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NATIONAL MILK SANITATION ACT

GOVERNMENT
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HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 50, H.R. 51, H.R. 52, H.R. 53, H.R. 54, H.R. 55, H.R. 56, H.R. 57, H.R. 58, H.R. 59, H.R. 60, H.R. 1825, H.R. 5024, and H.R. 5928

BILLS TO AMEND THE PUBLIC HEALTH SERVICE ACT TO PROTECT THE PUBLIC FROM UNSANITARY MILK AND MILK PRODUCTS SHIPPED IN INTERSTATE COMMERCE, WITHOUT UNDULY BURDENING SUCH COMMERCE

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JULY 31, AUGUST 1, AND AUGUST 30, 1961

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NATIONAL MILK SANITATION ACT

MONDAY, JULY 31, 1961

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 1334, New House Office Building, Hon. Oren Harris (chairman of the committee) presiding.

The CHAIRMAN. The committee will come to order.

This morning the committee meets to hold hearings on H.R. 50 and 13 other identical bills, providing for a national milk sanitation act.

H.R. 50 was introduced by Mr. Johnson of Wisconsin. The other bills are: H.R. 51, by Mr. Zablocki of Wisconsin; H.R. 52, by Mr. Reuss of Wisconsin; H.R. 53, by Mr. Kastenmeier of Wisconsin; H.R. 54, by Mr. O'Konski of Wisconsin; H.R. 55, by Mr. Byrnes of Wisconsin; H.R. 56, by Mr. Van Pelt of Wisconsin; H.R. 57, by Mr. Laird of Wisconsin; H.R. 58, by Mr. Blatnick of Minnesota; H.R. 59, by Mr. Quie of Minnesota; H.R. 60, by Mr. Nelsen of Minnesota, a member of this committee; H.R. 1825, by Mr. Schadeberg of Wisconsin; H.R. 5024, by Mr. MacGregor of Minnesota; and H.R. 5928, by Mr. Thomson of Wisconsin, also a member of this committee.

H.R. 50 and agency reports will be made a part of the record at this point.

(H.R. 50 and agency reports are as follows:)

[H.R. 50, 87th Cong., 1st sess.]

A BILL To amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Milk Sanitation Act".

SEC. 2. The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE VIII—MILK SANITATION

"CONGRESSIONAL FINDINGS

"SEC. 801. The Congress hereby finds that the sanitary control of fluid milk and certain milk products is necessary to protect the public health and recognizes that the exercise of such sanitary control is primarily the responsibility of State and local governments, but that no State or local government has the right to obstruct the free movement in interstate commerce of milk and milk products of high sanitary quality by use of unnecessary sanitary requirements or other health regulations.

"DEFINITIONS

"SEC. 802. For purposes of this title—

"(1) The term 'milk' means the lacteal secretion, practically free from colostrum, obtained (A) by the complete milking of one or more healthy cows, which contains not less than 8¼ per centum milk solids-not-fat and not less than 3¼ per centum milkfat, or (B) by the complete milking of healthy goats.

"(2) The term 'milk product' means (A) cream, sour cream, light cream, whipping cream, light whipping cream, heavy whipping cream, half and half, reconstituted half and half, whipped cream, concentrated milk, concentrated milk products, skim milk, nonfat milk, flavored milk, flavored drink, flavored reconstituted milk, flavored reconstituted drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted cream, reconstituted skim milk, cottage cheese, and creamed cottage cheese, as such products are defined in the edition of the Public Health Service's recommended Milk Ordinance and Code (unabridged form) which is current on the date of enactment of this title; (B) any other fluid product made by the addition of any substance to milk or to a product specified in clause (A), if the Surgeon General, by regulation, designates the product so made as a milk product for purposes of this title on the basis of a finding that such product is used for purposes similar to those of milk products specified in clause (A) and is shipped in interstate commerce in sufficient quantities to be of public health importance and to warrant its control under this title; and (C) nonfat dry milk products and other dry milk products, when used or intended for use in the manufacture of a milk product specified in clause (A) or pursuant to clause (B): *Provided*, That upon the becoming effective, under section 401 of the Federal Food, Drug, and Cosmetic Act, of a definition and standard of identity for milk, or for any milk product specified in or pursuant to this paragraph, such definition and standard of identity shall govern to the extent of any inconsistency between it and the definition specified in or under this or the preceding paragraph.

"(3) The term 'interstate milk plant' means, except as otherwise provided in this paragraph, any establishment or facility (including equipment, vehicles, and appurtenances in, or operated in connection with, such establishment or facility) (A) in which milk or milk products are collected, handled, processed, stored, pasteurized, or bottled or otherwise packaged or prepared for distribution, and (B) from which milk or milk products are shipped in interstate commerce. In any case in which, in lieu of utilization of a fixed establishment or facility, an interstate milk shipper utilizes one or more trucks or other mobile facilities for collecting milk or milk products (or performing any other function or functions specified in clause (A) of the preceding sentence) and directly shipping such milk or milk products in interstate commerce, such truck or trucks or other mobile facilities, and equipment and appurtenances operated in connection therewith, shall collectively, in accordance with regulations, be deemed to be an 'interstate milk plant'.

"(4) The term 'milk supply', when used with respect to an interstate milk plant, means the dairies, dairy farms, and plants directly or indirectly supplying the plant with milk or milk products.

"(5) The term 'State milk sanitation rating agency' means the State health authority, except that in any State in which there is a single State agency other than the State health authority, engaged in making sanitation ratings of milk supplies, the term shall mean such other State agency.

"(6) The term 'receiving State' means any State into which any milk or milk products emanating from an interstate milk plant is introduced or offered for introduction; and the term 'receiving locality' means any municipality or other political subdivision of a State into which any milk or milk product emanating from an interstate milk plant in another State is introduced or offered for introduction.

"FEDERAL MILK SANITATION CODE

"SEC. 803. For the purposes of rating, certification, and listing of interstate milk plants and their milk supply as provided by this title, the Surgeon General shall by regulation promulgate, and may from time to time amend, a Federal Milk Sanitation Code which shall set forth milk and milk product sanitation standards and sanitary practices (including standards as to inspections, laboratory examinations, and other routine official supervision by local or State milk sanitation authorities, or by both) which, if effectively followed, would in his

judgment result in a supply of milk and milk products of a sanitary quality at least equivalent to that of—

"(1) Grade A raw milk for pasteurization and Grade A pasteurized milk, respectively, and

"(2) milk products containing only grade A raw milk as their milk component and intended for pasteurization, and milk products containing only grade A pasteurized milk as their milk component, respectively, produced or processed, or both, in conformity with the provisions of the edition of the Public Health Service's recommended Milk Ordinance and Code (unabridged form) which is current on the date of enactment of this title.

"COMPLIANCE RATINGS

"SEC. 804. (a) The Surgeon General shall by regulation promulgate, and may from time to time amend, standard rating methods and criteria for determining through compliance ratings, with respect to milk and milk products, the degree to which interstate milk plants and their milk supply comply with the Federal Milk Sanitation Code. Such ratings shall be expressed in terms of percentages of full compliance.

"(b) The Surgeon General shall announce, by regulation, the minimum compliance rating (pursuant to such rating standards) which, in his judgment, are necessary to give satisfactory assurance that milk and milk products shipped from interstate milk plants receiving such ratings will have been produced, handled, transported, and processed in substantial conformity with the Federal Milk Sanitation Code, except that the minimum so prescribed shall not be less than 90 per centum.

"SUBMISSION OF STATE PLANS

"SEC. 805. The State milk sanitation rating agency of any State which wishes to obtain for its interstate milk shippers the benefits of this title shall submit to the Surgeon General for approval a State plan for periodically (but not less often than annually) rating interstate milk plants located in such State, and their milk supply, on the basis of the standard rating methods and criteria in effect under Section 804(a), and certifying to the Surgeon General those interstate milk plants and their milk supply receiving a compliance rating at least equal to the minimum ratings established under section 804(b). Such plan shall be accompanied or supplemented by such information concerning milk sanitation control activities of the State agency and of local official milk sanitation control agencies, and such other relevant information, as the Surgeon General may request.

"APPROVAL, SUSPENSION, AND REVOCATION OF STATE PLANS

"SEC. 806. (a) The Surgeon General shall approve a State plan submitted under section 805 if it meets such requirements as he determines to be necessary to obtain reliable ratings for the purpose of maintaining the list provided for by section 807, including a requirement that such ratings will be made only by State rating officials who are full-time employees of the State milk sanitation rating agency (or under interstate arrangements, by full-time employees employed by a sister State having an approved plan or by both States jointly) and hold a currently valid certificate of qualification issued or renewed by the Surgeon General. Approval of a State plan shall be for such period (but not exceeding three years) as may be fixed by regulation.

"(b) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the State milk sanitation rating agency, finds that—

"(1) the State plan has been so changed that it complies with neither the requirements for State plan approval in effect at the time such plan was last approved, nor with the requirements for State plan approval as last amended, or

"(2) in the administration of the State plan there is a failure to comply substantially with any provision contained in such plan,

the Surgeon General shall revoke his approval of such State plan. The Surgeon General may suspend his approval of a State plan at any time after giving the notice of hearing referred to above and pending such hearing and decision thereon if in his judgment the protection of the public health so requires.

"LISTINGS OF CERTIFIED INTERSTATE MILK PLANTS

"SEC. 807. (a) The Surgeon General shall establish and maintain a list of certified interstate milk plants, and shall publish such list, or revisions or amendments thereof, not less often than quarterly. Except as provided in subsection (b), an interstate milk plant shall be included on such list if such plant and its milk supply, by a certificate currently in effect at the time of such listing, has been certified to the Surgeon General by a State milk sanitation rating agency under an approved State plan as having compliance ratings at least equal to the minimum ratings established by the Surgeon General under section 804(b). Such list shall identify the interstate milk plant or plants involved in any such certification, the persons having legal ownership or control thereof, and in accordance with the regulations, the milk and milk products covered by the certification.

"(b) The Surgeon General shall not include or permit to remain on the list provided for under subsection (a) any interstate milk plant if—

"(1) the person having legal ownership or control thereof does not consent to the listing of the interstate milk plant, or

"(2) the last rating upon which the certification of the plant and its milk supply was based is more than one year old, or

"(3) the State milk sanitation rating agency gives written notice to the Surgeon General that the plant and its milk supply is no longer entitled to the minimum rating required for listing, or

"(4) the Surgeon General, after investigation made on his own initiative or upon complaint of a receiving State or locality, finds that the plant and its milk supply, though duly certified, is not entitled to the minimum rating required for such certification.

"(c)(1) Any decision of the Surgeon General—

"(A) to exclude or remove an interstate milk plant from the list pursuant to paragraph (4) of subsection (b) of this section or pursuant to section 810(b), or

"(B) not to take such action upon complaint of a receiving State or locality under paragraph (4) of subsection (b),

shall, in accordance with regulations, be made by order stating the findings and conclusions upon which it is based. Notice of such order shall be given to the person having legal ownership or control of such plant, the State milk sanitation rating agency whose rating of such plant is involved, and the complainant State or locality, if any, and such order shall, except as otherwise provided in paragraph (3) of this subsection, become effective on the date specified therein but in no event earlier than the thirtieth day after the date of its issuance.

"(2) At any time before an order pursuant to paragraph (1) or (3) of this subsection is issued or becomes effective, the Surgeon General may by order defer or suspend the listing of any plant when, in his judgment, the protection of the public health so requires.

"(3) At any time before the effective date of an order issued pursuant to paragraph (1), any person (including any complainant receiving State or locality) adversely affected by such order and entitled to notice thereof, and the State milk sanitation rating agency (if any) whose rating of an interstate milk plant is involved, may file objections thereto (stating the grounds of such objections) and request a public hearing, and the filing of such objections and request shall operate to stay the effectiveness of such order, but shall not operate to stay any order of deferment or suspension under paragraph (2) of this subsection. The Surgeon General shall, upon the basis of the record of such hearing, by order confirm, modify, or set aside his prior order and the findings and conclusions stated therein, and specify the date, not later than thirty days after its issuance, on which the order entered after such hearing shall take effect.

