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THE DAIRY INDUSTRY AND THE AAA

**THE DAIRY INDUSTRY
AND THE AAA**

**BY
JOHN D. BLACK**

**WASHINGTON, D. C.
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1935

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DIRECTOR'S PREFACE

This is the third publication of The Brookings Institution in a series of six which deal with the handling of particular commodities or groups of commodities under the Agricultural Adjustment Act. These books present the results of a study of operations under the act concurrently with their progress. A group of specialists has been maintained in Washington since June 1933, and during 1933 and 1934 local observers have reported developments in important markets and producing states to the Washington staff.

This present report is based upon intensive study of the large body of data and information concerning the dairy products program that has been published by the AAA, the milk producers' associations, the other dairy co-operatives, and the several organizations of dairy distributor and processor interests. These sources were supplemented by interviews with hundreds of workers connected with these agencies and with the AAA organization. Members of our staff, Washington specialists and field observers, have attended many of the important public hearings on proposed marketing agreements and conventions of dairy interests organizations and have followed discussions in dairy and farm papers and reports of developments in the daily press in cities where licenses have been in operation. Thus their conclusions are based upon materials of very comprehensive character, many of which were not easy of access at the time and which have already in large part disappeared.

The author of this report has undertaken, as a background for interpretation and evaluation of the AAA activities relating to dairy products, to outline the condi-

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tions in the dairy industry out of which arose the demand for control and to analyze the problems with which such control is concerned. Much of the discussion, therefore, has an important bearing upon state as well as federal effort at control, and upon future developments in milk marketing regardless of what may happen to the current public ventures.

The actual writing of the volume has been in progress since June 1934, in a period during which the dairy industry itself has been unusually affected by weather conditions and by market forces, and also during which the efforts at administration have been greatly disturbed by the struggles of contending interests and the judicial decisions of numerous courts entertaining by no means harmonious views. Hence the policies of the Administration have been constantly in flux. It has been possible in the final reading of the proof to indicate only briefly the changes introduced by the new amendments to the act but not to project specifically their effects on the dairy products program of the AAA. These effects will be discussed in a summary volume to be published next year.

The manuscript of this volume was read and accepted by a committee consisting of Charles O. Hardy as a representative of the Institute of Economics staff, Joseph S. Davis, co-director of the AAA study, and myself. As in the case of all the books in the series, the views expressed are to be regarded as those of the individual author rather than as an Institutional pronouncement.

EDWIN G. NOURSE

Director

Institute of Economics

August 1935

AUTHOR'S ACKNOWLEDGMENTS

The author has been assisted greatly in the preparation of this volume by a large and diverse group of workers in the dairy industry. Staff members of milk producer associations and other dairy co-operatives and of milk distributing firms have discussed freely with him the problems arising under the dairy programs of the AAA, and have given freely of their time and information to the twelve resident observers who kept the author in touch with current developments in their markets. The milk administrators in a number of local markets have been of much help in interpreting current developments in their areas. Of particular value have been the discussions with officers of the several organizations of dairy interests and the reports and materials which they have supplied. Of course the study could not have been made had not the workers in the AAA been willing to answer thousands of questions as to the details of operation of the dairy products program.

The author acknowledges particular indebtedness to F. F. Lininger of Pennsylvania State College, who collaborated with him in the first part of the study and wrote the first report upon it; to Harry Trelogan of the University of Minnesota, who assisted him in Washington in the summer and fall of 1934; to Harold B. Rowe of The Brookings Institution staff, whose clear understanding of fluid milk problems he has found invaluable; to John M. Cassels of Harvard University for many fruitful suggestions derived from his *Study of Milk Prices*, about to be published; and finally to E. M. Vial, Gordon Sprague, John B.

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Shepard, and Richard K. Smith of the Bureau of Agricultural Economics for data used in the analysis of conditions in the dairy industry in Chapters II, III, and XIV especially. Like many other writers, the author has made free use of the data laboriously assembled and analyzed by these and other workers in the Department of Agriculture, and of charts and maps which they have designed and published, with only such passing recognition as a textual or footnote reference.

All or portions of the manuscript have been read by Mr. Lininger, Mr. James Tinley of the University of California, Mr. W. D. Hunnicutt of French-Bauer, Inc., Cincinnati, Mr. Charles W. Holman and Mr. Donald Kane of the National Co-Operative Milk Producers' Federation, Mr. W. A. Wentworth of the Dairy Industry Committee, and Mr. E. W. Gaumnitz, Mr. Paul Miller, Mr. J. W. Tapp, and Mr. Einar Jensen of the AAA. Many of their suggestions have contributed much to the improvement of the volume. Some suggestions have been accepted only in part or not at all; and none of those reading the report in advance of publication are in any way responsible for its statements.

JOHN D. BLACK

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APPENDIXES

APPENDIX A

PROVISIONS OF THE AGRICULTURAL ADJUSTMENT ACT RELATING TO DAIRY PRODUCTS¹

Sec. 8. In order to effectuate the declared policy, the Secretary of Agriculture shall have power—

(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments;

(2) *After due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce.* The making of any such agreement shall not be held to be in violation of any of the anti-trust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this act. . . .

(3) To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions, not in conflict with existing acts of Congress or regulation pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing

¹ Including the 1934 amendments, which are printed in italics. For pertinent excerpts from the 1935 amendments, see Appendix G.

thereof. The Secretary of Agriculture may suspend or revoke any such license, after due notice and opportunity for hearing, or violations of the terms or conditions thereof. Any order of the Secretary suspending or revoking any such license shall be final if in accordance with law. Any such person engaged in such handling without a license as required by the Secretary under this section shall be subject to a fine of not more than \$1,000 for each day during which the violation continues.

(4) To require any licensee under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such systems of accounts, as may be necessary for the purpose of Part 2 of this title.

Sec. 9(b). The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity; except that if the Secretary has reason to believe that the tax at such rate *on the processing of the commodity generally or for any particular use or uses* will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary finds that *any* such result will occur, then the processing tax *on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses* shall be at such rate as will prevent such accumulation of surplus stocks and depression of the farm price of the commodity.

Sec. 9(c). When any processing tax, or increase or decrease therein, takes effect in respect of a commodity the Secretary of Agriculture, in order to prevent pyramiding of the processing tax and profiteering in the sale of the products derived from the commodity, shall make public such information as he deems necessary regarding (1) the relationship between the processing tax and the

price paid to producers of the commodity, (2) the effect of the processing tax upon prices to consumers of products of the commodity, (3) the relationship, in previous periods, between prices paid to the producers of the commodity and prices to consumers of the products thereof, and (4) the situation in foreign countries relating to prices paid to producers of the commodity and prices to consumers of the products thereof.

Sec. 11. As used in this title, the term "basic agricultural commodity" means wheat, *rye, flax, barley*, cotton, field corn, *grain sorghums*, hogs, *cattle*, rice, tobacco, *sugar beets and sugar cane, peanuts*, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this title, during any period, any such commodity or classification, type, or grade thereof, if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this title cannot be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof.

Sec. 13. This title shall cease to be in effect whenever the President finds and proclaims that the national economic emergency in relation to agriculture has been ended; and pending such time the President shall by proclamation terminate with respect to any basic agricultural commodity such provisions of this title as he finds are requisite to carry out the declared policy with respect to such commodity. *In the case of sugar beets and sugar cane, the taxes provided by this title shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate at the end of three years after the adoption of this amendment unless this title ceases to be in effect at an earlier date, as hereinabove provided.* The Secretary of Agriculture shall make such investigations and reports thereon to the President as may be necessary to aid him in executing this section.

APPENDIX B

STATISTICAL TABLES

1. PER CAPITA ANNUAL CONSUMPTION OF DAIRY PRODUCTS IN THE UNITED STATES, 1926-33

Year	All Products (Milk equivalent, in gallons)	Milk Used in Cities and Villages ^a (In gallons)	Butter ^b (In pounds)	Cheese ^c (In pounds)	Con-densed Milk (In pounds)	Evapo-rated Milk (In pounds)
1926.....	94.9	39.3	17.76	4.36	2.75	11.56
1927.....	94.7	39.6	17.49	4.14	2.60	11.59
1928.....	94.4	39.8	17.12	4.11	2.56	12.50
1929.....	94.2	40.8	17.29	4.62	2.75	13.83
1930.....	95.0	40.6	17.30	4.71	2.66	13.68
1931.....	96.7	40.0	18.00	4.49	2.29	13.70
1932.....	95.5	40.0	18.14	4.39	1.80	14.41
1933.....	92.9	38.8	17.68	4.51	1.66	14.23

^a Milk and the milk equivalent of cream consumed per capita by that part of the population not on rural farms. These estimates include some milk and cream used in such products as ice cream.

^b Includes both farm and factory butter. These estimates include some butter used in other products such as ice cream.

^c Includes all kinds of cheese except cottage, pot, and bakers'.

2. ESTIMATED DAILY PER CAPITA CONSUMPTION OF MILK AND CREAM IN CITIES AND VILLAGES, 1923-33^a
By Geographic Divisions
(In pints)

Year	United States	North Atlantic States	North Central States	South Atlantic States	South Central States	Western States
1923.....	0.83	0.94	0.88	0.59	0.62	0.84
1924.....	0.85	0.95	0.89	0.62	0.64	0.87
1925.....	0.85	0.95	0.91	0.60	0.63	0.88
1926.....	0.86	0.97	0.92	0.60	0.64	0.89
1927.....	0.87	0.98	0.93	0.60	0.65	0.87
1928.....	0.87	0.99	0.92	0.61	0.67	0.86
1929.....	0.90	1.01	0.93	0.66	0.71	0.87
1930.....	0.89	1.00	0.93	0.66	0.70	0.89
1931.....	0.88	0.99	0.92	0.65	0.68	0.87
1932.....	0.88	0.98	0.91	0.65	0.67	0.87
1933.....	0.85	0.94	0.89	0.63	0.65	0.88

^a Cream is converted to its milk equivalent. The quantities of milk here shown as consumed are those indicated by reports from local boards of health. Current estimates of sales of milk and cream from farms and current estimates of milk production by cows not on farms, if confirmed by further study, would indicate a lower level of milk consumption in the South, particularly in the South Atlantic states. These data are from a report of the U. S. Department of Agriculture issued on May 24, 1934.

