. The law must slowly but surely promote greater efficiency by assisting producers and distributors to eliminate inefficient trade practices and excessive processing facilities. Within limits distributors and producers must be forced, if they are to continue in existence, to effect every possible economy in their operations. This means that inefficient producers and distributors and excessive facilities will be forced out of the market, much as they would be under the normal operation of competitive forces in the industry.

The belief held by many members of the fluid milk industry that the Act was intended to serve as a bulwark between their individual businesses and the interplay of economic forces that might tend to eliminate the less efficient among them is a pure misapprehension and in principle completely indefensible. Perhaps it should be pointed out here that optimum efficiency and desirable efficiency are not necessarily the same. Under present economic conditions there is great doubt whether the achievement of anything approaching optimum efficiency with the rearrangement of the factors of production and distribution that would of necessity accompany such achievement would be socially desirable. On the other hand, there is good reason to believe that some of the existing inefficiencies in the fluid milk industry are less desirable socially even under present economic conditions than would be a certain degree of rearrangement of the factors of production.

It has been pointed out that many members of the fluid milk industry have come to believe that the privileges that have been arbitrarily conferred upon them by Milk Control constitute vested interests of which they can neither legally nor morally be deprived. Many have gone so far in their acceptance of the inviolable character of these rights that they now make no attempt not forced upon them to carry out their responsibilities for producing a quality product at the lowest possible cost.

### EDUCATIONAL PROGRAM NEEDED

The authors believe that if the Act is to be most effective in furthering the social good the Board should engage in a program of education intended to impress upon the members of the industry the realization that the continuation of special market privileges is dependent on their acceptance of the responsibilities attached to those privileges. The authors believe further that the principal weakness of the Milk Control Act is that it is a step in advance of public thinking. This does not negate the social desirability of the aims and objectives of the law as a whole. The principle that laws to be effectively operative must conform approximately to contemporary social beliefs, is both recognized and adhered to by the authors. They therefore contend that in order that the Milk Control Board may realize the objectives of the Milk Control Act as rapidly as possible and with the least possible opposition from the public and the industry, the Board must effectuate through a program of public education a condition in which the Act can be administered to the advantage of society as a whole.

### ECONOMIC INFORMATION NECESSARY TO ADMINISTER THE ACT PROPERLY

The county survey reports in themselves have indicated what has been perhaps the outstanding weakness of the past administration of the Act. This paper has discussed and summarized the weakness; namely, the attempted maintenance

of a uniform price under conditions of widely varying quality standards and widely varying costs with respect to the state as a whole. This attempt has not been entirely the fault of the Milk Control Board. In part it has been forced upon the Board as a result of the unavailability of certain pertinent data basic to a proper administration of the Act. In part it has been the result of the slowness of operation of the administrative function made necessary by legal limitations set forth in the Act. In part it has been the result of the existence of segregations of legal responsibility over which the Board has no control.

The Board has been engaged recently in attempts to remedy some of the discrepancies of past administration. The investigators believe, however, that the Board will be distinctly handicapped in its administration until such a time as the weaknesses of administration, which are not attributable to the Board, are remedied. The necessity for cooperative measures with the State Department of Agriculture, which are designed to improve the conditions of quality in many market areas of the state, has been amply indicated. It is possible that the achievement of the necessary uniformity of quality might result from a change in the state law placing responsibility for the enforcement of quality standards. The ability of the Board to time its action to meet new conditions arising in connection with the operation of the Act is an important factor in the success or lack of success in its administration. It is believed, therefore, that the Board should give immediate attention to ways and means of expediting its administration of the Act.

The Oregon Milk Control Act is recognizably an attempt to regulate economic activity in a field in which there has been no past experience and in which no precedents have been established. Success or failure of the Milk Control Board should not be measured in terms of its individual actions, but only in terms of progress made toward bringing the desired economic stability to the industry and toward the accomplishment of the other social objectives of the Act. Perfection in regulation has not been achieved. The investigators believe, however, that definite progress has been made.

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