"(d)(1) Any person (including any complainant receiving State or locality) adversely affected by an order of the Surgeon General issued pursuant to paragraph (3) of subsection (c) of this section and entitled to notice under paragraph (1) of subsection (c), and the State milk sanitation rating agency (if any) whose rating is involved, may appeal to the United States court of appeals for the circuit in which the interstate milk plant involved is located by filing with such court, not later than sixty days after the date of issuance of the order based upon the record of such hearing, a notice of appeal. The jurisdiction of the court shall attach upon the filing of such notice of appeal. A copy of such

notice of appeal shall be forthwith transmitted by the clerk of the court to the Surgeon General or any officer designated by him for that purpose. The Surgeon General shall thereupon file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order.

"(2) The court shall have jurisdiction to enter, upon the basis of the record of the proceedings filed with it in accordance with paragraph (1) of this subsection, a judgment affirming or setting aside, in whole or in part, the decision of the Surgeon General. The findings of the Surgeon General as to any fact, if supported by substantial evidence when considered on the record as a whole, shall be sustained, but the court may, on good cause shown, remand the case to the Surgeon General to take additional evidence, and the Surgeon General may thereupon make new or modified findings of fact and may modify his previous order, and shall file with the court any such modified findings of fact and order, together with the record of the further proceedings. Such additional or modified findings of fact and order shall be reviewable only to the extent provided for review of the findings of fact and order originally filed with the court. The judgment of the court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

"PROHIBITION AGAINST DISCRIMINATION AGAINST SANITARY OUT-OF-STATE MILK AND MILK PRODUCTS

"SEC. 808. (a) Except as provided in subsection (b)—

"(1) no milk or milk product which emanates from an interstate milk plant in another State, while such plant is listed by the Surgeon General under section 807 with respect to the milk or milk product, as the case may be, shall be subject to seizure or condemnation in, or to exclusion from, a receiving State or locality, or from transportation, distribution, storage, processing, sale, or serving in such State or locality, and

"(2) no processor, producer, carrier, distributor, dealer, or other person handling such milk or milk product shall be subject to punishment, or to denial of a required license or permit,

by reason of the failure of such milk or milk product, or of the sealed container or vehicle (complying with the Federal Milk Sanitation Code) in which such milk or milk product was brought into the State, or of an interstate milk plant in another State or its milk supply, or of any transportation or handling facility, in which such milk or milk product was produced, processed, carried, or handled, to comply with any prohibition, requirement, limitation, or condition (including official inspection requirements) relating to health or santation and imposed by or pursuant to any State or local law, regulation, or order of the receiving State or locality, or by any officer or employee thereof. In the event any milk or milk product emanating from a listed interstate milk plant in another State and complying with the Federal Milk Sanitation Code is commingled with milk or milk products from within the receiving State the provisions of the preceding sentence shall apply to the resulting mixture, except that nothing in this section shall be construed to prevent the application of such State or local laws, regulations, or orders to such mixture by reason of the failure of such milk or milk product of intrastate origin no emanating from an interstate milk plant in another State, to comply therewith immediately prior to such commingling.

"(b) Subsection (a) shall not be deemed to prohibit any receiving State or locality from—

"(1) subjecting any milk or milk product, upon its arrival from another State, to laboratory or screening tests in accordance with standard methods for the examination of dairy products provided for in the Federal Milk Sanitation Code, and rejecting the shipment if upon such examination it fails to comply with the bacterial and coliform count standards, temperature standards, composition standards, and other criteria of such code relating to the then physical condition of such milk or milk products, and

"(2) enforcing sanitary laws and regulations, equally applicable to milk or milk products not coming from outside the State—

"(A) to require pasteurization of raw milk or raw milk products brought into the State before delivery to retail sale or consumer-serving establishments or before use in making milk products or other products,

"(B) to otherwise protect milk or milk products from contamination or deterioration after arrival through requirements as to temperature and sanitary handling, transportation, and storage: *Provided*, That the State or locality may not, except as provided in subparagraph (C), reject the sealed container or vehicle, as such, in which the milk or milk product arrived in the State, if it complies with the Federal Milk Sanitation Code, or

"(C) as to the type of container in or from which milk or milk products may be sold at retail or served to consumers.

"CIVIL ACTION TO RESTRAIN INTERFERENCE WITH OPERATION OF TITLE

"SEC. 809. The United States district courts shall, regardless of the amount in controversy, have jurisdiction of any civil action to restrain the application of any law, ordinance, regulation, or order of any State or political subdivision of a State, or to restrain any action anf an officer or agency of a State or political subdivision of a State, which interferes with, conflicts with, or violates any provision of this title. Such action may be brought by the United States, or by any interested person. Nothing in this section shall be deemed to deprive any court of a State of jurisdiction which it would otherwise have to restrain any such application or action which interferes with, conflicts with, or violates any provision of this title.

"INSPECTION BY SURGEON GENERAL

"SEC. 810. (a) The Surgeon General may make such inspections of interstate milk plants and plants proposing to become interstate milk plants, and of their milk supply, and such laboratory examinations, studies, investigations, and ratings, as he may deem necessary in order to carry out his functions under this title and to promote uniformity in the application of the Federal Milk Sanitation Code and the Surgeon General's standard rating methods and criteria.

"(b) The Surgeon General shall remove any interstate milk plant from the list provided for under section 807 if the State or any local milk sanitation authority or laboratory refuses to permit representatives of the Service to inspect and copy relevant records pertaining to State or local health and sanitary supervision of such milk plant or any part thereof or facility connected therewith and its milk supply, or if the person in charge of such plant or of any part of the milk supply of such plant, or any person under his control, refuses to permit representatives of the Service, at all reasonable times, to—

"(1) enter such interstate milk plant or any establishment, premises, facility, or vehicle where milk or milk products intended for such interstate milk plant are produced, processed, packed, held, or transported.

"(2) inspect such plant, establishment, premises, facility, or vehicle, and all pertinent personnel, dairy animals, equipment and utensils, containers and labeling, and milk and milk products, and

"(3) inspect and copy pertinent records.

"RESEARCH, STUDIES, AND INVESTIGATIONS CONCERNING SANITARY QUALITY OF MILK

"SEC. 811. The Surgeon General shall conduct research, studies, and investigations concerned with the sanitary quality of milk and milk products, and he is authorized to (1) support through grants, and otherwise aid in, the conduct of such investigations, studies, and research by State agencies and other public or private agencies, organizations, institutions, and individuals, and (2) make the results of such research, studies, and investigations available to State and local agencies, public or private organizations and institutions, the milk industry, and the general public.

"TRAINING MILK SANITATION PERSONNEL

"SEC. 812. The Surgeon General is authorized to—

"(1) train State and local personnel in milk sanitation methods and procedures and in the application of the rating methods and criteria established in regulations pursuant to section 804,

"(2) provide technical assistance to State and local milk sanitation authorities on specific problems,

"(3) encourage, through publications and otherwise, the adoption and use, by State and local authorities throughout the United States, of the sanitation

standards and sanitation practices specified in the Federal Milk Sanitation Code, and

"(4) otherwise cooperate with State milk sanitation authorities, other public and private organizations and institutions, and industry in the development of improved programs for the control of the sanitary quality of milk and milk products.

"SAVINGS PROVISIONS

"SEC. 813. (a) The provisions of this title shall not apply to manufactured dairy products, including but not limited to butter, frozen desserts, condensed milk, evaporated milk, sterilized milk or milk products not requiring refrigeration, all types of cheese except cottage cheese and creamed cottage cheese, and nonfat dry milk, dry whole milk, or part fat dry milk unless used or intended for use in the preparation of fluid milk products. As used in this section the term 'manufactured dairy products' does not apply to the milk products defined in section 802(2).

"(b) Nothing in this title shall be deemed to make lawful or authorize the application of any State or local law or requirement of any receiving State or locality discriminating against milk and milk products which would not be lawful or authorized if this title were not in effect.

"(c) Nothing in this title shall be deemed to supersede or modify any provision of the Federal Food, Drug, and Cosmetic Act, or of any provision of the Public Health Service Act (other than this title).

"APPROPRIATIONS

"SEC. 814. There are hereby authorized to be appropriated annually to the Service such sums as may be necessary to enable the Surgeon General to carry out his functions under this title."

SEC. 3. Section 2(f) of the Public Health Service Act is amended to read as follows:

"(f) The term 'State' means a State or the District of Columbia, Puerto Rico, or the Virgin Islands, except that, as used in section 361(d) and in title VIII, such term means a State or the District of Columbia;".

SEC. 4. (a) Section 1 of the Public Health Service Act is amended to read as follows:

SHORT TITLE

"SECTION 1. Titles I to VIII, inclusive, of this Act may be cited as the 'Public Health Service Act'."

(b) The Act of July 1, 1944 (58 Stat. 682), is further amended by renumbering title VIII (as in effect prior to the enactment of this Act) as title IX, and by renumbering sections 801 through 814 (as in effect prior to the enactment of this Act, and references thereto, as sections 901 through 914, respectively.

SEC. 5. The amendments made by this Act shall become effective on the first day of the first fiscal year beginning more than one hundred and eighty days after the date of the enactment of this Act.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., August 30, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR CONGRESSMAN HARRIS: This is in reply to your letter of February 9, 1961, in which you request a report on H.R. 50, a bill "To amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce."

We recommend the enactment of this bill.

This bill would require the Surgeon General to establish a minimum Federal milk sanitation code which would set forth sanitation standards and sanitary practices for milk, and certain milk products, moving in interstate commerce, patterned after the code recommended by the Public Health Service.

Upon application of a State milk sanitation rating agency for approval of a State plan for rating interstate milk shippers' plants in the State and their milk supply as to compliance with the Federal code, the Surgeon General would be required to investigate and evaluate such State's milk sanitation program

and inspection and rating system, and to approve the State plan if it meets such requirements as the Surgeon General finds necessary to assure reliable sanitation ratings. If its plan were thus approved, the State's milk sanitation rating authority would act in certifying to the Surgeon General individual plants that meet the sanitary standards established.

The Surgeon General would be required to publish a list of interstate milk shippers whose sanitation compliance ratings were certified to him by the States as having achieved at least 90 percent, based upon rating methods and criteria so established by him for that purpose. The Surgeon General, through approval of State rating plans, training and certification of State rating officials, verification of published compliance ratings, and other means, would assure the integrity and reliability of the system.

The Surgeon General could revoke or suspend his approval of a State's milk sanitation rating plan whenever he found that the State's plan had been so changed as no longer to comply with the requirements for approval of such plan or was not being carried out in compliance with the provisions of the plan itself.

The bill further would prohibit any other State or any locality in any other State from rejecting milk from a certified plant on the basis that such milk did not comply with the sanitation standards and practices of the receiving jurisdiction, providing such milk, upon arrival, conformed to bacterial, temperature, composition, and other standards contained in the Federal milk sanitation code.

The certification procedure which would be established under this legislation is identical to the voluntary milk shipper certification program now in effect and in which many of the States participate. Under the proposed bill, participation in this program would be entirely voluntary so far as milk shipping States, and the milk producers therein, are concerned. State and local authorities in such States would continue to exercise their present responsibilities.

Ratings of those interstate milk shippers who wish to obtain the benefits of certification, would be made by qualified State rating officers whose qualifications have been approved by the Surgeon General. This procedure provides for maximum utilization of existing State systems for sanitary control of milk.

The U.S. Public Health Service has had experience and the major responsibility in the Federal Government for the development of sanitary standards for fluid milk. For this reason, it is more directly familiar with questions relating to the sanitation standards and requirements that are necessary and reasonable in the interest of safeguarding the health of consumers of milk. We are confident that the U.S. Public Health Service is fully competent to administer a milk quality program that will fully protect the health of consumers.

Population expansion and movement during the past 15 to 20 years has given rise to needs, which are growing, for increased movement of milk in interstate commerce. Substantial volumes of milk now move freely in interstate commerce in response to these needs. This movement has been stimulated and aided by technological developments in production, processing methods, shifts in the location of production; improvements in transportation and milk handling, and the gradual modifications of local milk laws. In general, the cost of transporting milk and the preference of plants for nearby milk supplies are the major factors preventing greater movement of milk.

There is, however, considerable evidence to indicate that milk sanitation regulations of States and municipalities frequently are used to obstruct the movement of milk of high sanitary quality in interstate commerce. Such obstruction may result from legal limitations contained in the laws and regulations of the given jurisdictions or from practical difficulties in the inspection of farms or plants located in distant areas, when a community insists on making its own inspections as a prerequisite for acceptance for out-of-State milk; or it may be a matter of administrative policy which has been established for economic purposes.