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3. COMPARISON OF DAIRY PRODUCT PRICES WITH OTHER FARM PRODUCTS AND PARITY PRICES
 By Years, 1910-32, and by Months, January 1933-February 1935
 (1910-14 average = 100)

Year	Actual Prices		Parity Prices	Year	Actual Prices		Parity Prices
	Farm Products	Dairy Products			Farm Products	Dairy Products	
1910.....	102	99	98	April.....	53	59	101
1911.....	95	95	102	May.....	62	63	102
1912.....	100	102	99	June.....	64	65	103
1913.....	101	105	101	July.....	76	71	107
1914.....	101	102	100	August....	72	72	112
1915.....	98	103	105	September..	70	76	116
1916.....	118	109	124	October...	70	78	116
1917.....	175	135	149	November..	71	78	116
1918.....	202	163	175	December..	68	76	116
1919.....	213	186	200	1934:			
1920.....	211	198	194	January...	77	84	117
1921.....	125	156	150	February..	83	92	119
1922.....	132	143	146	March.....	84	95	120
1923.....	142	159	149	April.....	82	91	120
1924.....	143	149	150	May.....	82	91	121
1925.....	156	153	154	June.....	86	93	121
1926.....	145	152	153	July.....	87	94	122
1927.....	139	155	151	August....	96	97	125
1928.....	149	158	153	September..	103	99	126
1929.....	146	157	152	October...	102	100	126
1930.....	126	137	144	November..	101	105	126
1931.....	87	108	124	December..	101	107	126
1932.....	65	83	107	1935:			
1933:				January...	107	112	126
January...	60	81	102	February..	111	121	127
February..	55	74	101	March.....	108	114	127
March.....	55	71	100	April.....	111	117	127
				May.....	108	107	127
				June.....	104	99	127
				July.....	102	96	126

4. COMPARISON OF ACTUAL AND PARITY PRICES OF SPECIFIED DAIRY PRODUCTS^a

By Years, 1921-32, and by Months, January 1933-February 1935
(1910-14 average = 100)

Year	Butterfat (In cents per pound)		All Milk Sold at Wholesale (In dollars per cwt.)		Milk Sold to Distributors (In dollars per cwt.)	
	Actual	Parity	Actual	Parity	Actual	Parity
1921.....	38.4	40.0	2.84	2.72	2.67	2.73
1922.....	36.6	39.2	2.53	2.67	2.31	2.67
1923.....	43.2	40.0	2.79	2.72	2.69	2.73
1924.....	40.5	40.0	2.50	2.72	2.63	2.73
1925.....	42.3	41.3	2.56	2.81	2.67	2.82
1926.....	41.9	40.8	2.51	2.77	2.74	2.78
1927.....	44.4	40.2	2.53	2.74	2.72	2.75
1928.....	46.0	40.8	2.56	2.77	2.77	2.78
1929.....	45.1	40.2	2.56	2.74	2.81	2.75
1930.....	35.0	38.1	2.30	2.60	2.68	2.60
1931.....	25.4	32.6	2.30	2.22	2.20	2.23
1932.....	18.1	28.1	1.77	1.92	1.72	1.92
1933:						
January....	18.9	26.8	1.25	1.83	1.55	1.83
February...	15.8	26.6	1.16	1.81	1.50	1.81
March.....	15.1	26.3	1.10	1.79	1.46	1.79
April.....	16.5	26.6	1.08	1.81	1.47	1.81
May.....	20.2	26.8	1.14	1.83	1.45	1.83
June.....	19.7	27.1	1.21	1.84	1.49	1.85
July.....	23.0	28.1	1.33	1.92	1.57	1.92
August.....	18.4	29.5	1.39	2.00	1.67	2.01
September..	19.6	30.5	1.47	2.08	1.72	2.08
October....	20.1	30.5	1.51	2.08	1.77	2.08
November...	20.4	30.5	1.51	2.08	1.79	2.08
December...	18.0	30.5	1.49	2.08	1.80	2.08
1934:						
January....	16.1	30.8	1.44	2.09	1.81	2.10
February...	21.6	31.3	1.48	2.13	1.80	2.14
March.....	23.5	31.6	1.50	2.15	1.79	2.15
April.....	21.0	31.6	1.46	2.15	1.81	2.15
May.....	21.5	31.8	1.45	2.17	1.81	2.17
June.....	22.2	32.1	1.47	2.18	1.82	2.17
July.....	22.1	32.1	1.50	2.18	1.86	2.19
August.....	24.3	32.9	1.52	2.24	1.91	2.24
September..	24.0	33.1	1.57	2.26	1.97	2.26
October....	24.3	33.1	1.60	2.26	2.02	2.26
November...	27.2	33.1	1.65	2.26	2.03	2.26
December...	28.2	33.1	1.69	2.26	2.04	2.26
1935:						
January....	30.5	33.1	1.76	2.26	2.05	2.26
February...	35.9	33.4	1.82	2.27	2.07	2.28
March.....	31.2	33.4	1.78	2.27	2.09	2.28
April.....	33.8	33.4	1.78	2.27	2.07	2.28
May.....	27.5	33.4	1.71	2.27	2.07	2.28
June.....	23.7	33.4	1.58	2.27	2.06	2.28
July.....	22.3	33.1	1.55	2.26	2.04	2.26

^a Not adjusted for seasonal variation.

APPENDIX C

THE METHOD OF COMPUTING PARITY PRICES FOR DAIRY PRODUCTS¹

BUTTERFAT, FARM BUTTER, AND MILK SOLD AT WHOLESALE.

In order to determine the farm prices for dairy products which would be equal, in terms of purchasing power, to such prices in the base period, it is necessary to adjust (multiply) average farm prices by the index of prices paid by farmers for commodities bought. Thus, if the prices paid by farmers for commodities bought by them in the base period is taken to be 100, then, for subsequent or other periods, in order for a unit of an agricultural product to purchase the same amount of the commodities farmers buy as such unit would purchase in the base period, the price of such unit must vary directly and proportionately with the prices of commodities farmers buy. Therefore, in order to compute the price for any given farm product that will purchase per unit the same volume of commodities farmers buy that such unit would purchase in the base period, the average farm price of such farm product during the base period must be multiplied by the index of prices paid by farmers for commodities bought during the period for which the so-called parity price or fair exchange value for the farm product is to be determined. The resulting figure, adjusted for seasonal variation if the fair exchange value is to be determined on a monthly basis, is the parity price or fair exchange value of the farm product. On the basis of the official figures, the difference between the farm prices of specified dairy products and the fair exchange value of such products as of December 1934 was as follows:

Butterfat	7.3 cents per pound
Butter (farms)	7.8 cents per pound
Milk sold at wholesale.....	64.0 cents per cwt.
Index of farm prices of dairy products.....	19.0

The foregoing figures represent the limit by which prices of

¹From *Dairy Memorandum No. 2.*

specified dairy products could have been raised as of December 1934, under programs instituted by the Agricultural Adjustment Administration (provided the percentage of consumers' retail expenditures for such products returned to the farmer was no greater than such percentage during the base period).

CLASS I MILK

Figures are available in the Department of Agriculture with respect to Class I milk (milk used for distribution as fluid milk) for a number of markets. The period covered by such figures varies widely between markets. Milk has been paid for on a use basis only since about 1918 and then only in relatively few of the larger markets. Thus, there are no figures relative to the price of Class I milk as such during the base period. Milk sold for distribution as fluid milk commands a rather large premium over milk sold for other uses. Therefore, it is obvious that the policy of Congress could not be effectuated by establishing Class I prices within the limits of the parity price for milk sold for other uses. As a matter of fact, in many cases, the actual Class I price for milk in many markets is above the parity price for milk sold at wholesale (milk which is used in the manufacture of butter, evaporated milk, ice cream, etc.) for the states in which the markets are located, regardless of whether or not the markets are operating under a federal milk license.

In view of the above, it has been necessary to compute parity prices for Class I milk in the markets operating under a federal milk license. These parity prices have been computed in accordance with statistical technique which is accepted as methodologically sound and used in the development of various series by the United States Department of Agriculture, Bureau of Agricultural Economics. The statistical device used in computing parity prices is an attachment device, and in order to establish the fact of the use of such device by the United States Department of Agriculture, Bureau of Agricultural Economics, the publication entitled "Index Numbers of Prices Paid by Farmers for Commodities Bought, 1910-1932," published in June 1933, by the United States Department of Agriculture, Bureau of Agricultural Economics, is by reference included in this report.

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The computation of the parity price for Class I milk in any particular market includes the following steps:

1. A comparison of the average Class I prices in the market and the average state (or states) farm prices of milk sold at wholesale during the period of 1923 to 1929, or during the period for which such Class I prices are available. The period 1923-29 is used because it represents a period during which the price movements of dairy products were fairly uniform and the relationships between the prices of dairy products were fairly constant. Furthermore, the period 1923-29 represents a more normal period than any other since the 1909-14 base period.

2. The state (or states) average price of milk sold at wholesale during the base period is increased by adding thereto the sum derived by multiplying such average by the percentage difference between the Class I and the state wholesale series during the period 1923 to 1929. The resulting price is the base period price for Class I milk. This figure is then multiplied by the current index of prices paid by farmers for commodities bought and adjusted for seasonal variation, the resulting figure representing the computed fair exchange value of Class I milk.

APPENDIX D

EXCERPTS FROM DR. CLYDE L. KING'S DISCUSSIONS OF DAIRY POLICY

A TENTATIVE OUTLINE OF A PROGRAM FOR THE DAIRY INDUSTRY¹

The dairy products program of the Agricultural Adjustment Administration contemplates effectuating the declared policy as set forth in the Agricultural Adjustment Act through marketing agreements. In addition, . . . licenses in milk markets may be issued.

While programs and procedure are outlined separately on the various manufactured milk products and the various fluid milk areas for the sake of speed and convenience, it is proposed at all times to keep in mind the proper co-ordination of the respective branches of the industry.

Manufactured Milk Products. Marketing agreements for manufactured dairy products will be directed primarily at (1) the elimination of practices tending to disrupt price structures, (2) a reduction in marketing expenses through the elimination of unfair and costly competitive practices, and (3) encouraging such marketing methods and practices as will result in increased consumption.

It is contemplated that agreements covering each major manufactured milk product will, as far as possible, be drawn on a national basis for administrative purposes though such national agreements may be supplemented by agreements pertaining to specific regions or local areas.