The Department of Agriculture, in 1954 and 1955, conducted a study of the impact of sanitary requirements, Federal orders, State milk control laws, and truck laws on price, supply, and consumption. The results of this study were published in Marketing Research Report No. 98 by the Agricultural Marketing Service in June 1955. This study included a survey of the policies affecting the acceptance of milk in all communities over 25,000 population hav-

ing full-time health units. The report states, on page 20 under "Examples of Restrictive Sanitary Regulations," as follows:

"By far the most common policy standing in the way of free movement of milk was the refusal of given jurisdictions to accept milk produced or handled under the supervision of other jurisdictions having substantially equivalent sanitary standards. In order to get comprehensive information on this and some other aspects of sanitary regulation, a mail questionnaire was sent to health officers of all urban places of 25,000 or more population having full-time health units (app. A). Replies were received from 318 cities, out of 334 questionnaires sent out, about a 95 percent return. Respondents in 6 jurisdictions reported that the questionnaire was not applicable to their situations.

"Out of 312 cities, 100 refused to accept milk from farms supervised by their own State department of health or agriculture (in many States the State agency does not supervise sanitation on dairy farms); 84 refused to accept milk from farms supervised by some other State (although a given city might accept supervision of one State and reject that of another); 74 refused to accept milk from farms approved by cities not having the standard ordinance; while only 49 refused to accept milk under supervision by cities having the standard ordinance (table 8).

"It should be kept in mind that there were many cities which unconditionally accepted milk, the production and handling of which was supervised by specified agencies. There were 127 cities which accepted supervision of farms by their own State department of health or agriculture without question; 75 which accepted supervision of some other State or States; 69 which accepted supervision by cities having the standard ordinance; and 42 which accepted supervision by cities having other types of ordinance.

"The most common condition for accepting milk produced under the supervision of another agency was that the source be rated by the methods prescribed by the U.S. Public Health Service. Another common practice was to approve a source only after visiting the supply area and inspecting some of the farms."

In the summary and conclusions section of the same report, the following statement is made:

"Sanitary regulations hinder or prevent the movement of milk into a substantial number of cities. Some markets prohibit outright the entry of milk from beyond specified limits. Others burden such entry by insisting on their own inspection and then delay or refuse to inspect, or levy discriminatory fees. Still other markets differentiate their regulations from those of surrounding areas without apparent necessity."

In response to the public need for the free movement in interstate commerce of increasing volumes of milk, the approach toward easing the restrictiveness in sanitary regulations which is proposed in this legislation has received increasing support throughout the Nation. The increasing frequency of adoption of local milk ordinances and codes patterned after the U.S. Pubblic Health Service's recommended ordinance and code is one of the major factors accounting for the lessening in differences in the provision of laws from one jurisdiction to another. At the same time, the trend toward the appointment of more professionally qualified sanitarians has reduced differences in the interpretation and application of milk ordinances and codes. Work of the national conference on interstate milk shipments also has helped to coordinate sanitary laws and their interpretation. Thus, the standards and the procedure upon which the program provided in this bill is based are already familiar to and have received widespread acceptance from milk sanitarians and the milk industry throughout the country.

The U.S. Public Health Service model milk ordinance and code, upon which the proposed Federal milk sanitation code would be based, has been voluntarily adopted by more than 1,900 local jurisdictions, and serves as the basis of milk sanitation regulations in 36 States.

We favor enactment of legislation to eliminate artificial barriers to the unhampered movement in interstate commerce of pure and wholesome milk and milk products. Such barriers to trade are contrary to the interest of consumers, to the milk industry generally, and to the overall national economy. Bill H.R. 50 will accomplish this purpose through the extension of milk sanitation and inspection standards and procedures which have been carefully developed and thoroughly tested over a long period of time, and which are completely familiar to a majority of milk producers, milk sanitarians and inspectors, milk shippers, and others concerned in the production and marketing of milk. Moreover, adoption of H.R. 50 will tend to upgrade the quality and sanitation performance in con-

nection with milk supplies which now are not produced, processed, and marketed in compliance with the Federal Milk Sanitation Code. The advantage to producers and handlers of qualifying their milk supplies for acceptance in whatever markets may be most advantageous economically from time to time, coupled with the consumer preference which can be anticipated for milk supplies produced and handled in accordance with the Federal Milk Sanitation Code, can be expected to result in increased requests for rating and certification of milk supplies which, at the present time, have a lower sanitary status than the high compliance level (90 percent) which would be required under the proposed act.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., August 30, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of February 9, 1961, requesting the views of the Bureau of the Budget on H.R. 50, a bill to amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce.

The Secretaries of Agriculture and Health, Education, and Welfare recommend enactment of H.R. 50 for the reasons stated in their reports to your committee. The Bureau of the Budget would have no objection to enactment of the proposed legislation.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., July 7, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request dated February 9, 1961, for the views of this Department with respect to H.R. 50, a bill to amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce.

The Department of Commerce offers no comment or recommendation with respect to H.R. 50, but defers to the views of the Departments of Agriculture and Health, Education, and Welfare. The existing responsibilities of these Departments place them in the best position to evaluate the merits of the bill.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, July 31, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 9, 1961, for a report on H.R. 50, a bill to amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce.

This bill is designed to eliminate certain barriers to the free interstate movement of milk and milk products of high sanitary quality, barriers resulting from a diversity of State and local sanitary regulations and requirements and their application to out-of-State producing farms and plants and their products. It is similar to H.R. 3840, 86th Congress, which was favorably reported upon by our Department to the Committee on Interstate and Foreign Commerce on April 25, 1960. The bill contains all of the technical changes recommended in that report. The means adopted in the bill for achieving its objective are in accord with principles for Federal milk sanitation legislation recommended by the Association of State and Territorial Health Officers on October 25, 1958. A copy of this document is enclosed herewith.

In essence, the approach of this bill is to require receiving States and localities to accept—so far as health sanitary requirements are concerned—milk (and certain kinds of milk products), emanating from an out-of-State plant, if the sanitary condition of the milk on arrival complies with the standards of a Federal Milk Sanitation Code established by the Surgeon General of the Public Health Service, and if the shipping plant (with its milk supply) is listed on the Surgeon General's then current interstate milk shipper's list as having been accorded, by duly accredited rating officers of the producing State, at least a minimum required rating of compliance with the code on the basis of rating methods and criteria established by the Surgeon General for that purpose. Participation in this "full faith and credit" system would be entirely voluntary so far as producing (exporting) States and milk shippers in those States are concerned. The Surgeon General—through approval of the State rating plans, training and certification of State rating officers, inspection of plants and their milk supply, verification of compliance ratings, exclusion or removal of a plant from the list if he finds that it is not entitled to the required minimum rating and other means—would assure the integrity and reliability of the system.

The principal features of the bill may be summarized as follows:

1. The Surgeon General of the Public Health Service would be required to promulgate by regulation a Federal Milk Sanitation Code which sets forth standards and practices, including standards as to inspection, laboratory examination, and routine supervision, which if followed would result in milk and milk products of a sanitary quality at least equivalent to that specified for grade A milk and milk products in the Public Health Service's recommended Milk Ordinance and Code, that is, the edition which will be current at the time of enactment of the bill. It should be noted in this connection that, as expressly recognized by the bill (sec. 813(c)), the application of the Federal Food, Drug, and Cosmetic Act would in no way be affected; and the standards of the Federal Milk Sanitation Code would, of course, make no allowance for any food additive or pesticide residues in milk or milk products which would be violative of that act. It is contemplated that future editions of the Service's recommended Milk Ordinance and Code will make the same policy more explicit. (The current edition (p. 35) provides that the "presence of antibiotics, chemical bactericides, or other additives not approved by the health officer, shall be deemed a violation * * *." It also contains a number of other specific provisions directed toward prevention of contamination of the milk or milk utensils with insecticides or other toxic substances.)

The bill would also require the Surgeon General to promulgate rating methods and criteria to measure compliance with the Federal code as well as the minimum compliance rating (at least 90 percent) for milk and milk products to be certified by producing States as complying with the Federal code.

2. Certification of its shipping plants and their supplies by a producing State under a State plan approved by the Surgeon General, and in conformance with regulations promulgated by him, would make such plants eligible for inclusion in periodically published Public Health Service lists of certified interstate milk plants. Milk and milk products from a plant so listed would, under the bill, be immune from seizure or exclusion by a receiving State or its political subdivisions by reason of failure of either the milk or milk products or the sealed container thereof to comply with health or sanitation laws, regulations, or orders of the receiving State or locality. Upon receipt, however, the milk or milk products would be subject to rejection if they fail to conform to the bacterial, coliform count, temperature, and composition standards and other physical criteria of the Federal Milk Sanitation Code. Such milk or milk products would also, after arrival, be subject to nondiscriminatory regulations of the receiving State or locality as to (1) pasteurization of raw milk or milk

products prior to delivery to retail establishments or before processing into other products, (2) protection from contamination and deterioration during transportation and storage in the receiving State, and (3) the type of container in or from which milk or milk products may be served or sold at retail.

3. The Surgeon General would be authorized to make such inspections, investigations, and laboratory examinations as he deemed necessary to assure the validity of State certification, and to delist shippers for cause either on his initiative or upon the complaint of a receiving State or locality.

4. The bill would also authorize the Surgeon General to conduct appropriate studies (directly or through grants) and training, furnish technical assistance to State and local authorities, encourage uniform adoption of the standards of the Federal Milk Sanitation Code, and cooperate with States, localities, industry, and others in the development of improved milk sanitation programs.

5. The bill provides for injunctions, at the suit of the United States or of any interested persons, to restrain acts by State or local officers in violation of the bill, but no criminal sanctions are provided.

While directed toward the same objectives as H.R. 7794 (85th Cong.), H.R. 50, like H.R. 3840 (86th Cong.), is substantially different in approach and application. Neither the public health problem nor, in our opinion, the trade barrier problem, arising from unduly restrictive health regulations, is of such dimensions as to justify the drastic remedy of an expensive, far-reaching, pervasive, and overriding system of direct and virtually exclusive Federal regulation of all milk and fluid milk products in or affecting interstate commerce and of the producing farms and plants, such as H.R. 7794 contemplated. H.R. 50, on the other hand, would not call for such direct Federal regulation. Rather, it would provide for continuance of existing State and local inspections for both intrastate and interstate milk, subject only to the "full faith and credit" requirements above outlined.

This Department has consistently held that health regulations should not be used as domestic trade barriers to the interstate shipment of milk and milk products of high sanitary quality. At the same time, we recognize the public health gains that have been achieved through State and local sanitary control of milk supplies and the continuing need for such control. In accordance with these views, the Public Health Service has long advocated the adoption of uniform milk sanitation regulations which, if correctly applied, would result in safe supplies of milk, and to this end has developed a model milk ordinance and code for voluntary adoption by interested State and local governments. This model ordinance presently serves as the basis of milk sanitation regulations in 36 States and has been adopted by more than 1,900 local jurisdictions.

The model ordinance and code provides for the acceptance of milk from beyond the limits of routine inspection on the basis of a milk-sanitation rating of the outside milk supply made by the milk-sanitation authority of the State of origin. To implement acceptance under this provision, and thereby facilitate the interstate shipment of milk of high sanitary quality, the Public Health Service cooperates with the States in a voluntary certification program for interstate milk shippers. This cooperative program has been successful in expediting the interstate shipment of considerable volumes of milk of high sanitary quality but, being voluntary, has not been able to eliminate all barriers to interstate shipment of such milk resulting from unduly restrictive milk sanitation regulations and duplicative inspection requirements. In our opinion, H.R. 50 provides an effective means of eliminating such barriers without displacement of existing State and local milk-sanitation personnel and agencies and with modest expenditures by the Federal Government.

Moreover, H.R. 50 has important public health implications. It would assure milk and milk products of high sanitary quality to jurisdictions receiving milk and milk products under its provisions. In many cases, it would lead to improvement in the sanitary quality of the local supply as well. Despite the vast improvement in the sanitary quality of milk that has accrued from State and local milk sanitation programs, there still remain areas where sanitary quality of milk and milk-sanitation practices do not meet our presently recommended standards. In such areas, we believe it inevitable that the immunities conferred by the bill, together with the prestige attached to compliance with the Federal standard, would inspire both industry and official milk-sanitation agencies to seek the necessary improvements in their own control programs. Consequently, we are certain that the bill would result in added health protection for a substantial segment of the Nation's population.

For the above-stated reasons, we recommend enactment of the bill. We are enclosing, herewith, as required by Public Law 801, 84th Congress (5 U.S.C. 642a), a statement of estimated administrative costs of the bill for the next 5 years.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

WILBUR J. COHEN,
Assistant Secretary.

Sanitary engineering activities, Public Health Service—Milk and food program, National Milk Sanitation Act (H.R. 50)—Estimate of cost, 1962–66 [1]

	1962	1963	1964	1965	1966
Appropriation requirements:					
Personal services	$344,700	$473,000	$516,000	$552,000	$587,000
Other objects	400,000	380,000	415,000	445,000	475,000
Total	744,700	853,000	931,000	997,000	1,062,000
Expenditures:					
Personal services	330,000	465,000	500,000	538,000	582,000
Other objects	325,000	385,000	406,000	438,000	467,000
Total	655,000	850,000	906,000	976,000	1,049,000
Man-years of employment:					
Professional	27	35	38	41	45
Technical support	9	12	12	12	14
Administrative and clerical	16	23	25	28	30
Total	52	70	75	81	89

[1] These estimates are in addition to the 50 positions and $508,800 now being spent for milk sanitation activities.

NEED AND RECOMMENDED PRINCIPLES FOR FEDERAL MILK SANITATION LEGISLATION [1]

Official statement and recommendation of the Association of State and Territorial Health Officers, October 24, 1958

BACKGROUND

The Association of State and Territorial Health Officers and the Conference of State Sanitary Engineers, in the interest of facilitating the flow of high-quality milk in interstate commerce and of preventing the use of milk sanitation requirements as trade barriers, enlisted the cooperation of the U.S. Public Health Service in a study of these problems. In accordance with the recommendation (appendix A) passed by the ASTHO at its 1957 annual meeting, and pursuant to the direction of the association's executive committee on May 14, 1958, following its consideration of CSSE Resolution No. 3e (appendix B), a subcommittee of the environmental sanitation committee, ASTHO, was appointed to study the matter of Federal milk sanitation legislation relating to these problems. The members of this subcommittee were: Dr. Russell E. Teague, chairman, Mr. Alfred H. Fletcher, Dr. Henry A. Holle, Mr. Karl M. Mason, Mr. C. B. Neblett, Dr. Carl N. Neupert, Mr. Blucher A. Poole, Dr. James E. Scatterday, and Mr. Willis Van Heuvelen.

This subcommittee met with representatives of the Public Health Service in Washington, D.C., on September 4, 1958, to consider the current status of the sanitary control of milk, the need for Federal regulation of interstate milk supplies, and the merits of bills which have recently been introduced in the Congress for Federal regulation of fluid milk and fluid milk products. The preliminary report prepared by the subcommittee was approved by both the environmental sanitation committee and the Federal relations committee of the ASTHO. Based on the report and recommendations of these committees, as well as sub-

[1] An official statement and recommendation of the Association of State and Territorial Health Officers adopted at its annual meeting in Washington, D.C., October 20–24, 1958. Additional copies of this report may be obtained from Dr. M. I. Shanholtz, Secretary, ASTHO, Virginia Department of Health, Richmond 19, Va.

sequent discussion of the problems involved, the association formally adopted the following statement and recommendation.

STATEMENT

Resolution No. 10 (appendix C) adopted by the ASTHO at its 1957 annual meeting, and Resolution No. 3e adopted by the CSSE at its 1958 meeting, both dealing with the responsibilities of State and local health agencies for the sanitary control of milk supplies and the continuing need for the exercise of such control as a consumer protection measure, were reviewed. Consistent with these resolutions, the association believes there is a need to strongly reaffirm that the sanitary control of fluid milk and fluid milk products is a public health matter which is primarily the responsibility of State and local governments except where interstate commerce is involved, and that the exercise of such control should be vested in health departments which are consumer protective agencies rather than in agencies whose principal responsibility is to foster agricultural interests.

The association gave consideration to the practice of some States and municipalities to use health regulations as economic barriers to the free movement of fluid milk both in intrastate and interstate commerce, a practice which has resulted in several bills being introduced in the Congress to establish preemptive Federal control over interstate milk. The association recognizes that States and their political subdivisions have the right to exclude milk of questionable quality, but unanimously agrees that health regulations should not be used to restrict either the intrastate or interstate movement of milk of high sanitary quality. In this connection it is felt that the sanitary control of market milk and milk products cannot be divorced from the economics of milk production, processing and marketing, and that health agencies at all levels of government have a responsibility to avoid taking actions which cannot be sustained on public health grounds and which have an adverse economic effect on the dairy industry.

The changes which have taken place in the dairy industry in the past 25 years, and which have resulted in greatly increased volumes of milk being offered for sale in interstate commerce, were reviewed in order to determine whether or not the present system of State and local supervision could be utilized for the control of interstate milk shipments without creating an undue burden on interstate commerce. It was the consensus of opinion that the problems of the industry can no longer be considered solely on a local milk shed basis, that the increased interstate movement of milk has complicated its control by State and local agencies, and that uniform sanitary standards and practices are necessary to insure the quality of milk shipped interstate and to eliminate the unjustified use of health regulations as trade barriers. While the voluntary cooperative State-PHS program for the certification of interstate milk shipments, established at the request of the ASTHO, has greatly facilitated interstate milk shipments, it has not been able to break down deliberate barriers toward which current Federal legislative proposals are directed. For these reasons, it was agreed that some form of Federal legislation is needed.

The association considered specific forms of Federal legislation that might be appropriate. While it favors the objectives of H.R. 7794 and certain aspects of this and similar bills, it is opposed to those sections of the bills that would provide for centralized Federal control, supervision, and the extension of such control to all milk supplies "affecting interstate commerce." It was felt that direct Federal supervision would unnecessarily superimpose another layer of control on existing State and local systems that might be utilized, and that the "affects interstate commerce" provisions would result in the Federal Government preempting the right of State and local governments to control their intrastate supplies.

Consideration was also given to an approach which would simply place a legislative base under the present voluntary State-PHS milk certification program. It was recognized that such an approach would not solve in its entirety the trade barrier problem and thus would not be acceptable to the proponents of the proposed Federal legislation. However, in view of the fact that the voluntary certification program, which utilizes State and local inspection services, has proven effective and practical in operation, the association believes that the essential elements of this program should be incorporated into any Federal legislation enacted by the Congress to control interstate milk supplies. It was the consensus that if these elements were coupled with a provision prohibiting a State or municipality from excluding milk from out of State sources which complied with basic public health criteria for certification, that such an approach would

provide an effective and practical means of assuring high quality products for consumers in milk-importing areas and for eliminating the use of health regulations as trade barriers without abridging the rights of State and local agencies to control the sanitary quality of their intrastate supplies. In fact, the association believes that this approach would strengthen the programs of State milk sanitation agencies. Therefore, the following recommendation was passed on October 24, 1958, at the annual association meeting in Washington, D.C.

RECOMMENDATION

That the Association of State and Territorial Health Officers recommend to the Congress the adoption of Federal legislation pertaining to interstate milk shipments, incorporating the following principles:

A. Declare as public policy that the sanitary control of fluid milk and fluid milk products is necessary to protect the public health, and that the exercise of such sanitary control is primarily the responsibility of State and local health departments, except that no State or local government has the right to obstruct the free movement in intrestate commerce of fluid milk produces of high sanitary quality by the use of unnecessary sanitary requirements or other health regulations;

B. Establish uniform sanitation standards and practices consistent with those contained in the unabridged form (p. III and p. IV of the Milk Ordinance and Code—1953 recommendations of the Public Health Service, for fluid milk and fluid milk products shipped in interstate commerce;

C. Authorize the Surgeon General of the Public Health Service to conduct, in cooperation with State milk sanitation authorities, a program for certification of interstate milk shippers, in which certification would be based on compliance ratings made by State milk sanitation rating officials in accordance with a rating method, criteria and procedures to be promulgated by the Surgeon General of the Public Health Service;

D. Authorize the Surgeon General to certify only those interstate sources of fluid milk and fluid milk products which are awarded a compliance rating of 90 percent or more by the State milk sanitation authority;

E. Authorize the Surgeon General:

(1) To make such ratings, inspections, laboratory examinations, studies, and investigations as he may deem necessary to satisfy himself as to the validity of the sanitation compliance ratings submitted by the State milk sanitation authorities for certification.

(2) To provide for revocation or suspension of certifications for cause, and

(3) To disseminate information on certified sources;

F. Prohibit the use of State and local milk regulations as trade barriers to the interstate shipment of fluid milk and fluid milk products of high sanitary quality by providing that no State, municipal, or county authority or official may exclude, on public health grounds, or because of varying sanitation requirements, any fluid milk and fluid milk products shipped in interstate commerce from sources certified by the Surgeon General as having a sanitation compliance rating of 90 percent or more, if, upon receipt, such fluid milk and fluid milk products comply with the bacterial standards, temperature requirements, composition standards, and other criteria specified in the prescribed sanitation standards and practices;

G. Authorize the Surgeon General to amend the prescribed sanitation standards and practices if, after consultation with State and territorial health authorities, other State milk control agencies and the dairy industry, he finds amendments are necessary to either protect the public health or to eliminate obsolescent sanitation standards and practices;

H. Authorize the Surgeon General:

(1) To conduct research and investigations, and to support and aid in the conduct by State agencies, other public or private organizations and institutions of research and investigations, concerned with the sanitary quality of fluid milk and fluid milk products, and

(2) To make the results of such research studies and investigations available to State and local agencies, public or private organizations and institutions, and the milk industry;

I. Authorize the Surgeon General to:

(1) Train State and local personnel in milk sanitation methods and procedures,

(2) Provide technical assistance to State and local milk sanitation authorities on specific problems,

(3) Conduct field studies and demonstrations, and

(4) Cooperate with State and local authorities, public and private institutions, and industry, in the development of improved programs for control of the sanitary quality of milk; and

J. Exclude from provisions of the legislation manufactured dairy products such as butter, condensed milk and evaporated milk unless used in the preparation of fluid milk or fluid milk products, sterilized milk or milk products not requiring refrigeration, all types of cheese other than cottage cheese, and nonfat dry milk, dry whole milk and part fat dry milk unless used in the preparation of fluid milk or fluid milk products; and further

K. Authorize necessary appropriations for the Surgeon General to carry out his responsibilities under the legislation;

That its secretary transmit the views contained in this recommendation to the Secretary of the Department of Health, Education, and Welfare, to the appropriate committees of the Congress, and to other interested parties.

APPENDIX A

RECOMMENDATIONS OF THE ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICERS

1957

That an appropriate committee of the Association of State and Territorial Health Officers be appointed to work with the Surgeon General to determine the advisability of Federal legislation which is currently being developed in the field of sanitary control of milk shipped interstate.

That the Public Health Service strengthen its program for the certification of interstate milk shippers so as to increase the confidence of the participating States in the effectiveness of the program, and that the Service encourage in every way possible the National Conference on Interstate Milk Shipments.

APPENDIX B

CONFERENCE OF STATE SANITARY ENGINEERS RESOLUTION NO. 3E

LEGISLATION—MILK SANITATION

Whereas milk is a highly perishable food product for the most part produced and marketed intrastate, the sanitary control of which has been effectively conducted on a local milkshed basis; and

Whereas milk sanitation programs conducted by State and local health agencies, with technical assistance from the Public Health Service, have markedly reduced the incidence of milk-borne disease; and

Whereas several bills have been introduced in the Congress to establish Federal sanitary control over milk shipped interstate, most of which would abridge the rights of States and their political subdivisions to protect their market milk supplies and some of which would separate sanitary control of milk from health agencies; therefore be it

Resolved, That the Conference of State Sanitary Engineers, representing the 48 States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands, in conference assembled, May 9, 1958, at Washington, D.C., take a positive position to the effect that Federal milk sanitation legislation should include the following principles:

(1) A declaration by the Congress that the sanitary control of fluid milk and fluid milk products is a public health matter and is the responsibility of States and their political subdivisions,

(2) Authorize the Public Health Service to conduct research and to provide technical services and training in support of State and local milk sanitation programs, and (3) require the Public Health Service to administer a voluntary program for certification of the sanitary quality of fluid milk and fluid milk products shipped in interstate commerce, in cooperation with the States and the milk industry; and be it further

Resolved, That copies of this resolution be transmitted to the Surgeon General of the Public Health Service and to the Association of State and Territorial Health Officers, with the recommendation that authorization be given to have the position of this conference, as stated herein, formally presented in testimony before any future congressional hearings dealing with the sanitary control of fluid milk and fluid milk products.