A national agreement covering the marketing of evaporated milk has been drafted and a public hearing held thereon. Somewhat similar agreements are being prepared for butter, cheese, ice cream, and dry skimmed milk. Supplementary regional or local agreements are being considered for butter and ice cream.

Milk for Consumption as Milk or Cream. Marketing agreements for milk for consumption as milk (referred to as fluid milk) will, in general, have the same purpose as outlined for manufac-

¹ Prepared for administrative use—mimeographed.

tured products. It is recognized that state and municipal regulations with respect to the production and sale of milk and cream for consumption as milk or cream are frequently such as necessitate prices for such milk being above prices for milk for manufactured purposes.

Such fluid milk agreements we feel should contain provisions that will tend to reduce milk production in fluid milk areas so that farmers producing milk for manufactured products may not have their markets unduly flooded by whole milk markets.

Agreements covering the marketing of fluid milk generally set up production areas within which individual dairymen are allotted (1) specific quantities of milk which may be sold for fluid purposes at named prices and (2) specified quantities of milk which may be sold for manufacture into cream at prices somewhat lower than indicated for the first but above prices for milk for manufacturing purposes. Additional milk sold is at a third stated price, lower than either of the first or second and is usually milk used for the manufacture of such products as butter, cheese, evaporated milk and ice cream.

Marketing agreements under the act must relate to interstate commerce.

... If deemed necessary licenses may be issued to all processors and distributors of milk in the area covered by the agreement, whether or not they have signed the agreement, so that uniformity of milk prices and distributive practices within the area may be obtained.

No one will be required to apply for licenses since all processors and distributors will be licensed without application.

THE OPERATION OF THE AGRICULTURAL ADJUSTMENT ACT WITH REFERENCE TO DAIRY PRODUCTS²

The good work of the co-operatives in the whole-milk field in the past ten years certainly leads us to one of the embarrassments of the industry at the present time, and that is that the price for milk, taking the United States as a whole, has been the best price of any basic commodity produced by farmers in the United States or

² Address before American Institute of Co-Operation, July 24-29, 1933.

in the world. That result was only by the determined effort of such co-operative organizations that combine to make this milk federation. The co-operatives have not only secured prices. They have secured honest weights and measures. They have secured assurances of fair tests, and they have given to the farmers that thing more precious than prices, and that is the opportunity to sit down and barter fifty-fifty across the table, with the men who buy their products.

Another reason why I believe in co-operatives, is this. I do not know how long this Agricultural Adjustment Act is going to last; I presume until the next session of Congress; for I hope that we may see pre-war parity in milk prices before next January, provided of course that the prices of other farm products go up so that the farmers will have alternatives other than milk production. In any case we must be ready to carry on in a permanent way whatever good may come out of this New Deal, in which I believe strongly.

But permanent good can come out of these efforts only as the farmers of the United States themselves organize to run their own show, so that when the government has done its work, agencies will exist which can carry on that work better than any governmental agency ever can.

Now let us turn to the purposes of the New Deal. If I understand the spirit of the New Deal aright, it consists of two things; (1) getting rid of the gyp; (2) convincing farmers that they can get higher prices only as they produce less. Now, neither of those things will be easy to accomplish. One fundamental tradition of American civilization is that everybody ought to do exactly as he pleases. To continue that tradition means to continue the depression to the point where the man with the lowest living standard and the lowest wage can set the price for all folks regardless of whether or not legitimate industry would like to set a higher price. For I submit to you that the depression was continued at least two years and we were dragged to the precipices of actual destruction of our civilization by what I am pleased to call the gyp, the chiseler, the man who is ready to go out and buy at the least possible price and sell at the lowest possible price regardless of the well-being of the farmers, and regardless of the well-being of the country. It was this process of deflation carried on by gyps and chiselers, deter-

mined to put in their own pocketbooks a few dirty nickels, at the expense of others, that in my humble judgment carried the depression to the depths we know. If the New Deal does not make it possible to put the well-being of the industry and of the group first over the selfish interest of anyone who wants to gyp the game, I say to you the depression will be on again in six months with a crisis such as we have never known before.

In my interpretation of who are the gyps I would like to be a little inclusive. I would like first of all to include those members of co-operative organizations where, say, basic surplus plans have been devised, who gyp the plan, do not live up to it, and do not have the loyalty to stand by their organization.

I would like to include in this group of gyps the producer-distributors who have been willing to undermine the market, already brought to higher standards by co-operative organizations, without any regard to the best interests of the whole.

I would like to include some distributors who have been ready to go to any place howsoever distant, and buy any product that was white and come in and sell it in competition with farmers who are compelled to produce milk under health standards and other standards set up by the state and city, which costs a lot of money.

Let me turn, if you please to the Agricultural Adjustment Act and what is going to be done under that act for the dairymen. I must distinguish in my remarks between the fluid milk dairymen and butter and cheese and the other manufacturing groups.

First of all, there must be trade agreements. Under the law all those trade agreements must have to do with milk in the current of interstate commerce. That certainly means that any purely local relationship between local producers and local distributors solely within a state unrelated—and please keep that work in mind—to interstate commerce can in no wise come under the protection of the Agricultural Adjustment Act as hoped.

The facts are, however, as I see them, that all milk in the United States is in interstate commerce. There is no such thing as local shipment of milk, the price on which cannot be broken by interstate shipments. And local shipments can burden interstate commerce.

All fluid milk prices are related to the prices for butter, cheese, dry milk, evaporated milk, ice cream, all of which products enter into interstate commerce. Fluid milk prices break down invariably when too far out of line with the price of milk going into manufactured products. Hence to protect the prices of milk and its products that are in the current of interstate commerce we must give equal protection to milk flowing into intrastate commerce.

Now these milk marketing agreements will provide for the elimination of practices that tend to disrupt the price structure. Reducing marketing expense through abolishing unfair trade practices and encouraging such marketing methods and practices as will result in a better product and therefore in increasing consumption I hope ought to bring milk to the consumer's doorstep at the least cost and at a price to producers that will bring pre-war parity, at least as soon as marketing conditions thus assisted will permit.

We could not be doing our duty in the milk trade agreements unless we put in all of them a provision that there must be some plan for controlling and decreasing production. Any dairyman who knows the facts knows that we are now within one per cent of the exporting of dairy products. This is another way of saying that if we produce one per cent more we are beyond the protection of the tariff, because the exporter of goods will set our prices. Our prices will be fixed by New Zealand and Australia and the other agricultural producing countries of the world, just as wheat prices and hog prices have been set by the hog and wheat-producing sections of the world. Hence it is in the interest of every dairyman to put milk under tariff protection. The dairyman is one of the few farmers who gets protection under the tariff in the sense that we are producing less than our present demand. Hence it is to the interest of every farmer, whether producing butter, cheese, whole milk or evaporated milk, to see that production is reduced so as to keep the total output somewhat below domestic needs.

STABILIZATION IN THE DAIRY BUSINESS ³

So I have placed as the first plank in the stabilization program for the industry the recognition of co-operatives and the support

³ Address before International Association of Milk Dealers, Sept. 21, 1933.

of the young men who, through hard knocks, have in the last few years learned a great deal about milk marketing.

A second essential, it seems to me is that in these whole milk-sheds there must be territorial limitations. If the cities and the states are to place health requirements as to sanitary conditions under which milk is to be produced, it is only fair that there be an adequate territorial limitation so that the farmers who have those added costs may benefit from the possibility of reasonably higher prices to compensate these costs.

If the fluid milk groups, however, are to have the advantages of territorial limitations (and I believe they should have them) it is only fair that they should meet the farmers who produce milk for butter or dry milk or evaporated milk or other manufacturing purposes, with production control programs so that these fluid milk areas do not throw out a great quantity of manufactured products to the detriment of the farmers who are selling milk to the manufacturing plants.

I think the very existence of territorial plans requires that all of you who are in whole milk areas see to it that you have production control programs that will not only protect your own markets from oversupply but will also make certain that there is not from these areas a flood of milk for manufacturing purposes from surpluses that do harm in the long run to the farmer who produces milk for butter and cheese and other products.

We have therefore insisted in every trade agreement that there be some plan of production control. We have never said that we know exactly what that plan of production control should be. Indeed, we are quite convinced that it ought to vary with every area in the United States. But we have insisted that some form of production control, whether it be a basic surplus plan or any modification of it, is prerequisite to approval of a whole milk trade agreement.

Not only must we have some territorial limits but it must be clear, as these trade agreements are set up, that all buyers must buy in that territory on the price and under the plan. If there is to be governmental supervision at all, it must be on the basis of absolutely the same price to everybody in the same territory with

nobody dodging his fair share of surplus costs, whether he handles milk six days a week or seven. I think all of you have an interest in the long run in seeing that everybody buys in the territory on the price under the plan taking their full share of the surplus, whatever the plan that is set up for production control.

Let us now come to the next and most essential part of stabilization as I see it. I think all of us are faced now as never before with the question as to whether milk is going to be kept on the retail wagon. It happens that I have been brought up in a school that believes there is nothing wicked about a retail wagon for milk distribution. I am not interested, as such, in the wagon or wagon driver. The interest of all of us is in the consumption of milk. We want to sell the greatest possible amount of milk to the public because the farmer gets his best price from whole milk and we want the public to consume the greatest possible quantity of milk because it is in the interest of health that that be done.

With those two fundamental premises we have to raise the question as to whether those two ends can be best secured by keeping milk on the retail wagon, assuming, of course, that the milk on the retail wagon can be distributed as economically as through any other channels.

Let us now frankly look at some of the facts. You all know that volume plays a very important part in the cost of milk distribution. If there ever was an industry in which volume counts, when the old law of increasing returns is effective, it is in milk distribution. That is, the greater the volume, the lower the unit cost, all other factors being equal. The greater the volume, with equal efficiency and management, the lower the cost of pasteurizing. The greater the volume, the lower the cost of processing and of bottling and of capping and of refrigeration.

The distributor with any volume at all ought, therefore, from the farm up to the counter of the store, have a unit cost that is lower than any store unless that store has a greater volume. That ought to be fundamental.

Therefore the question of costs runs from the counter of the store to the consumer's doorstep. As a matter of fact, loss leaders

aside and assuming equality in wages, many milk distributors are now putting milk on the doorstep at a cost below that of putting it on the counter of the store or at least at an equal cost.

Therefore, if wagon distribution is efficient with good loads and short hauls, there is no reason that I know of why the wagon distributor cannot put his milk on the doorstep seven days a week at a cost equal to or below that of putting it on the counter of the store six days a week. The habitual consumption is on the doorstep. The greater loss of bottles runs from the counter of the store to the consumer's doorstep.

**REMARKS TO EXTENSION WORKERS' CONFERENCE,
WASHINGTON, D. C.**

The milk agreements are essentially legal instruments. But after these legal instruments are drawn and the procedures are set, all of these whole-milk problems will be thrown right back into the communities from which they came. Our plan is to divide the United States as a whole into eleven districts—New England will be one, New York milkshed two, Philadelphia three, etc. These districts will then be divided into market regions or milksheds. In each market region will be a local market committee to be set up by the folks there. Each of these regions will choose a farmer and a distributor to represent them on the district committee. Those district committees will have to vary in number and, no doubt, in composition. From each of the eleven districts will be chosen one farmer and one distributor to come into the national committee in Washington to handle such problems as are not handled at home. Whole-milk marketing problems are essentially local problems. They are peculiarly one of those problems that will be made worse and not better by national centralization. Each of these local regions has its normal milksheds. These sheds cannot be set up artificially and get good results. By the same token they cannot follow state lines. Indeed, it is not in the interest of anybody that they should follow state lines.

The first and most important prerequisite to stabilization in these local milksheds is that there be local co-operatives around each of them or that they be organized where none now exist and that they be supported and strengthened to the end that when our days

are over, and they may be few, there will be left to continue a body of information and administration that can carry on.

The leaders of the milk co-operatives have been the only farm leaders in the United States who have had to stand up and assume responsibility and take the gaff for declining prices to farmers. Therefore, all the criticisms, fair and unfair, and all the villifications and all the publicity hounds seeking publicity at the expense of the farmers have nagged at these men since 1929. These leaders have, on the whole, done a good job, and a job that has taken ability and rare courage and a great amount of detailed marketing knowledge. To my mind, it would be nothing short of national disaster to lend any influence, locally or nationally, to the destruction of the work of those men.

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Our price goal is pre-war parity. We can get pre-war parity by artificial efforts, but getting it and holding it are two very different things. We have gone slowly enough to make sure that we are not destroying the very possibility of maintaining prices.

The milk industry has two embarrassments—first, the price on milk has been the best on the whole of any staple commodity that the farmer has had to sell for 15 years; second, the industry as a whole has paid the highest wage of any similar industry in the United States of any size or consequence for the same period.

Fair milk prices from the farmers' point of view, is essentially a test of whether the farmers are willing to assure themselves of higher prices by producing less milk at lower cost. Dr. Reed and other folks around here have presented the facts and arguments showing that the feeding of high-cost concentrates is not the least expensive way of producing milk in a nation-wide program. Only as production is lowered can prices be maintained at a higher relative level. A farmer can make more money by producing less milk and by feeding more of the less expensive foods.

The prices on milk have created a surplus of milk by-products such as butter and cheese. . . .

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To stabilize the price of butter, and to stabilize milk prices by other means as well, a processing tax is soon to be levied of one cent a pound.

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The dairy industry is the only farm industry of any size in the United States that has not been on an export basis. With the surplus we now have, the dairy industry is going to be forced on to an export basis unless our production is reduced. Once on an export basis the price of butter must be the London price, less transportation and other costs of getting the butter and other dairy products across the sea. Such a thing as that would be a catastrophe to the dairy business. We must everyone fight to the bitter end to see that the dairy industry is kept on a domestic basis and not on an export basis. Then the tariff can help.

That must mean in the long run a strong definite production control program. There are many phases of that production control program to discuss. The purpose of production control is to keep for the farmers of the West a domestic not a foreign price for butter, cheese, evaporated milk and all other milk by-products.

Everyone of these trade agreements contains a clause saying that the distributors shall keep such accounts as are prescribed by the Administration and that the accountants for the Administration shall have full and complete access to the records and books of those distributors, and the Secretary shall publish from time to time the results of the audit of these books in the form of statistical data. The purpose of these provisions is to keep spreads down to the lowest possible minimum consistent with quality and decent services.

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We are engaged in the uneconomic thing of trying to raise prices to farmers before their markets invite prices to rise. It is the only thing to do.

We have other problems that we must pass on. One is the unethical loss leader. One-half of the milk farmers in the United States in the last ten years have had their prices crashed to a butter-fat level by the determination of some gyp to buy anything that is white and sell at as low a price as possible with as low wages as possible in order to attract some female into his store to buy something else while buying milk and pay for that something else a price high enough to make up the loss on milk. This unethical practice is a detriment to the whole industry. I think an industry

that can't build up its own business without false advertising and false statements of that kind deserves to go by the board.

We have been working on butter agreements and on agreements on cheese, evaporated milk, dry milk, ice cream, and every other branch of the industry. We will have one committee on butter, one on cheese, one on ice cream, one on evaporated milk, etc. Each will have its chairman and when we get the group together, the dairy industry can speak as a group to the end that the prices paid for milk will be as high as is consistent with keeping production down to domestic use.

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[Excerpt from the discussion following the address:]

DR. KING: Well, let me say right off the bat that among the suggestions for production control have been the following: First, that we somehow or other take cows off the market. There have been several varieties of that: It will take about 2 million dollars to clean up all the T. B. in the United States outside of California. . . . The second was to buy cows three to four years in calf pregnant, for the reason, first, it will reduce production now; second, it will reduce production in the next five years. Third, we will have to buy culls, and with the money that we have we can make a dint. The fourth proposition is to begin to buy heifers, pregnant. I haven't heard much on that because it is forward looking and has nothing to do with the present. If we could, we would buy every cull in the United States. There is another problem that I wish we could do something with. I wish someone would suggest a way to get rid of the Bang's disease in the United States. If I knew a method, with the possibility of money, by which we could do that, I would go after it. The problems involved are so tremendously difficult that I suppose we have to abandon it. . . .

I think that the dairy industry, not now an export industry with the proper amount of preparation and self-interest, can keep itself a domestic industry without burdening the farmer with the extra heavy taxes at this time, for the taxpayer is going to be mighty tax-weary by next Congress.

Now then we are going to have to get down to what we are really going to do. We are going to ask the milk industry that the produc-

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tion be cut down. That, however, is only half of the problem; probably not half. What are you going to do with the butter folks? Is the farmer going to make home-made butter and sell it around and keep the prices down. I am not sure but what we may come to an allocation of cheese and concentrated milk. Another thing that hasn't been discussed is the control of credit. . . . If you choose between methods of that kind and let the dairy industry be a surplus industry with the disaster that it is going to meet in the long run, I am one of those who is willing to try anything once at production control. Now those are the things that are now being discussed. There is a very able committee working on it. We are right on the verge of it. We have to have production control in effect before next April. The most we can ever hope to do by practice is to stabilize production of milk through butter and cheese.

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APPENDIX E

AMENDED LICENSE FOR MILK—DETROIT, MICHIGAN, SALES AREA¹

ARTICLE I—PREAMBLE

Whereas, it is provided by Section 8 of the Agricultural Adjustment Act, as amended, as follows:

"Sec. 8. In order to effectuate the declared policy, the Secretary of Agriculture shall have power—

"(3) To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions, not in conflict with existing acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof.

"(4) To require any licensee under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such systems of accounts, as may be necessary for the purpose of Part 2 of this title" . . . and

Whereas, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of said act, for the purposes and within the limitations therein contained, and pursuant to the regulations issued thereunder, has on the thirty-first day of March 1934, issued a license for milk—Detroit sales area, and

Whereas, Henry A. Wallace, Secretary of Agriculture, acting under the provisions of said act, for the purposes and within the

¹ Issued by the Secretary of Agriculture, Nov. 1, 1934; effective date, Nov. 5, 1934.

limitations therein contained, and pursuant to the regulations issued thereunder, has on the thirteenth day of June 1934, issued an amendment to the license for milk—Detroit sales area, and

Whereas, the undersigned finds that the marketing, distribution and handling of milk and the products thereof, covered by this license, are in the current of interstate commerce since the portion thereof which occurs within the bounds of a single state affects and actually and potentially competes with the marketing, distribution and handling of commodities and products which occur between or among several states, and since the commodity, and the products thereof, covered by this license cannot be separated into interstate and intrastate portions, the supply and the marketing, distribution and handling thereof being inextricably commingled, so that it is impossible to regulate the interstate marketing, distribution and handling without also regulating the intrastate marketing, distribution and handling, and the failure to regulate the latter will defeat and obstruct the purposes of the act with respect to the former:

Whereas, the undersigned has determined to modify the terms and conditions of said license for milk—Detroit sales area, as amended, pursuant to Section 8 (3) of the Agricultural Adjustment Act and applicable General Regulations of the Agricultural Adjustment Administration; and

Whereas, the undersigned finds that this amended license and the terms and provisions hereof are in accordance with the provisions of Section 8 (3) of the said act and tends to effectuate the purposes of the said act; and

Whereas, the undersigned finds that the subject matter of this amended license is embraced within the scope of a hearing heretofore held on a marketing agreement pursuant to applicable General Regulations of the Agricultural Adjustment Administration;

Now, therefore, the undersigned, acting under the authority vested in him as aforesaid,

Hereby amends and modifies the terms and conditions of the said license and hereby licenses each and every distributor to engage in the business of distributing, marketing or handling milk or cream as a distributor in the Detroit sales area, subject to the terms and conditions set forth in this amended license.

ARTICLE II—DEFINITIONS

Section 1. *Definitions of Terms.* As used in this amended license, hereinafter called the "license," the following words and phrases shall be defined as follows:

1. "Act" means the Agricultural Adjustment Act approved May 12, 1933, as amended.

2. "Secretary" means the Secretary of Agriculture of the United States.