APPENDIX C

ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICERS RESOLUTION NO. 10

MILK SANITATION

Whereas milk has been in the past an important agent in the spread of disease, and

Whereas in the event of outbreaks of disease the public health agencies become responsible for locating the failures of preventive measures and for halting the spread or recurrence of the outbreaks; and

Whereas milk retains all its potentialities as a transmitter of disease, although present-day practices of sanitary control have greatly reduced the incidence of the spread or recurrence of the outbreaks, and

Whereas present-day practices of sanitary control were brought about by the unremitting efforts of health agencies over a period of 75 years, in the face of determined resistence by the producers and marketers of milk, and by agencies supporting their interests, and

Whereas public health agencies, in the present, as in the past, have the primary legal and moral responsibility for preventing disease, the professional and technical skills that are required by such work, an abiding belief that prevention of disease is an important service of government, and a readiness to put the consumer's interest over and above commercial interests, and

Whereas certain other agencies whose primary responsibility is to foster the interests of the producers and marketers of milk have attempted, in some cases successfully, to take over the duties of milk control from the public health agencies, and

Whereas the end result of such a process must be to place an important public health responsibility in the hands of persons not fitted by interest, training or philosophy to protect the consumer of milk, while at the same time public health authorities are deprived of one of their most important means of preventing transmission of disease: Now, therefore, be it

Resolved by the Association of State and Territorial Health Officers, in conference assembled at Washington, D.C., on November 8, 1957, That statutory provisions for the fundamental State authority for the sanitary control of milk production, processing and distribution should be vested in the State health agencies, and that the necessary delegations of duties for implementing inspections and other control measures should be made to local health departments in manners best suited to obtain uniformity, efficiency and protection in the interests of the whole community of our Nation, and be it further

Resolved, That every effort be made by the members of the Association of State and Territorial Health Officers to further the purposes of this resolution by forcefully presenting the facts outlined herein to the public and legislative bodies of their respective States.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., July 31, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 50, a bill "To amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce."

The bill provides for the rating, certification and listing by the Surgeon General of interstate milk plants and prohibits discrimination against sanitary

out-of-State milk or milk products from such plants. It would eliminate certain barriers to the free interstate shipment of milk and milk products where these barriers result from discriminatory State and local regulations and requirements concerning the importation of out-of-State products.

To the extent that State and local health and sanitation regulations may be used as a means of eliminating and excluding competition, it is the view of the Department that a bill providing for Federal standards to supplant such State interference is desirable. If the bill is to be acted upon favorably it is suggested that there should be added to it a provision for the publication in the Federal Register of the Federal Milk Sanitation Code proposed in section 2 of the bill to be promulgated by the Surgeon General.

The Department of Justice favors enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE,
Deputy Attorney General.

The CHAIRMAN. All of these bills call for an amendment to the Public Health Service Act by adding at the end thereof a new title relating to milk sanitation. This new title provides that any milk which meets the requirements of a Federal Milk Sanitation Code, to be promulgated by the Surgeon General, could not be excluded from any fluid milk market in the United States.

Manufactured dairy products such as butter, frozen desserts, condensed and evaporated milk, all types of cheese except cottage cheese, creamed cottage cheese and dry milk would be exempted from the provisions of this legislation.

I, also, recall that a subcommittee of this committee held hearings on these proposals in the last Congress. Therefore, the committee has a full record of those hearings.

We are pleased to have as our first witness this morning one of the authors and sponsors of legislation, our colleague, the Honorable Lester Johnson of Wisconsin. Mr. Johnson, we will be glad to hear your statement.

STATEMENT OF HON. LESTER R. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. JOHNSON of Wisconsin. I want to say that I desire especialy to thank the chairman in giving me the hearings this year because I realize how busy this committee has been. In my talks with the chairman, I believe he told me that the hearings of a year ago would be available to the members of the committee. We had 3 days of hearings before the subcommittee of this committee.

I made an effort at that time to get quite a few witnesses from Wisconsin down here, some eight or nine, to testify before the committee. As long as all of their testimony is to be a part of the hearing record, I have not made an effort to encourage people to come down here, as the committee knows their views, and knows how they stand. I can assure the committee that they stand the same this year as they did a year ago. But for the record I have a list of the people who appeared a year ago, and I would like to include that list at this point in the record.

The CHAIRMAN. Very well, as I mentioned a moment ago, the record of the hearings last year will become a part of this record by reference. And you may include that list in the record at this point.

(The list is as follows:)

Witnesses representing Wisconsin groups who testified in support of national milk sanitation legislation at the 1960 hearings:

1. Paul Affeldt, president of the Pure Milk Products Cooperative, of Fond du Lac, Wis.
2. Dr. Linley E. Juers, director of the dairy section of the Wisconsin Council of Agriculture.
3. William KasaKaitas, administrative secretary, Wisconsin Farm Bureau Federation.
4. J. Kyle, executive secretary, Wisconsin Asocition of Cooperatives
5. Robert G. Lewis, a representative of the Honorable Gaylord Nelson, Governor of Wisconsin.
6. O. J. Muege, State sanitary engineer, Wisconsin State Board of Health.
7. John W. Reynolds, attorney general for the State of Wisconsin.
8. Gilbert Rohde, president, Wisconsin Farmers Union.
9. George F. Sieker, assistant attorney general, State of Wisconsin.

Mr. JOHNSON of Wisconsin. Under the provisions of the legislation, a Federal Milk Sanitation Code which would be at least the equivalent of the U.S. Public Health Service's tried and proven milk ordinance and code would become the quality yardstick for milk shipped from State to State. Fluid milk and fluid milk products meeting the standards of this Federal Milk Code could not be kept out of interstate trade because of varying local health rules.

H.R. 50 is almost identical to the milk sanitation bill (H.R. 3840) which I introduced during the 86th Congress. Only a few minor technical changes have been made to clarify the language in several provisions of the measure, mainly those relating to the State milk sanitation rating agency. The latter changes had been requested by the States of Wisconsin, Washington, and Tennessee, where several State agencies supervise the administration of official milk sanitation control activities in the State.

Mr. Chairman, on April 26, 27, and 28 of last year, members of the Health and Safety Subcommittee of your committee held very extensive hearings on H.R. 3840 and 19 companion bills and later gave a favorable report on the legislation. In the interest of saving the valuable time of the committee, I will make references to certain material which is printed in its entirety in the record of the hearings on H.R. 3840. I understand that copies of this hearing record are available for reference in the hearing room.

I cannot overemphasize the need for legislation to permit the free flow of high quality milk from State to State. Over the years, the various States and municipalities have set up and added to their milk sanitation regulations until we now have a regular crazy quilt of rules that hamper the shipment of milk in interstate trade. Unfortunately, human nature being what it is, some milksheds are using their health standards as an excuse to maintain a neat little milk monopoly for themselves.

Sanitary regulations should be used only to protect the public health, not for the protection of local milk monopolies. The use of arbitrary and outdated milk rules as trade barriers is obviously a perversion of the intent of the regulations.

Mr. Chairman, this "closed-door" policy of certain milk markets works to the disadvantage of consumers, dairy industry suppliers and the bulk of dairy plants and milk producers. In some places, such as our Nation's Capital, the health regulations prevent the entry of milk from other areas, giving an absolute monopoly to local producers.

Other cities permit milk to be shipped in only after it has been checked by their own inspectors at its point of origin to see it meets the standards of the receiving area. Since the milk must also conform to the sanitary rules of the shipping area, the resulting duplicate inspections add to the cost of the milk.

One of the dairies in my home district sends milk to 10 different markets—and has 10 different inspectors trooping through the place every year. Such multiple inspections cannot provide any more public health protection than would result from inspection by one well-trained individual. Duplicate inspections are costly to the dairy farmer, to the health agencies which engage in such practices, and, inevitably, to the consumer.

In addition, consumers have to foot the bill for dairy equipment which much be custom-made instead of assembly line produced because of the differences of opinion among many State and local sanitarians about construction requirements for equipment used in handling milk. Dairy equipment is manufactured for sale and installation all over the United States. In the interest of efficiency and economy, it is essential that once an effective standard for a piece of dairy equipment has been established, this standard be universally accepted.

I might add that we already have an effective set of standards in the 3–A Sanitary Standards for Dairy Equipment, which are recognized as valid by the U.S. Public Health Service in its milk code.

In the fall of 1958, I was studying the poultry situation in Alabama. I am at the present time chairman of the House Dairy and Poultry Subcommittee and was a member of that subcommittee when the Federal poultry inspection bill was enacted into law during the 1st session of the 85th Congress.

The manager of an Alabama poultry processing plant I visited had high praise for the Federal poultry inspection law. He commented that with modern transportation and refrigeration methods, he was now shipping federally inspected poultry from Alabama to California and the Midwest, including Wisconsin and Minnesota. I told him that all the dairy farmers want is the same chance for interstate sale of their milk that the poultry farmer gets for his product.

Mr. Chairman, I would like to call your attention to an editorial from the St. Paul Pioneer Press of St. Paul, Minn., which I included in my testimony on H.R. 3840 and which appears on pages 27 and 28 of the hearing record. This editorial poses the question: If the principle of freedom of commerce in wholesale foods applies to meat and poultry, why shouldn't it apply to milk?

In endorsing the principles of national milk sanitation legislation, President Kennedy noted our Constitutional Convention was originally formed in order to promote interstate commerce and its free flow. He also said that he didn't believe any unnecessary or artificial standards should be used in any place in any area in any part of American life to block the flow of commerce.

I can only add a hearty "amen" to that statement. For the past 5 years, I have been working on legislation to eliminate the use of unnecessary or artificial standards as trade barriers against the free flow of high-quality milk in interstate commerce. On April 17 and 18, 1958, your Subcommittee on Health and Science held hearings on another milk sanitation bill, H.R. 7794, which I had introduced in

the 85th Congress and which had the same basic objectives as my present bill. The 1958 hearings revealed a number of deficiencies in H.R. 7794 and pointed the way for the development of an entirely different approach. I believe that this new approach, embodied in H.R. 50, satisfied the major objections which were raised on the original bill.

Those objections were (1) that direct Federal inspection would unnecessarily superimpose another layer of control on existing State and local inspection systems; (2) that direct Federal inspection would be costly to administer; (3) that the "affects interstate commerce" clauses would preempt the rights of States and municipalities to exercise sanitary control over their intrastate milk supplies; and (4) that Federal control might result in a lowering of the quality of milk sold in those municipalities having high sanitary standards.

My present bill, H.R. 50, which is now before this committee, does not propose the establishment of a far-reaching Federal inspection for all milk sold in the United States. Rather, it seeks to apply the force of the Federal law only in those instances where health regulations are deliberately misused to obstruct the interstate marketing of wholesome milk of the highest sanitary quality.

Mr. Chairman, the bill would place in the Surgeon General of the U.S. Public Health Service the responsibility for the establishment of a Federal milk sanitation code setting forth sanitation practices and sanitary standards for milk shipped in interstate commerce. He would cooperate with the States in conducting a system of certification of milk supplies which comply with these standards. Milk from plants certified under this system would then be permitted to move freely in interstate commerce, subject only to laboratory tests upon arrival to assure that the milk still complied with Federal standards.

This measure is designed to avoid the addition of another layer of expensive inspections to the existing system. State and local inspection services would be utilized, and no direct system of Federal inspection is provided for or contemplated. A minimum of Federal expenditure would be required to monitor certifications made by the States and to support certain other services such as training, research and development of standards.