3. "Detroit Sales Area," hereinafter called the "sales area," means the territory within the corporate limits of the cities of Detroit, Highland Park, Hamtramck, Dearborn, River Rouge, Wyandotte, Trenton, and all the balance of the County of Wayne, State of Michigan, except the townships of Sumpter, Huron, Van Buren, Romulus, Canton, Plymouth, Northville; the territory lying within the corporate limits of the cities of Pontiac and Royal Oak, the townships of Waterford, Pontiac, Troy, Bloomfield, West Bloomfield, Southfield, Royal Oak, Farmington and such other cities as may lie within the boundaries of the aforesaid townships, in the County of Oakland, State of Michigan: The territory lying within the corporate limits of the city of Mt. Clemens and the townships of Warren, Erin, Lake, Clinton, Harrison and Chesterfield and cities lying within the boundaries of the aforesaid townships in the County of McComb, State of Michigan.

4. "Person" means any individual, partnership, corporation, association or other business unit.

5. "Producer" means any person, irrespective of whether any such person is also a distributor, who produces milk in conformity with the applicable health requirements in force and effect within the sales area for milk to be sold for consumption as whole milk in the sales area.

6. "New Producer" means (1) a producer whose milk was neither being purchased by distributors nor being distributed in the sales area within 90 days prior to the effective date of this license, or (2) a producer who has ceased to market milk pursuant to the terms and provisions of this license for a period of 45 consecutive days or more, and thereafter markets milk pursuant to the terms and provisions of this license.

7. "Distributor" means any of the following persons, (irrespec-

tive of whether any of such persons is a producer or an association of producers), wherever located or operating, whether within or without the sales area, engaged in the business of distributing, marketing, or in any manner handling, whole milk or cream, in whole or in part, for ultimate consumption in the sales area:

- (a) Who pasteurize, bottle or process milk or cream;
- (b) Who distribute milk or cream at wholesale or retail to (1) hotels, restaurants, stores or other establishments for consumption on the premises; (2) stores or other establishments for resale; and (3) consumers;
- (c) Who operate stores or other establishments selling milk or cream at retail for consumption off the premises;
- (d) Who purchase, market or handle milk or cream which is sold for resale in the sales area.

8. "Subsidiary" means any person of, or over whom or which, a distributor or an affiliate of a distributor has, or several distributors collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

9. "Affiliate" means any person and/or any subsidiary thereof, who or which has, either directly or indirectly, actual or legal control of or over a distributor, whether by stock ownership or in any other manner.

10. "Books and records" means books, records, accounts, contracts, memoranda, documents, papers, correspondence or other data pertaining to the business of the person in question.

11. "Market administrator" means the person designated pursuant to Article III.

12. "Delivery period" means the period from the first to, and including, the last day of each month.

13. "Established base," for each producer (including each distributor, who is also a producer), means that quantity of milk allotted to such producer in accordance with the provisions of Exhibit A, which is attached hereto and made a part hereof.

14. "Delivered base," (1) for each producer, means that quantity of milk delivered by such producer to distributors which is not in excess of the established base of such producer, and (2) for each distributor who is also a producer, means the quantity of milk produced and sold or distributed by such distributor as Class I,

Class II and Class III milk which is not in excess of the established base of such distributor.

ARTICLE III—MARKET ADMINISTRATOR

Section 1. *Designation, Removal, Bond and Liability.* The market administrator shall be designated, and shall be subject to removal at any time, by the Secretary. The market administrator, within forty-five (45) days following the date upon which he enters upon his duties, shall execute and deliver to the Secretary a bond in such amount as the Secretary may determine, with surety thereon satisfactory to the Secretary, conditioned upon the faithful performance of the duties of such market administrator. The market administrator shall not be held personally responsible in any way whatsoever to any licensee or to any other person for errors in judgment, mistakes of fact or other acts, either of commission or omission, except for acts of dishonesty, fraud or malfeasance in office.

Sec. 2. *Duties.* The market administrator shall:

1. Perform such duties as may be provided for him pursuant to this license and amendments thereto.
2. Keep such books and records as will clearly reflect the financial transactions provided for in this license, which books and records shall be subject to examination by the Secretary at any and all times.
3. Furnish such information and such verified reports as the Secretary may, from time to time, request.
4. Obtain a bond with reasonable security thereon for each employee who handles funds entrusted to the market administrator under the provisions of this license.

Sec. 3. *Rights.* The market administrator shall have the right:

1. To borrow money for the purpose of establishing an office with the necessary equipment and supplies, and for the purpose of meeting current operating expenses during not to exceed two delivery periods; which moneys shall be repaid from the funds retained by the market administrator to meet his cost of operation.
2. To incur necessary expenses, including compensation for persons employed by the market administrator for the proper conduct of his duties, and including the cost of procuring and continuing his bond.

3. To examine the books and records of the distributors and the books and records of the affiliates and subsidiaries of each distributor for the purpose of (1) verifying the reports and information furnished to the market administrator by each distributor pursuant to this license, and/or (2) obtaining the information from any distributor in the event such distributor fails to furnish reports or information as required by this license.

4. To check sampling, weighing and butterfat tests of milk made by distributors, to determine the accuracy thereof, and for the purpose of assuring proper payments to producers. In the event of a discrepancy between the weights and tests determined by the market administrator, and the weights and tests determined by the distributors, settlements shall be made by distributors upon the basis of such weights and such butterfat tests as the market administrator may in each case decide.

5. And the power, upon the specific approval of the Secretary, to institute legal proceedings in his own name, as market administrator, and to take any other steps which may be necessary, to collect any and all moneys which may become due and owing to him as such market administrator and to enforce such obligations as accrue to him as such market administrator under the terms and provisions of this license.

Sec. 4. *Compensation.* The market administrator shall be entitled to reasonable compensation, which shall be determined by the Secretary.

ARTICLE IV—CLASSIFICATION OF MILK SALES AND USES

Section 1. *Primary Sales and Uses.* Milk purchased or handled by distributors shall be classified according to its sale and use as follows:

1. Class I milk means all milk sold or distributed by distributors as whole milk for consumption in the sales area.

2. Class II milk means all milk used by distributors to produce cream for sale or distribution by distributors as cream for consumption in the sales area.

3. Class III milk means the quantity of milk purchased, sold, used or distributed by distributors in excess of Class I and Class II milk except as set forth in Section 2.

Sec. 2. *Other Sales and Uses.* Milk sold or distributed as milk or cream outside the sales area or sold to other distributors or persons whether within or without said sales area shall be classified as follows:

1. Milk sold in bulk as milk or cream by a distributor who is also a producer to a distributor operating a bottling or processing plant shall be accounted for as Class III milk by such selling distributor, and if such buying distributor uses or sells such milk for other than Class III purposes such buying distributor shall account to the market administrator for the difference between the value of such milk or cream at the Class III price and the value of such milk or cream at the Class I or Class II price according to its usage; such difference in value shall be added to the total value computed pursuant to paragraph 1, Section 1 of Article VIII.

2. Except as provided in paragraph 1 of this section, milk sold or distributed by a distributor as milk or cream (1) outside the sales area or (2) to another distributor or person, whether within or without the sales area, shall be accounted for by such selling distributor as Class I and Class II milk, respectively; *Provided*, That if such selling distributor, on or before the date fixed for filing reports pursuant to Article VI, shall furnish to the market administrator satisfactory proof that such milk or cream has been utilized for a purpose other than the sale of distribution for ultimate consumption or use as milk or cream, then, and in that event such milk or cream shall be classified in accordance with such other use.

ARTICLE V—PRICES TO DISTRIBUTORS AND CONDITIONS OF SALES

Section 1. *Prices.* Each distributor, except as hereinafter provided, shall be obligated to pay, in the manner hereinafter set forth in this license, the following prices for milk, of 3.5 per cent butterfat content, which he has purchased from producers, including new producers, delivered f. o. b. distributor's plant:

1. Class I milk—\$2.40 per hundredweight.
2. Class II milk—For each hundred pounds of milk, 3.5 times the average price per pound of 92 score butter at wholesale in the Chicago market as reported by the United States Department of

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Agriculture for the delivery period during which such milk is purchased, plus 33 $\frac{1}{3}$ per cent thereof, plus 20 cents.

3. Class III milk—For each hundred pounds of milk, 3.5 times the average price per pound of 92 score butter at wholesale in the Chicago market as reported by the United States Department of Agriculture for the delivery period during which such milk is purchased, plus 18 per cent thereof.

Sec. 2. *Adjustments in Cost of Milk to Distributors.* The prices set forth in Section 1 of this article shall be subject to adjustments in accordance with the following:

1. With respect to Class I and Class II milk received by distributors at plant locations specified below, there shall be deducted the amounts specified below for such plant locations:

Location	Transportation Adjustments per Hundredweight	Location	Transportation Adjustments per Hundredweight
No. Farmington . . .	14c	Fowlerville	20c
Cherry Hill	14c	Brown City	21c
Flat Rock	14c	Adrian	21c
Farmington	14c	Marlette	22c
Willis	15c	Clifford	23c
Newport	14c	Perry	23c
So. Lyons	15c	Vassar	24c
Washington	14c	Owesse	25c
Remee	15c	Grass Lake	21c
Steney Creek	15c	Litchfield	27c
Richmond	15c	Sandusky	24c
Peters	16c	Homer	27c
Saline	16c	Ray Center	15c
Brighton	16c	Creswell	24c
Ortonville	17c	Deckerville	27c
Maybee	16c	Raymone	22c
Memphis	17c	Stockbridge	23c
Belle River	17c	Ovid	27c
Clinton	18c	Mason	23c
Atlas	18c	Watertown	23c
Grand Blanc	18c	Battlerun	17c
Imlay City	18c	Brooklyn	21c
Capac	19c	Parma	25c
Lapeer	19c	Hillsdale	27c
Yale	20c	Almont	16c
Britton	20c		

2. Unless the prior written consent of the market administrator is obtained for some other basis of computation, Class I and Class II milk for each distributor shall be deemed to have been taken in the order above named from milk delivered to such distributor at plants within and nearest to the sales area.

3. With respect to Class I and Class II milk sold, distributed, or used outside the sales area, the market administrator may make an adjustment equal to the difference between the Class I and Class II prices specified in Article V and such prices as the market administrator may determine to be the prevailing market prices in the market where such milk or cream is sold, distributed, or used, with reasonable allowance for transportation to such markets.

Sec. 3. *Other Licenses for Milk.* If any milk is purchased from producers pursuant to the terms and conditions of this license and sold as milk for ultimate consumption in another market with respect to which a license is in effect pursuant to Section 8 (3) of the act covering such purchase from producers and such sale as milk, then, and in that event the license in effect in the area in which such milk is sold for ultimate consumption shall govern the prices and condition of such sale.

Sec. 4. *Transactions with Violators.* No distributor shall purchase milk or cream from, or process or distribute milk or cream for, or sell milk or cream to any other distributor who he has notice is violating any provision of this license.

Sec. 5. *Prior Contracts.* Any contract or agreement entered into by a distributor prior to the effective date of this license, covering the purchase, delivery and/or sale of milk and its products, shall be deemed to be superseded by the terms and conditions of this license insofar as such contract or agreement is inconsistent with any provisions of this license.

ARTICLE VI—REPORTS OF RECEIPTS AND SALES OF MILK BY DISTRIBUTORS

Section 1. On or before the fifth day after the end of each delivery period, each distributor (other than those who operate only stores or similar establishments) shall report to the market administrator in a manner prescribed by the market administrator, with respect to milk or cream received and/or produced by such distributor, during such delivery period as follows:

1. The deliveries to each plant location from producers, who are not also distributors, supplying such distributor, the total quantity of milk represented by the delivered bases of all such producers and the total quantity of milk represented by the excesses over delivered bases of all such producers, and the deliveries of new producers supplying such distributor.

2. The total quantities of milk which were sold, used or distributed by such distributor as Class I, Class II and Class III milk, respectively, including sales to other distributors.

3. The deliveries of milk made to such distributor by any other distributor, including a distributor who is also a producer.

4. The quantity of milk produced by such distributor, if any, which was sold, used or distributed by him as Class I, Class II and Class III milk, respectively.

5. Upon first receiving milk from any producer (1) the name of such producer, (2) the date on which such milk was first received, and (3) whether or not such producer is a new producer.

6. Such other information as the market administrator may request for the purpose of performing the provisions of this license.

ARTICLE VII—DISTRIBUTORS NOT MARKETING WHOLE MILK AND DISTRIBUTORS WHO ARE ALSO PRODUCERS

Section 1. *Distributors Not Marketing Whole Milk.* Any distributor who does not sell or distribute whole milk for ultimate consumption or use in the sales area:

1. Shall not sell cream to other distributors for distribution and ultimate consumption or use in the sales area at a price less than the price at which such distributor sells similar cream for distribution and ultimate consumption nearest the location where milk is processed into such cream by such distributor, plus the reasonable cost of transporting such cream to the sales area.

2. Shall not be subject to the terms and provisions of Section 1 of Article V, nor of Articles VIII, IX, X, XII or XIII; but shall submit any or all reports pursuant to Article VI upon the request of the market administrator.

Sec. 2. *Distributors Who Are Also Producers.* With respect to each distributor who is also a producer:

1. The market administrator shall, subject to the conditions set

forth in paragraph 3 of this section, exclude in the following manner all milk produced and sold by such distributor from the computations pursuant to Section 1 of Article VIII:

(a) The milk produced and sold in excess of delivered base by such distributor by deducting such excess over base from such distributor's total Class III, Class II and Class I milk, (after excluding purchases from other distributors), using all of each class of milk in the order above named before making any deduction from the succeeding class of milk.

(b) The delivered base of such distributor, subject to the provisions of paragraph 2 (b) of this section.

2. The market administrator shall, subject to the condition set forth in paragraph 3 of this section, include in the computations pursuant to Section 1 of Article VIII:

(a) The difference in value between the excess over delivered base of such distributor, multiplied by the Class III price and the total value of such excess over base apportioned among such distributor's Class III, Class II and Class I milk pursuant to paragraph 1 (a) of this section and multiplied by the Class III, Class II and Class I prices, respectively.

(b) The milk purchased by such distributors from other producers and the value thereof, computed as follows: The quantity of such milk shall be ratably apportioned among such distributor's total Class I, Class II and Class III milk after making the adjustments and deductions set forth in paragraph 1 (a) of this section, and shall multiply such adjusted quantities by the Class I, Class II and Class III prices, respectively.

3. The market administrator shall, upon prior written notice from such distributor of the exercise thereof, grant the option of having all milk produced by such distributor included in the computation made pursuant to Section 1 of Article VIII in lieu of the provisions of paragraphs 1 and 2 of this section:

4. Milk sold in bulk as milk or cream by such distributor to another distributor operating a bottling or processing plant shall be accounted for as Class III milk by such selling distributor pursuant to paragraph 1, Section 2 of Article IV.

Sec. 3. *Limitations.* No provisions in this license shall be construed to relieve any distributor who does not sell or distribute

whole milk or any distributor who is also a producer from any of the obligations of this license except as set forth in Sections 1 and 2 of this article. The provisions set forth in Section 2 of this article shall not apply to any distributor other than a person who produces milk distributed by himself as whole milk or cream.

**ARTICLE VIII—DETERMINATION AND NOTIFICATION
OF PRICES TO PRODUCERS**

Section 1. *Computations.* With respect to each delivery period, the market administrator shall:

1. Compute the total value of the milk reported by each and all distributors pursuant to Article VI on the basis of the classification and prices with adjustments as set forth in Articles IV and V, respectively, which computations shall not include the milk or the value thereof (1) as purchased by distributors from other distributors except as set forth in paragraph 1, Section 2 of Article IV, (2) as excluded from such computations under the provisions of Article VII, or (3) if classified as emergency milk pursuant to Section 3 of Article IX.

2. Compute the total quantity of milk which represents the delivered bases of producers (excluding new producers) and which is included in the computations pursuant to paragraph 1 of this section.

3. Compute the total value of the milk (including all milk delivered by new producers) which is in excess of the delivered bases determined pursuant to paragraph 2 of this section and which is included in the computations pursuant to paragraph 1 of this section, by multiplying such quantity of milk by the price per hundred pounds which is equal to $3\frac{1}{2}$ times the average wholesale price of 92 score butter in the Chicago market as reported by the United States Department of Agriculture during such delivery period.

4. Compute the total value of the quantity of milk represented by the delivered bases of producers by subtracting the value obtained in paragraph 3 of this section from the value obtained in paragraph 1 of this section.

5. Compute the total adjusted value of the milk represented by the delivered bases of producers by adding to the value obtained

in paragraph 4 of this section, the adjustments set for in Section 5 of Article IX.

6. Compute the blended price for the quantity of milk represented by the delivered bases of producers by dividing the adjusted value obtained in paragraph 5 of this section by the quantity of milk represented by the delivered bases of producers as determined in paragraph 2 of this section, which blended price shall be subject to adjustments as set forth in Section 2 of this article.

Sec. 2. *Adjustments for Reserves.* The market administrator may adjust the blended price, computed pursuant to Section 1 of this article, for the purpose of establishing and maintaining a reserve fund against (1) the failure or delay of distributors to make payments on equalization accounts pursuant to Section 2 of Article X, (2) errors and discrepancies in reports of distributors, and (3) errors and discrepancies in equalization accounts, including adjustments on delayed reports of distributors: *Provided*, That such adjustments in the blended price for any one delivery period may not, except upon the specific approval of the Secretary, exceed an amount equal to two (2) per cent of the total value of milk reported by distributors for such delivery period. Such reserve fund shall at no time contain a net amount in excess of ten (10) per cent of the value of the milk reported by distributors for an average delivery period and shall in no event be used by the market administrator to meet any costs or liabilities incurred by him under this license. If and when all or any portion of said reserve fund is not necessary to accomplish the purpose for which it was created, equitable distribution thereof shall be made by the market administrator to the producers supplying milk for distribution in the sales area.

Sec. 3. *Notification of Producer's Prices.* On or before the eighth day after the end of each delivery period, the market administrator shall notify all distributors, whose reports are included in the computations made pursuant to Section 1 of this article, of (1) the blended price computed pursuant to Section 1 of this article, as adjusted pursuant to Section 2 of this article, (2) the price to new producers and for excess over delivered bases as determined pursuant to paragraph 3 of Section 1 of this article, and (3) the Class II and the Class III prices as provided for in Section 1 of Article V.

ARTICLE IX—PAYMENTS TO PRODUCERS

Section 1. *Payments to Producers and New Producers.* Each distributor shall pay to producers and to new producers on or before the fifteenth day after the end of each delivery period for milk delivered by such producers during such delivery period, subject to adjustments as set forth in this article and deductions as set forth in Article XII, as follows:

1. The blended price for the quantity of milk delivered by each producer not in excess of such producer's delivered base;
2. The price per hundred pounds of milk which is equal to $3\frac{1}{2}$ times the average wholesale price of 92 score butter in the Chicago market as reported by the United States Department of Agriculture during such delivery period, for the quantity of milk delivered by each such producer in excess of such producer's delivered base; and
3. The price per hundred pounds of milk, which is equal to $3\frac{1}{2}$ times the average wholesale price of 92 score butter in the Chicago market as reported by the United States Department of Agriculture during such delivery period, for the total quantity of milk delivered by each new producer, which price shall apply from the date when milk is first received from such new producer to the end of the first full delivery period.

Sec. 2. *Additional Payments.* Any distributor may, with the prior approval of the market administrator, make payments to producers in addition to the payments pursuant to Section 1 of this article: *Provided*, That such additional payments are made to all such producers supplying such distributor with milk of similar quality and grade. No distributor may accept services from or render services to a producer or an association of producers from whom he is purchasing milk without making a reasonable payment or charge, as the case may be, for such services.

Sec. 3. *Emergency Milk.* During any emergency period when the normal supply of milk from producers is not sufficient to meet the Class I and Class II requirements of any distributor, such distributor may, with the prior approval of the market administrator, purchase milk for such emergency purposes from producers on terms and conditions other than those set forth in this article and in Article XII, but at prices not less than the equivalent of the prices set forth in Article V, in which event such milk shall not be

included in the computations as provided in Article VIII, but shall be reported separately to the market administrator by such distributor.

Sec. 4. *Butterfat Differentials.* Each distributor shall pay three (3) cents per hundredweight of milk for each $\frac{1}{10}$ of one per cent butterfat content above, and shall deduct a similar amount for each $\frac{1}{10}$ of one per cent butterfat content below 3.5 per cent butterfat on all milk on which prices are paid producers pursuant to Sections 1 and 2, except when the average wholesale price of butter in the Chicago market for any delivery period is 25 cents or more per pound, then, and in that event, the above differential of three (3) cents shall be four (4) cents. Fractions of $\frac{1}{2}$ or $\frac{1}{10}$ of one per cent or more shall accrue to the benefit of the producer, if below $\frac{1}{2}$ of $\frac{1}{10}$ of 1 per cent to the benefit of the distributor.