There are no "affects interstate commerce" clauses in this legislation, and it would not interfere with the normal inspection activities by State and local governments of their own milksheds. In addition, it permits States and municipalities receiving interstate milk shipments to check such milk upon arrival for compliance with bacterial counts, temperature standards and composition standards prescribed in the Federal Milk Sanitation Code.

This concept of Federal legislation to eliminate the misuse of milk sanitation regulations was proposed and developed by a committee of the Association of State and Territorial Health Officers. As the name implies, this association is composed of the chief health officials in each State and territory. In 1957, the association set up a committee to study the matter of Federal milk sanitation legislation and, a year later, issued an official report titled "needed and recommended principles for Federal milk sanitation legislation."

This report states:

> The association believes that there is need to strongly reaffirm that the sanitary control of fluid milk and fluid milk products is a public health matter which

is primarily the responsibility of State and local governments, except where interstate commerce is involved.

Mr. Chairman, the entire report is printed on pages 29 through 33 of the hearing record on H.R. 3840. My milk sanitation bill is in full agreement with the principles set forth by the Association of State and Territorial Health Officers. This legislation seeks only to provide unrestricted interstate markets for milk of the highest sanitary quality by eliminating the use of capricious and arbitrary regulations that keep high-quality milk out of monopolized local markets.

On November 2, 1960, the American Public Health Association went on record in favor of my national milk sanitation legislation. This action was taken by the association's governing council, which passed a resolution calling for enactment of the legislation to permit the free-flow of high quality milk from State to State.

Needless to say, I was extremely happy to have the American Public Health Association join the growing ranks of the active supporters of my milk sanitation bill. The association is the major organization of public health officials in the United States, having over 13,400 members. Its resolution represents the thinking of public health people all over the country. Significantly enough, the association seldom takes a position on proposed national legislation.

Mr. Chairman, I would like to insert in the hearing record a copy of the American Public Health Association's resolution, as published in the January 1961 issue of the "American Journal of Public Health and the Nation's Health."

I ask at this point to include the resolution passed by the American Public Health Association.

The CHAIRMAN. It may be received by the record.

(The document referred to is as follows:)

RESOLUTION [1]

The following resolution was adopted by the governing council, American Public Health Association, at its 88th annual meeting in San Francisco, Calif., November 2, 1960.

FEDERAL MILK SANITATION LEGISLATION

Whereas the Congress has been considering various legislative proposals aimed at preventing unwarranted use of sanitation regulations as trade barriers; and

Whereas the National Milk Sanitation Act considered by the 86th Congress would accomplish that objective; and

Whereas said act would also provide for sound public health requirements and effective administration procedures without abridging the rights of States and localities: Now, therefore, be it

Resolved, That the American Public Health Association favor enactment of legislation embodying the principles of the National Milk Sanitation Act which was considered by the 86th Congress of the United States.

Mr. JOHNSON of Wisconsin. Some critics of my bill have advanced the theory it would be detrimental to the quality of milk sold in their markets. These critics reason that the Federal standards to be established under the bill would not be adequate to protect the health of their citizens and that distant and anonymous agencies would not have the same degree of interest in the welfare of local consumers as would local agencies.

[1] Published in "American Journal of Public Health and the Nation's Health," vol. 51, No. 1, January 1961, p. 117.

Concerning the first point, the bill provides that the Federal standards shall be at least the equivalent of the high health standards now contained in the Milk Ordinance and Code recommended by the U.S. Public Health Service, which is the watchdog of our public health. At the present time, 36 States and some 1,900 local jurisdictions have voluntarily adopted this model milk code or one based on its provisions. Surely a body of health regulations in such general use cannot be notably deficient in providing for adequate health protection of our citizens.

As to the second point, it is difficult for me to believe that, in this day of scientific advancement and free interchange of technical information among professional people, there can be any one area where there are milk sanitation people who possess knowledge not available to health authorities in all parts of the United States. Nor can I believe that health authorities and milk producers in one area of the country are any less interested in providing consumers with a pure and wholesome product than are those in another.

However, the bill provides authority for the Surgeon General to make spot checks as he deems necessary to validate State certifications that interstate milk supplies have achieved a minimum compliance of at least 90 percent with the national standard. This provision, together with requirements that milk and milk products upon receipt in a jurisdiction meet bacteriological, temperature, and composition standards, certainly provides adequate guarantees that the welfare of the consumer will be safeguarded, no matter where that consumer is located.

Mr. Chairman, during the hearings on H.R. 3840, the subcommittee requested that the U.S. Public Health Service make a study of the fundamental differences between the Public Health Service Milk Code and the regulations of the States which have adopted other types of milk regulations.

This study revealed that the majority of the States with regulations differing from the Public Health Service code have sets of standards that are not more stringent or thorough than the code. Although a few of the State regulations contained one or two items which appeared to be more stringent than the code, most of the State regulations which differed were found to be far less stringent on many fundamental sanitation requirements applicable both to dairy farms and pasteurization plants and to inspection and laboratory procedures.

A comparison of the Public Health Service Milk Code with the milk sanitation regulations of the States of Pennsylvania, New Jersey, Massachusetts, and New York appears on pages 110 through 120 in the hearing record on H.R. 3840. This comparison, which details many instances where the regulations of those States are less specific and less stringent than the code, is especially interesting in the light of the fact that all four of these States refuse to accept out-of-State milk unless inspected by their own inspectors.

Another point, Mr. Chairman, which I find to be of considerable interest, is the fact that the 14 States which have adopted regulations differing from the Public Health Service Code also have regulations which differ from each other. Certainly the fundamental requirements for the protection of the milk supply are well known. What, then, is the reason for these differences? It appears to me that the

only common point of agreement among these States is opposition to my milk sanitation bill.

No matter how comprehensive milk-sanitation regulations may be, they afford protection to the consuming public only to the extent to which their provisions are followed in the production, processing, pasteurization, and distribution of milk and milk products. In recognition of this fact, the Public Health Service developed a milkshed rating system to provide an objective means for determining the sanitary quality of fluid milk, as well as the progress being made in the improvement of the sanitary quality of such milk.

This rating method numerically evaluates not only the degree of compliance with all of the dairy farm and pasteurization plant sanitation requirements, bacterial standards, herd health provisions, temperature requirements, et cetera, which are specified in the Public Health Service Milk Code, but evaluates the effectiveness of the supervision as well.

I would like to stress that this method of evaluation takes into consideration all factors which might result in contamination or recontamination of the milk, rather than to place reliance for determination of sanitary quality on a single criterion, such as the bacterial count. This comprehensive system of evaluation is one of the many safeguards included in H.R. 50 to insure that only a milk supply of high sanitary quality is certified for interstate shipment.

In conclusion, I would like to reemphasize that my proposed National Milk Sanitation Act would apply the force of Federal law only in those instances where health regulations are deliberately misused so as to obstruct the interstate marketing of wholesome milk of the highest sanitary quality. It would not affect in any way those jurisdictions which are already accepting milk from other States on the basis of their compliance with adequate sanitary regulations. Therefore, my bill would alter the policies of only those States and municipalities which seek to foster local monopolies at the expense of their consumers by improper exercise of the public health function.

I would like permission to place two items in the record at this point. The first is a resolution from the Wisconsin State Legislature and the second a letter from Mr. Robert Harvey, editor of the Clark County Press.

The CHAIRMAN. Permission is granted.

(The items mentioned above follow:)

STATE OF WISCONSIN

[Jt. Res. No. 18, A]

NO. 18, A, 1961

A JOINT RESOLUTION RELATING TO MEMORALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION WHICH WILL INSURE THE FREE MOVEMENT OF MILK OF HIGH SANITARY QUALITY IN INTERSTATE COMMERCE

Whereas there is pending in the Congress of the United States a series of bills, H.R. 50 to H.R. 57 which provide for the free flowage in interstate commerce of milk of high sanitary requirements which must be met under the provisions of said bills; and

Whereas milk is the most important part of the diet for most people; it is our most perfect food, containing almost all of the essential elements for human growth, and is the principal food of infants, children, the aged and infirm; and

Whereas more than one-half of our States are importers of milk and about

the same number of States are exporters; and more than 13 million gallons of milk and cream are shipped interstate each day; and

Whereas this State has a tremendous stake in this industry, about 85 percent of its production of milk going into interstate commerce in one form or another, and milk production is one of the principal industries of this State; and

Whereas although the laws of our State require that milk and milk products must be produced under high sanitary conditions and result in sanitary, high grade products; and

Whereas importers of milk in the importer States have regulations for high sanitary quality by use of unnecessary requirements or other health regulations which result in a crazy-quilt pattern of milk sanitation regulation which duplicates inspection procedure in thousands of plants in the exporter States, thereby causing great unnecessary expense to a producer in meeting the different code requirements of his many customers; and

Whereas it is highly desirable to all the people that there only be Federal sanitation requirements, only one code, which must be complied with so as to insure the free, economical flow of milk in interstate commerce: Now, therefore, be it

Resolved by the assembly, the senate concurring, That the Congress of the United States be urged to enact one of the before mentioned bills, or a similar bill, into law, thereby insuring that milk and milk products produced within Federal requirements will have free flowage in interstate commerce; and, be it further

Resolved, That properly attested copies of this resolution be sent to the President of the United States, to each House of Congress and each Wisconsin Member thereof.

W. P. KNOWLES,
President of the Senate.
LAWRENCE R. LARSEN,
Chief Clerk of the Senate.
DAVID J. BLANCHARD,
Speaker of the Assembly.
ROBERT G. MAROTZ,
Chief Clerk of the Assembly.

THE CLARK COUNTY PRESS,
WELLS F. HARVEY & SON,
Neillsville, Wis., July 24, 1961.

Hon. LESTER R. JOHNSON,
House Office Building,
Washington, D.C.

DEAR MR. JOHNSON: The Clark County Press in its issue of July 27 will request the people of Clark County to give you support in your appearance before the House subcommittee on the bill which would permit the free flow of milk through the United States. The writer hopes that the response will be good. It should be, because such a bill could have a tremendous effect on the dairy industry as a whole, and one which would affect greatly the income of every dairy farmer.

In the last 15 or more years Wisconsin dairy farmers have been called upon to spend time, money, and thought in perfecting a sanitation program for milk production which is perhaps the most stringent in the whole area of food products. Their efforts, and the efforts of the dairy plants, have been most effective. There is no good reason now why the people of the United States should be deprived of good Wisconsin milk at the whim of a city or a State.

We wish you and the other Congressmen and Senators interested in this free milk flow law success. We hope the support of letters from home will encourage you to fight a strong battle.

Yours very truly,

ROBERT HARVEY, *Editor.*

Mr. JOHNSON of Wisconsin. Mr. Chairman, I want to thank you and the members of this committee for holding these hearings on the important subject of national milk sanitation legislation.

The CHAIRMAN. Does that conclude your statement?

Mr. JOHNSON of Wisconsin. Yes, sir.

The CHAIRMAN. Are there any questions?

Mr. MACK. I would like to compliment Mr. Johnson on his very fine statement and, also, I would like to inquire of him, as a witness who has had a lot of experience in this area, does the Federal Trade Commission attempt to control the shipment of milk or supervise it?

Mr. JOHNSON of Wisconsin. Not that I know of. I think that it is done pretty much in the Department of Agriculture through the marketing orders.

Mr. MACK. The Federal Trade Commission has no jurisdiction at the present time; is that correct?

Mr. JOHNSON of Wisconsin. Not that I know of.

Mr. ROGERS of Texas. Will you yield?

Mr. MACK. I will be glad to yield.

Mr. ROGERS of Texas. It is my understanding that the purpose of the bills is to set up a Federal system to make it possible to ship this milk from State to State?

Mr. JOHNSON of Wisconsin. Under the present law, the Federal Government, where we have a voluntary program, spot checks, and then rates the various farms and milk plants in a State. This would continue. There are a good many pages in my bill, but to summarize it as best I can, I would say that even when any State and any milk plant now meet those sanitation regulations, that many States can refuse to allow that milk to enter, just because their local inspector cannot get to the area and investigate the dairy farms and the plants. Under the provisions of my bill, those States will have to recognize that rating. But they do have a right to test the milk after it gets to their State, to see that it does come up to the Federal standards. If it does not come up to the Federal standards, they do not have to allow it to enter.

Mr. ROGERS of Texas. In other words, it would be another burden on interstate commerce—it would require higher standards under Federal supervision.