Sec. 5. *Location Adjustments in Payments to Producers.* Each distributor shall, in making payments to producers (excluding new producers) pursuant to Section 1 of this article, deduct from the price to be paid for the delivered base of any producer who delivers milk at a plant location specified in paragraph 1 of Section 2 of Article V, the adjustment specified for such plant location.

ARTICLE X—EQUALIZATION AMONG DISTRIBUTORS AS TO PAYMENTS TO PRODUCERS

Section 1. *Equalization Accounts.* The market administrator shall maintain for distributors whose reports are included in the computations pursuant to Article VIII, records and accounts which will accurately disclose for each distributor (1) a debit of the total value of milk as computed for such distributor pursuant to paragraph 1, Section 1 of Article VIII, (2) a credit of the total payments to be made by such distributor pursuant to Section 1 of Article IX, after giving effect to the adjustments pursuant to Section 5 of Article IX, and (3) the payments to be made by such distributor to the market administrator and payments to be made by the market administrator to such distributor.

Sec. 2. *Statement to Distributors and Payment of Balances.* On or before the tenth day after the end of each delivery period the market administrator shall render a statement to each distributor whose reports are included in the computations pursuant to Article

VIII, showing the debit or credit balance, as the case may be, in the equalization account of such distributor with respect to milk purchased, sold or used during such delivery period. Debit balances shall be paid to the market administrator on or before the twelfth day after the end of each delivery period. Any funds so paid to the market administrator, shall, as soon as reasonably possible, be paid out by him pro rata among the distributors having credit balances in proportion to, but only to the extent of, each such credit balance.

**ARTICLE XI—PRODUCERS AND PRODUCERS'
CO-OPERATIVE ASSOCIATIONS**

Section 1. *Payments by Co-Operatives.* No provision in this license shall be construed as controlling or restricting any producers' co-operative association which meets the requirements of the Capper-Volstead Act and is licensed as a distributor under this license, with respect to the actual deductions or charges, dividends or premiums to be made by such association from and/or to its members: *Provided*, That no such deductions or charges may be made by any such producers' co-operative association from any of its members, to meet a current operating loss incurred by such producers' cooperative association in its processing or distribution operations unless (a) expressly and specifically authorized by any such member to make such deductions or charges for such purpose, and (b) the producers' co-operative association notifies the market administrator of the same.

Sec. 2. *Right to Check Weights and Tests.* A producers' association shall at all reasonable times have, with respect to its members, the right to check sampling, weighing and butterfat tests of milk made by distributors: *Provided*, that the market administrator has given notice that such association is qualified to perform satisfactorily the services specified in Section 2 of Article XII.

Sec. 3. *Transportation Rights.* Producers shall have the right to deliver milk to plants or platforms of distributors, using any reasonable method of transportation which they, in their discretion, may select. No distributor shall interfere with or discriminate against producers in the exercise of such right. At the request of the market administrator, each distributor shall from time to time, submit a verified report stating the actual transportation charges

on all milk delivered to him f. o. b. any and all plants, for the purpose of permitting the market administrator to review such transportation charges and to determine the reasonableness thereof.

ARTICLE XII—DEDUCTIONS FROM PAYMENTS TO PRODUCERS

Section 1. *For Market Administration.* Each distributor shall deduct $\frac{3}{4}$ cents per hundredweight from the payments to be made by him pursuant to Article IX in regard to all milk delivered to him during each delivery period by producers who are not also distributors and shall on or before the fifteenth day after the end of each such delivery period, pay such deduction to the market administrator, and each distributor who produces milk distributed by him shall make a similar payment for milk produced by him and sold during each delivery period as Class I, Class II or Class III milk. Such payments shall be retained by the market administrator in a separate account to meet his cost of operation.

Sec. 2. *For Marketing Services.* Upon the request of the market administrator each distributor shall, in addition, deduct $2\frac{1}{4}$ cents per hundredweight from the payments to be made by such distributor pursuant to Article IX in regard to all milk delivered to him during each delivery period by producers (1) for whom the following services are not currently rendered in a satisfactory manner by a producers' co-operative association; (a) market information, (b) supervision over weights and tests, and (c) to the extent that funds permit, the establishment and maintenance of a reserve fund for protection against the failure of distributors to make payments for milk purchased; and (2) from whom a substantially similar charge or deduction is not being paid by distributors to a producers' co-operative association for such purposes. Such deductions shall be paid to the market administrator on or before the fifteenth day after the end of each delivery period and shall be expended by him for the purpose of securing services similar to those above named for producers from whose payments such deductions are made, except that with the approval of the Secretary, the market administrator may notify any producer when the distributor to whom such producer is selling milk is in violation of any of the terms and provisions of this license, and no producer shall be entitled to protection

against the failure of such distributor to make payments for milk purchased from such producer thereafter and until otherwise notified by the market administrator. All deductions shall be kept in a separate account by the market administrator and shall in no event be used by the market administrator to meet any costs or liabilities incurred by him under this license, except as set forth in this section.

Sec. 3. *Agents of Market Administrator.* The market administrator may, in his discretion, employ the facilities and services of any agent or agents for the purpose of securing to producers the aforementioned benefits, if such benefits may be efficiently and economically secured thereby. The market administrator shall pay over such funds to such agent or agents, if he determines to do so, only upon the consent of such agent or agents to (1) keep its or their books and records in a manner satisfactory to the market administrator; (2) permit the market administrator to examine its or their books and records, and to furnish the market administrator such verified reports or other information as the market administrator may from time to time request; and (3) disburse such funds in the manner above provided.

Sec. 4. *Waiver of Deductions.* The market administrator, in his discretion, may at any time waive the foregoing deductions or distribute any balance arising from such deductions, or any part thereof, for any delivery period (in which event the deductions so waived shall not be made by the distributors from payments to producers); the distribution of any such balances shall be equitable (1) among all producers with respect to the amounts paid to the market administrator pursuant to Section 1 of this article, and (2) among all producers from whom such deductions have been made pursuant to Section 2 of this article.

ARTICLE XIII—DISTRIBUTOR'S FINANCIAL RESPONSIBILITY

Section 1. *Bond.* Each distributor who purchases milk from producers and sells any part of such milk for distribution as whole milk for consumption in the sales area shall, within thirty days after the receipt of a notice to that effect from the market administrator, furnish to the market administrator a bond with good and sufficient surety thereon, satisfactory to the market administrator

(in an amount not in excess of the purchase value of the milk purchased by such distributor during any two successive delivery periods as designated by the market administrator) for the purpose of securing the fulfillment of such distributor's obligations as provided in this license. Any distributor who commences to do business after the effective date of this license shall, as a condition precedent to engaging in such business, furnish to the market administrator a bond in conformity with the foregoing provision.

Sec. 2. *Waiver of Bond.* The market administrator may (1) if satisfied from the investigation of the financial condition of a distributor that such distributor is solvent and/or possessed of sufficient assets to fulfill his said obligations, or (2), if pursuant to a state statute, a distributor has furnished a bond with good and sufficient surety thereon in conformity with the foregoing provision, waive the requirement of such bond as to such distributor. Such distributor may, upon a change in such circumstances, be required by the market administrator to comply with the foregoing requirement.

Sec. 3. *Periodic Deposits.* Each distributor who is unable to meet the requirements of the foregoing provisions, shall make periodic deposits with the market administrator at such times, in such amounts, and in such manner as the market administrator may determine to be necessary in order to secure the fulfillment of such distributor's obligations as provided in this license.

ARTICLE XIV—MILK INDUSTRY BOARD

Section 1. *Establishment.* The Secretary may, in his discretion, at any time establish a Milk Industry Board, which shall have representation of producers, distributors, and the public. In establishing the Milk Industry Board, the Secretary will give due consideration to the recommendations and nominations by various groups of producers, distributors and the consuming public.

Sec. 2. *Duties and Powers.* The Milk Industry Board shall have such duties and powers as the Secretary may, from time to time, delegate to it, in order to effectuate the provisions and purposes of this license.

Sec. 3. *Expenses.* The Secretary may further, in his discretion, authorize and direct the market administrator to pay over to the Milk Industry Board for the purpose of meeting its general expenses

a portion of the moneys paid to the market administrator for his cost of operation; *Provided*, That such portion shall in no event exceed $\frac{1}{4}$ cent per hundred pounds of milk for which such payment is made.

ARTICLE XV—GENERAL PROVISIONS

Section 1. *Books and Records.* The distributors and their respective affiliates and subsidiaries shall severally keep books and records which will clearly reflect all the financial transactions of their respective businesses and the financial condition thereof.

Sec. 2. *Reports.* The distributors shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he may request, in a manner prescribed by him and/or in accordance with forms of reports to be supplied by him, for the purposes of (1) assisting the Secretary in the furtherance of his powers and duties with respect to this license and/or (2) enabling the Secretary to ascertain and determine the extent to which the declared policy of the act and the purpose of this license are being effectuated; such reports to be verified under oath. The Secretary's determination as to the necessity of and the justification for the making of any such reports, and the information called for thereby, shall be final and conclusive.

Sec. 3. *Examination of Books and Records.* For the same purposes as set forth in Section 2 of this article and/or to enable the Secretary to verify information furnished him, all the books and records of each distributor and the books and records of the affiliates and subsidiaries of each distributor, shall, during the usual hours of business, be subject to examination by the Secretary. The Secretary's determination as to the necessity of and the justification for any such examination shall be final and conclusive.

Sec. 4. *Confidential Information.* All information furnished the Secretary or the market administrator pursuant to the terms of this license shall remain confidential in accordance with the applicable General Regulations, Agricultural Adjustment Administration.

Sec. 5. *Agents.* The Secretary may by designation in writing, name any person or persons, including officers or employees of the government, or bureaus or divisions of the Department of Agricul-

ture, to act as his agents or agencies in connection with any of the provisions of this license, and he may authorize any such agent or agency to designate or appoint persons, including officers or employees of the Department of Agriculture, to exercise or perform any or all of the powers and functions delegated to them as may be deemed necessary or advisable to accomplish the proper execution or performance of such powers and functions.

Sec. 6. *Separability.* If the applicability of any provision of this license to any person, circumstance or thing is held invalid, the applicability thereof to any other person, circumstance or thing, shall not be affected thereby. If any provision of this license is declared invalid, the validity of the remainder of this license shall not be affected thereby.