Mr. JOHNSON of Wisconsin. About the worst thing that we would run into is where a State will say, "You can bring your milk in, but our inspector has to look over your farms and your plants." And there is a charge for that. Sometimes it runs as much as $500, maybe $1,000. So it is impossible for the local plant to comply with the varying laws of different States, so the milk just stays there.

Mr. ROGERS of Texas. Do you think, Mr. Johnson, that, by arbitrary action on the part of the milk authorities, they work a monopoly?

Mr. JOHNSON of Wisconsin. That is my theory, that it is done under so-called milk sanitation regulations. It is an economic regulation to keep out competition.

Mr. ROGERS of Texas. Thank you.

Mr. MACK. Where is the principal problem today? Is it in the areas that desire some milk from another area?

Mr. JOHNSON of Wisconsin. Our biggest troubles are in the Northeast, on the eastern seaboard. There's where we have most of the opposition to my legislation—that is where it is coming from.

Mr. MACK. There is an effort to keep milk out of interstate trade?

Mr. JOHNSON of Wisconsin. That is right. In the southern half of Wisconsin, and in the southern half of Minnesota, we do not have too much trouble getting into the Chicago market, for example, although

Chicago does say that the Chicago inspector has to look over the farms and inspect the plants.

Mr. MACK. Do you not ship milk as far away as Florida?

Mr. JOHNSON of Wisconsin. We ship milk to Florida. We ship milk to Texas. There are some dairies in my area that are shipping milk interstate every day. I am told that the milk leaves Wisconsin with a temperature of 36° and when it gets to Texas, it has only gone up to 38°. That is what modern transportation means.

Mr. MACK. If you are going to have to pay to have the inspector to come from Florida to Wisconsin that will be quite expensive, that is, if the producers in Wisconsin have to pay for the State milk inspectors to come to Wisconsin from Florida, for instance—that would be a sizable expense.

Mr. JOHNSON of Wisconsin. That really calls for money.

Mr. MACK. Is that situation presently existing?

Mr. JOHNSON of Wisconsin. I have one plant in my district that sends milk to 10 different areas. It is located at Cameron, Wis. We have 10 different inspectors in there every year from 10 different municipalities to inspect the plant and the herds.

Mr. MACK. Thank you.

The CHAIRMAN. Are there any further questions, Mr. Younger?

Mr. YOUNGER. Mr. Johnson, I am not clear as to what you mean in the last paragraph where you say:

> In conclusion, I would like to reemphasize that my proposed National Milk Sanitation Act would apply the force of Federal law only in those instances where held regulations are deliberately misused—

Who is going to determine whether or not those regulations are being misused?

Mr. JOHNSON of Wisconsin. I would think that it would be the Surgeon General.

Mr. YOUNGER. In other words, you would put a dictator in Washington in charge of it?

Mr. JOHNSON of Wisconsin. No, no such thing.

Mr. YOUNGER. Of milk and interstate commerce?

Mr. JOHNSON of Wisconsin. No. Under this law, milk which meets the Federal standards cannot be kept out of any State unless, when it arrives at the State, the State test shows that the milk does not come up to the Federal standard. Then the State can refuse to allow it to enter.

Mr. YOUNGER. But the burden of your testimony is that this milk could now move in interstate commerce except that some States deliberately misuse public health standards?

Mr. JOHNSON of Wisconsin. That is right.

Mr. YOUNGER. Again, I want to know who is the man who is to determine that a State has misused that privilege.

Mr. JOHNSON of Wisconsin. The law provides for procedures in the Federal courts of the country in case the milk is refused by the State and still comes up to the Federal standards when it arrives.

Mr. YOUNGER. Your national officer, whoever he is, whether the public health officer or the Surgeon General, can sue the State, do you mean?

Mr. JOHNSON of Wisconsin. I think the legal part of the action starts with the handler having the right of suit. He could for instance,

take the State of Oregon to court if it refused to let the milk enter when it meets Federal standards. I imagine that you export milk rather than import it.

Mr. YOUNGER. I do not know anything about Oregon. I do not come from there.

Mr. JOHNSON of Wisconsin. But let us take that, for example. Say that milk which met the Federal standards was refused by the State of Oregon even after you had given it an examination in Oregon and it still came up to the Federal standards. I think the handler who shipped the milk out there would have the right of action because of the fact you kept his milk out. I would rather let the attorney from the Department of Health, Education and Welfare, who is here, and will appear in a few minutes, answer your question. I have not gone into it too fully.

Mr. YOUNGER. I would like to have that cleared up.

One other question arises, where a State has the retail price on milk. Would your bill affect that in any way?

Mr. JOHNSON of Wisconsin. That is something you will have to straighten out in your own State. We are not trying to usurp any State rights. We are trying to work with the State, the sanitation men. The Federal Government now in the Public Health Service is training sanitary engineers, if they want that training. And under this legislation, they will continue to train the men in California or in Wisconsin, so that when they go out and inspect the farms, each one will be using the same standards. The result will be that you will get uniform inspection all over the United States.

Mr. YOUNGER. I think there you start with a wish to be desired, because so long as you deal with human beings, you will not get the same inspection.

Mr. JOHNSON of Wisconsin. You will get more uniformity then today with the varying State standards.

Mr. YOUNGER. Under your law, you will respect the State minimum prices that they fix for milk?

Mr. JOHNSON of Wisconsin. This has nothing to do with the setting of the price of milk. It just says milk that meets the Federal standards. And if it is that kind of milk when it reaches your State, you cannot refuse to accept it because your inspector was not in the State of export to OK the plants.

Mr. YOUNGER. So that it can be sold at any price regardless of State law?

Mr. JOHNSON of Wisconsin. That is right. We do not interfere with any State laws at all, except that we do not allow you to say, "We will not take a national inspection—we want to send our inspector to look at the milk at its source and see whether the national inspection is correct." That is what the law does.

Mr. YOUNGER. I think that you said something you do not mean. You just told me that you would send the milk into a State if it met the national standards and could be sold at any price, regardless of State law.

Mr. JOHNSON of Wisconsin. No, I did not mean to say that. We do not interfere with State laws as to the sales price.

Mr. YOUNGER. I asked you whether you are encouraging the shipping of milk into a State that has a State law on the price of milk, will this act interfere with it?

Mr. JOHNSON of Wisconsin. You are talking about the retail price, are you not?

Mr. YOUNGER. Correct.

Mr. JOHNSON of Wisconsin. I do not think that there would be any retailing. The milk that comes in is sold to the handlers and the people that do their own delivery.

Mr. YOUNGER. Does your bill provide that?

Mr. JOHNSON of Wisconsin. No. I do not think you will have any trouble like that.

The CHAIRMAN. Any further questions, Mr. Moulder?

Mr. MOULDER. I want to compliment you on your statement. This bill protects the consumer, as, for example, in the State of California where Mr. Younger is from?

Mr. JOHNSON of Wisconsin. Yes, it certainly would.

Mr. MOULDER. Does California import a large amount of milk?

Mr. JOHNSON of Wisconsin. I think that California pretty much produces its own milk supply. I do not think there is too much milk imported into California.

Mr. MOULDER. I know that the State of Missouri imports and exports milk. There are periods when they import and there are periods when they export.

I ask unanimous consent at this point to insert in the record a letter from the Governor of our State of Missouri, the Honorable John M. Dalton, urging approval of H.R. 50 or H.R. 3840.

Mr. JOHNSON of Wisconsin. H.R. 3840 was the bill I introduced in the last session of the Congress. I believe at that time the gentleman from Missouri introduced the same bill. I am sorry that you have not introduced this measure in this Congress.

The CHAIRMAN. Without objection, that letter will be made a part of the record at this point.

(The letter from Hon. John M. Dalton dated July 25, 1961, follows:)

EXECUTIVE OFFICE, STATE OF MISSOURI,
Jefferson City, July 25, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On April 14, 1960, while I was attorney general of the State of Missouri, I wrote to Mr. Kenneth A. Roberts, chairman, Health and Safety Subcommittee, of the Committee on Interstate and Foreign Commerce, urging this subcommittee to approve H.R. 3840 submitted to the 86th Congress to amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce. Since H.R. 50 and companion bills are essentially the same as H.R. 3840, we would like to reaffirm our position in favor of this bill.

The State of Missouri is both a receiving and a shipping State. During periods of short supply we import milk from other States and during the flush period we ship high-quality milk to other States. The shipment of milk into and out of the State involves millions of pounds of milk and is very important to our economy.

Missouri helped organize the present voluntary interstate milk shippers program which is coordinated by the U.S. Public Health Service, and we have shipped millions of gallons of milk to Texas and other States since this program was established. However, since this is a voluntary program, any State can refuse to accept this milk or require unreasonable demands in order to prevent the sale of such milk in their State.

The State of Texas recently considered a bill which would require the personal inspection of all sources of milk by the Texas health department before the milk could be sold in Texas. This inspection would be in addition to the present

local inspection, the inspections made by our own Missouri State Health Department and check inspections made by the U.S. Public Health Service.

Fortunately, the bill as passed by Texas was amended to eliminate this requirement, and they still accept our milk. However, the threat still remains since any of the States could enact laws which would prohibit the free flow of high quality milk from entering their State.

H.R. 50 would remove this threat as this bill would prevent any State from prohibiting or excluding imported milk supplies as long as the supply complied with the exacting sanitary requirements established by the U.S. Public Health Service.

It is our belief that the enactment of H.R. 50 would permit the people of this State to obtain supplies of milk from other States and to ship to other States our own high-quality milk without being subjected to economic trade barriers which are often disguised under local or State milk sanitation laws or regulations.

We are wholeheartedly for the enactment of this legislation, and we sincerely hope that H.R. 50 will receive favorable consideration from your committee.

Very truly yours,

JOHN M. DALTON, *Governor.*

The CHAIRMAN. Are there any further questions? Mr. Nelsen.

Mr. NELSEN. Mr. Chairman, I want to thank the gentleman for his statement and to state that Congressman MacGregor, Congressman Quie and myself have introduced similar bills.

I think from the statements already made there may be an impression left, Mr. Johnson, that if this sanitation regulation is attached to the law there will be a free flow of milk—for example, the statement you made earlier that milk from farms certified under this system will then be permitted to move freely in interstate commerce, subject only to laboratory tests upon arrival to assume that the milk still complied with Federal standards.

There are other barriers besides the sanitary barrier, but the impression in your statement is that if this bill passes, milk will flow in any market without interference. It seems to me the record should be straightened out, that is not correct.

Mr. JOHNSON of Wisconsin. You have the Federal orders which would keep a large share of the milk out, but I think you are aware that a few years ago the State of Minnesota tried to bring milk into Washington, D.C., and tried to be a party to the Federal order that was being considered for Washington, D.C. I believe the hearing examiner told the State of Minnesota that so long as they could not bring the milk in here, they could not be a party to the order.

I think that after this legislation is passed they would not give the same answer to Minnesota that they gave at that time.

Mr. NELSEN. I have another question, Mr. Chairman, on page 2.

You refer to the poultry processing industry. And there we deal with several sanitary regulations and inspections. This bill proposes standard sanitary regulations, different, however, because in the handling of milk marketing orders do in many cases add economic barriers as well.

Mr. JOHNSON of Wisconsin. In regard to poultry inspection, I was on the House committee that held hearings on that subject. The legislation was before the Congress on two different occasions. And I might say that the ones who fought that legislation the hardest are benefiting the most from it. They opposed the poultry inspection legislation at the time it was up before the House Committee on Agriculture, and now since the legislation has been passed, they are benefiting from it and feel that it is good legislation.

Mr. NELSEN. On page 2 you refer to equipment. There is nothing in this bill that would assure any uniform standard of equipment in the States, is there?

Mr. JOHNSON of Wisconsin. I am going to refer that question to the Public Health people when they appear.

It is included because we have had the dairy equipment people appearing in favor of the legislation ever since this bill has been up before the Congress.

Mr. NELSEN. I have one more question:

On page 2, also, you refer to the President's statement.

Mr. JOHNSON of Wisconsin. The word "not" is left out. I thank you for calling my attention to that. I think it is at the top of the next page, the word "not" is left out.

Mr. YOUNGER. What page is that?

Mr. KEITH. You say "unnecessary" before that. If you put in "not," you would make a double negative out of it. You have already said unnecessary. Putting the word "not" in there would make it a double negative.