Sec. 7. *Derogation.* Nothing contained in this license is or shall be construed to be in derogation or modification of the rights of the Secretary, or of the United States (1) to exercise any powers granted by the act or otherwise, and/or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

Sec. 8. *Termination.* In the event this license is terminated or amended by the Secretary, any and all obligations which shall have arisen, or which may thereafter arise in connection therewith, by virtue of or pursuant to this license, and any violation of this license which may have occurred prior to such termination or amendment, shall be deemed not to be affected, waived or terminated by reason thereof, unless so expressly provided in the notice of termination of, or the amendment to this license.

Sec. 9. *Period of Notice.* The undersigned hereby determines that an emergency exists which requires a shorter period of notice than three days, and that the period of notice, with respect to the issuance of this license, which is hereinafter provided, is reasonable under the circumstances.

In witness whereof, H. A. Wallace, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, as amended, and pursuant to the applicable General Regulations of the Agricultural Adjustment Administration, does hereby execute in duplicate and issue this license in the City of Washington, Dis-

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trict of Columbia, on this first day of November, 1934, and pursuant to the provisions hereof, declares this license to be effective on and after 12:01 a. m., eastern standard time, November 5, 1934.

[Signed] H. A. WALLACE,
Secretary of Agriculture.

EXHIBIT A

ALLOTMENT AND REGULATION OF BASES

Section 1. *Allotment of Bases.* For the purposes of this license, each producer shall be allotted a base as follows:

1. In the case of producers (excepting new producers) who are members of the Michigan Milk Producers' Association, hereinafter called the "association," the bases recorded in the files and records of the association shall be the bases of such producers. The market administrator shall have access to such files and records.

2. In the case of producers who are not members of the association, bases shall be allotted by the market administrator, which bases shall be equitable as compared with the bases established pursuant to paragraph 1 of this section.

3. In the case of distributors, who are also producers, bases shall be allotted by the market administrator, which bases shall be equitable as compared with all other bases allotted pursuant to this section.

4. In the case of new producers, including distributors who are also new producers, bases shall be allotted by the market administrator which bases shall be equitable with all other bases allotted to producers pursuant to this section.

Sec. 2. *Revision of Bases.* The market administrator may make such revisions in the bases of any and all producers as he may, from time to time, deem necessary or advisable, to the end that such bases may be equitable as among producers and that the total of all established bases may, so far as practical, be equal to the total quantity of milk sold or used by distributors as Class I and Class II milk.

Sec. 3. *Announcement of Bases.* When bases are established for producers, pursuant to Sections 1 and 2 of this article, the market administrator shall notify each distributor of the bases of producers who are delivering milk to each such distributor.

A SAMPLE MILK LICENSE

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“ *Sec. 4. Tenure and Transfer of Bases.* The following rules shall govern the tenure and transfer by producers of all bases allotted pursuant to this exhibit:

1. Any producer who voluntarily ceases to market milk pursuant to the terms and provisions of this license for a period of more than forty-five (45) consecutive days shall forfeit his base. In the event that he thereafter commences to market milk pursuant to the terms and provisions of this license, he shall be treated for the purpose of these rules as if he were a new producer.

2. Any producer may relinquish his base at any time. In the event, thereafter, such producer requests the market administrator to allot him a base, he shall be treated for the purpose of these rules as if he were a new producer.

3. Any producer whose average delivery of milk during the months of July, August, September and October is less than eighty-five (85) per cent of his base will thereby establish a new base equal to such average delivery.

4. A base may be transferred by the market administrator from a producer to a person who has no base, upon the transfer of such producer's entire herd to such person.

5. A producer with a base, whether landlord or tenant, may retain his base when moving his entire herd from one farm to another farm.

6. A landlord who rents on shares is entitled to the entire base to the exclusion of the tenant, if the landlord owns the entire herd. Likewise, the tenant who rents on shares is entitled to the entire base to the exclusion of the landlord if the tenant owns the entire herd. If the cattle are jointly owned by tenant and landlord, the base shall be divided between the joint owners according to the ownership of the cattle if and when such joint owners terminate the tenant-landlord relationship.

APPENDIX F

OTHER STATE MILK CONTROL ACTS ¹

Rhode Island: Board of five, consisting of two existing officials *ex officio*, and one representative each of the producers, the dealers, and the consumers, at annual salaries of \$500. Same provision as New York for milk produced outside of the state. Special provision requiring all persons manufacturing cream for sale in the state to secure a permit. Two-year period.

Massachusetts: Independent board of three "citizens of the commonwealth," on a per diem salary when in session, who may employ a full-time "administrator," who may be one of the board members. Special provision for prescribing "market production zones" for each market, boundaries being determined by local boards of health through their system of permits to producers. (This arrangement suggests the Ohio act.) The supply must be obtained "at the shortest practical distance and/or in the shortest reasonable period of time to meet the consumer demand of such market for milk." The board may grant dealers permission to secure milk from outside this zone in case of shortage. Exemption of dealers or producer-distributors handling less than 50 quarts if the board concludes this will not "adversely affect market conditions." Fixing of resale prices only on petition of 25 per cent of the Massachusetts producers in a market zone. Producer prices fixed according to zones. Special provision against selling milk at less than cost plus cost of distribution, producer-distributors to figure cost of milk at producer prices fixed by board. (This provision was derived from NRA codes.) Out-of-state milk declared subject to state control under police power. Two-year period.

Washington: An adaptation of the Agricultural Adjustment Act designed to fit in with and supplement it, declaring milk and seven other commodities as "basic," but providing for marketing agreements only and nothing specifically in the nature of quotas or production control. Administration by the "Director of Agricul-

¹ The material in this appendix is an elaboration of Chapter XI, in which the general discussion of state milk control acts is given.

OTHER STATE MILK CONTROL ACTS 503

ture," whose rulings are subject to a "Board of Review" consisting of the Secretary of State, the Director of Conservation and Development, and the Director of Agricultural Extension. The national marketing agreements are to be interpreted also as state agreements so far as intrastate produce is concerned. Dealers and processors may be refused licenses if the markets are "amply supplied" or if the effect will be to raise prices to consumers or lower prices to producers.

Virginia: An independent "Milk Commission" of three, two of whom are producers of milk and not engaged in distribution. Board defines milksheds, but all former shippers may continue to ship. Each market to have a local board, two representing producers, two representing distributors, and one the consumers, to be named by the Milk Commission. If the co-operative handles half of the milk in any market, it may name both producer representatives; otherwise only one. If the producer-distributors furnish half, the Milk Commission shall determine the division of representatives. Expenses of local boards to be paid by assessments on milk handled. Powers of local boards to be designated by the Milk Commission. Hearings to be held in each market before the power of the commission is exercised or denied. Legislature or Governor to terminate board at end of emergency.

APPENDIX G

EXCERPTS FROM 1935 AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT¹

(3) Subject to the provisions of Sub-section (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to Sub-section (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

ORDERS

Sec. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in Sub-section (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

COMMODITIES TO WHICH APPLICABLE

(2) Orders issued pursuant to this section shall be applicable only

¹The text of the amendments is from Conference Report No. 1757 of the committees of the Senate and House, printed Aug. 12, 1935.

to the following agricultural commodities and the products thereof (except products of naval stores), or to any regional, or market classification of any such commodity or product: milk, fruits (including pecans and walnuts but not including apples and not including fruits other than olives, for canning), tobacco, vegetables (not including vegetables, other than asparagus, for canning), soy beans, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin).

NOTICE AND HEARING

(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title with respect to any commodity or product thereof specified in Sub-section (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

FINDING AND ISSUANCE OF ORDER

(4) After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this title with respect to such commodity.

TERMS—MILK AND ITS PRODUCTS

(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in Sub-section (7)) no others:

(A) Classifying milk in accordance with the form in which, or the purpose for which it is used and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at

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which delivery of such milk, or any use classification thereof, is made to such handlers.

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: Provided, That except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this Sub-section (5), providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) hereof.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for con-

consumption in the area covered thereby, payments to such 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 specified in such order, subject to the adjustments specified in paragraph (B) of this Sub-section (5).

(E) Providing (i) except as to producers for whom such services are being rendered by a co-operative marketing association, qualified as provided in paragraph (F) of this Sub-section (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefore from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this Sub-section (5) is intended or shall be construed to prevent a co-operative marketing association qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: Provided, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this Sub-section (5) for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

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TERMS COMMON TO ALL ORDERS

(7) In the case of the agricultural commodities and the products thereof specified in Sub-section (2) orders shall contain one or more of the following terms and conditions:

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(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;

(ii) To make rules and regulations to effectuate the terms and provisions of such order;

(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (B) shall be deemed to be acting in an official capacity, within the meaning of Section 10(g) of this title, unless such person receives compensation for his personal services from funds of the United States.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in Sub-sections (5), (6), and (7) and necessary to effectuate the other provisions of such order.

ORDERS WITH MARKETING AGREEMENT

(8) Except as provided in Sub-section (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding co-operative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the produc-

tion or marketing area defined in such order have signed a marketing agreement, entered into pursuant to Section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order except that as to citrus fruits produced in an area producing what is known as California citrus fruits no order issued pursuant to this Sub-section (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: Provided, That no order issued pursuant to this sub-section shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

ORDERS WITH OR WITHOUT MARKETING AGREEMENT

(9) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding co-operative associations or producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except

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that as to citrus fruits produced in an area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding co-operative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in an area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of

such commodity sold within the marketing area specified in such marketing agreement or order.

REGIONAL APPLICATION

(11) (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

CO-OPERATIVE ASSOCIATION REPRESENTATION

(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any co-operative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such co-operative association of producers.

RETAILER AND PRODUCER EXEMPTION

(13) (A) No order issued under Sub-section (9) of this section shall be applicable to any person who sells agricultural commodities

or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this title shall be applicable to any producer in his capacity as a producer.

BOOKS AND RECORDS

Sec. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the anti-trust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this sub-section, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly, or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of Section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with refer-

ence to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

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Sec. 39. Nothing contained in this act shall (a) invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to Section 8(1) of the Agricultural Adjustment Act prior to the enactment of this act, or subsequent to the enactment of this act in connection with a program initiated under such Section 8(1) prior to the enactment of this act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act.

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