Mr. NELSEN. He quotes the President's position. "He also said that he didn't believe any unnecessary or artificial standards should be used in any place in any area in any part of American life to block the flow of commerce."

My question is this: Actually, the implication of that statement is not only would he be concerned about the sanitary provisions that we presently are troubled with, but he would also be concerned about other barriers that enter into the free flow of milk.

Those of us who are not in marketing areas have different problems. This statement would imply that the President would be in favor of bringing down barriers, not only in the sanitary provisions, but also, some that may exist in the marketing orders.

Is that true or not true?

Mr. JOHNSON of Wisconsin. I am not going to interpret the President's statement. His statement was made in the State of Iowa last year during the campaign. I just quoted the statement. I agree with you that there are other barriers, but this is not the proper committee with which to take those up. I do not intend to burden this committee with Federal milk marketing orders or things like that. That is something we will have to take care of in the Committee on Agriculture.

Mr. NELSEN. Do I understand you to say, for example, that the statement implies there will be a free flow of milk if this bill passes, that that statement is not accurate in fact?

Mr. JOHNSON of Wisconsin. It will help.

Mr. NELSEN. It would help; that is right.

Mr. JOHNSON of Wisconsin. That is right. I never tried to claim that it is a cure-all for the dairy situation.

Mr. NELSEN. Thank you.

The CHAIRMAN. Are there any further questions?

Mr. Rogers of Texas.

Mr. ROGERS of Texas. Is there any safeguard in this bill or in the law that you know of that prevents some group from gathering together the milk to pour into a State?

Mr. JOHNSON of Wisconsin. Not in this bill, no. The regulation is not in force at this time, but I was studying some of the things that have been done in the past. And at one time, the State of Rhode Island had a regulation that any milk could come into the State of Rhode Island, but it would have to be colored so that people would know that it was imported milk.

Mr. ROGERS of Texas. Thank you.

The CHAIRMAN. Mr. Keith.

Mr. KEITH. The District of Columbia has refused Minnesota milk?

Mr. JOHNSON of Wisconsin. Yes, under the health regulations. The health regulations have been changed some since this happened.

A year or so ago—I think it was in 1959—they were having quite a milk war down here in Washington, D.C. I offered at that time to bring milk in from Wisconsin for $5.50 per hundredweight, but we could not get it in because we would have had to have a man from the District come and inspect our farms and our dairies.

Even milk from the State of Pennsylvania could not come in here.

Mr. KEITH. That was because of the local producers?

Mr. JOHNSON of Wisconsin. It was because of a little monopoly that the local producers, known as the Maryland-Virginia Milk Producers Association, have established for themselves.

Mr. KEITH. What was the difficulty?

Mr. JOHNSON of Wisconsin. We would have had to have an inspector come from the District to inspect the farms and the dairies.

Mr. KEITH. Did the Congress establish the law?

Mr. JOHNSON of Wisconsin. It has been quite a while ago. I think it goes back to 1925. They made some minor changes in the law a year or so ago after this trouble in the District. At one time, they had a law in the District that you had to wipe the cow's bag with two towels of a certain size.

Mr. KEITH. Thank you.

The CHAIRMAN. Are there any further questions?

Mr. Friedel.

Mr. FRIEDEL. Do you know whether it is true or not that we in Maryland can import milk from the District of Columbia, but Maryland cannot ship it into the District?

Mr. JOHNSON of Wisconsin. Maryland exports milk into the District of Columbia.

Mr. FRIEDEL. They can import it, but they cannot export it; is that correct?

Mr. JOHNSON of Wisconsin. I think that most of your Maryland farmers, between here and Baltimore, belong to the Maryland-Virginia Milk Producers Association. This is their own private territory. About 90 percent of the farmers who produce milk here in the Washington area are members of that association.

A year ago in your hearings, the secretary of this association, or one of the other employees of that association, appeared here representing the District of Columbia Federation of Women's Clubs opposing legislation.

Mr. FRIEDEL. Thank you.

Mr. JOHNSON of Wisconsin. I do not think that Maryland has too much trouble bringing milk into the District.

The CHAIRMAN. Mr. Thomson, do you have any questions?

Mr. THOMSON. I wondered whether the Congressman could furnish us the text of the President's remark, so that we could see what he was referring to.

Mr. JOHNSON of Wisconsin. I will be glad to furnish that.

Mr. THOMSON. I would like to have that in the record.

The CHAIRMAN. Very well, you may supply it for the record, and it will be made a part of the record at this point.

(The information referred to follows:)

PRESS CONFERENCE OF SENATOR KENNEDY IN THE AUDITORIUM AT DES MOINES, IOWA, ON AUGUST 21, 1960

Question. Senator Kennedy, you heard the milk comments of Governor Freeman. Are you for that type of a program that will enable the Midwestern milk to get into the big Eastern markets?

Governor LOVELESS. The question was, had the Senator heard the comments of Governor Freeman in relation to the Milk Standardization Act, and do you favor it?

Senator KENNEDY. Our constitutional meeting or convention was formed in order to originally promote interstate commerce and provide for its free flow. I don't believe that any unnecessary or artificial standard should be used any place in any area in any part of American life to block the flow of commerce.

The CHAIRMAN. Any questions, Mr. Dingell?

Mr. DINGELL. If the gentleman would tell us the difference between the legislation presently before us and the legislation on which we had hearings a couple of years back, it would be helpful.

Mr. JOHNSON of Wisconsin. The first legislation I introduced, I think it would be fair to say, was Wisconsin-Minnesota legislation. It went into intrastate inspection. It probably would have required a whole group of Federal inspectors. The good thing that came out of the hearings, though, was that we received recommendations for this type of legislation from the State and territorial health officers. And my bill last year and my bill this year have been founded on the recommendations they set out.

I might say that many of the people who are opposing the legislation still think it is the first bill I introduced. They do not realize the changes that were made in the bill as the result of the first hearings held on this matter.

Mr. DINGELL. You are the author of both of those bills?

Mr. JOHNSON of Wisconsin. I introduced the first bill in Congress, I think, back in 1957.

Mr. DINGELL. Thank you very much.

The CHAIRMAN. Any questions, Mr. Dominick?

Mr. DOMINICK. Mr. Johnson, I want to express my sympathy for the efforts you are making in this respect. I happen to have tried three specific cases of this kind up through the circuit court involving specific restrictions on the importation of milk, either into a local area or into a State area. So I know the problems you are trying to meet.

I noticed that you said that there would not be any army of Federal inspectors. I think that is the way you put it in the statement.

Mr. JOHNSON of Wisconsin. There will be spot checking.

Mr. DOMINICK. This is what I want to ask you about. I see that in section 810 you specifically say they can come into any area or into any plant and make inspections there, and can pick up any records or make copies of any records or do practically anything they want to

with regard to any particular plant, or to supervise the agency which is in control of the local milkshed.

Would not this, of necessity, require a number of Federal inspectors to do this?

Mr. JOHNSON of Wisconsin. That matter was gone into very thoroughly a year ago at the hearings. I think the Department said they would have to have a few extra employees. The cost of the program the first year would be about $650,000.

Mr. DOMINICK. I understood that you changed the bill from the way it was last year.

Mr. JOHNSON of Wisconsin. No, I changed the bill from the one I introduced in 1957. This year we have made minor changes, but the complete philosophy of the bill was changed from 1957 to 1959, when I introduced the revised version, H.R. 3840. We had hearings on it in 1960.

Mr. DOMINICK. So it is your opinion, based on the hearings we had last year, that there would not be the necessity of providing for that?

Mr. JOHNSON of Wisconsin. That was one of the changes, that it would not require a whole crew of Federal inspectors. And we have a very good system of State inspections worked out at the present time, and there is no need of superimposing a group of Federal inspectors over them.

But if the Federal Government is going to check and certify that a certain plant in Wisconsin has milk that rates 93, 94, or 95, they have to spot check it once in awhile to keep everybody in position to give that quality of milk.

Mr. DOMINICK. Would you have any objection, then, in consideration of this legislation, now or later, to a provision which would say that the Federal Government must have reciprocity of inspection rights between areas, so that the inspection by a particular local authority of a particular milkshed would be acceptable, based on their own records so far as the Surgeon General is concerned, in compliance with this statute?

Mr. JOHNSON of Wisconsin. Do you mean by that—what State are you from?

Mr. DOMINICK. The State of Colorado.

Mr. JOHNSON of Wisconsin. That if the State of Colorado wanted to come to Wisconsin and check at their own expense any farms and the dairies, they would have the right to do it?

Mr. DOMINICK. No. Let us take it in reverse, let us suppose that by some miracle that Wisconsin was importing some milk—they were taking it from Colorado, which is highly unlikely—you in your own local area would know of the inspection procedures which the State or the county authorities have over the milkshed area from which this milk would be obtained—upon a certification by the Colorado health authority that the milk met the requirements which are equal to the requirements set out by the Surgeon General, you would accept it without any further Federal inspection or any inspection by Wisconsin.

This is the pattern that is trying to be worked out by a lot of the local Federal health inspectors in order to make it more flexible.

Mr. JOHNSON of Wisconsin. I think that is what my bill does, although it says you have the right to check to be sure that the milk that left Colorado is the same as when it gets to Wisconsin.

Mr. DOMINICK. You would have no objection, then, to possible minor amendments if they seemed to be necessary in order to make sure that this would be true?

Mr. JOHNSON of Wisconsin. No, therei s no objection, so long as you do not destroy the intent and purpose of the bill.

Mr. DOMINICK. Thank you.

The CHAIRMAN. Mr. Rogers of Florida?

Mr. ROGERS of Florida. I want to say I have enjoyed the statement today. I had the privilege of listening to Mr. Johnson's testimony before. Certainly, Congressman Johnson has been a driving force in this legislation and has been most helpful to the committee.

Mr. JOHNSON of Wisconsin. I want to thank the gentleman from Florida who sat through 3 days of hearings last year listening to the arguments pro and con—I want to thank him for all he has done for us on this legislation.

The CHAIRMAN. Mr. Hemphill.

Mr. HEMPHILL. I might say that I am sorry to be opposed to this legislation.

Mr. JOHNSON of Wisconsin. Are your consumers opposed to it in South Carolina?

Mr. HEMPHILL. My consumers are opposed to it. My producers are opposed to it for the simple reason you are going to impose, if this legislation is enacted, the same thing we have had some bitter experience with in which milk was shipped into South Carolina which did not meet our standards. As a result, we got some bad milk. Our standards are so high that we require vaccination, treatment against Bangs disease and brucellosis and tuberculosis and things of that nature. If you impose a Federal bureaucracy on top of it, then you will have the bureaucracy instead of a system in our State that works now. Our system works, and works very well. You are paving the way for, I am fearful, the producers from certain areas of the country to be able to flood other areas of the country with milk which is not up to those standards.

Mr. JOHNSON of Wisconsin. No, it will have to meet the Federal standards. I think an examination of the State standards by the Department last year showed that the Federal standards are higher than those of most States. I cannot tell you offhand whether you follow the national standards in South Carolina or not, but you would not get any of that kind of milk.

The State of Wisconsin is now free of Bangs disease. And so is the State of Minnesota.

Mr. HEMPHILL. The trouble is that we have had that experience. That is, when the milk came into South Carolina it did not meet the standards of South Carolina. The application of Federal standards were so sloppy and so careless that we got bad milk. And that will happen again and again and again.

Mr. JOHNSON of Wisconsin. I do not think it will under this legislation. However, there is no need to argue that here.

Mr. HEMPHILL. Why does there have to be a Federal authority?

Mr. JOHNSON of Wisconsin. Because some States are saying at this time that they will not let out-of-State milk in unless their inspector comes to the sending State and inspects the plant and the farms. We do not say that to the producers of poultry. Poultry is shipped from South Carolina up to Wisconsin. We say that we will accept the inspection made at the plant—we will take the poultry as good and wholesome, as good food.

Mr. HEMPHILL. You do not think your State has a right to say what comes into it?

Mr. JOHNSON of Wisconsin. I say that our State at the present time is not refusing South Carolina poultry that is being shipped there. Probably, if we wanted to protect our own poultry producers, we should not have been for Federal inspection for poultry. We should have just said, "No, unless it meets the Wisconsin inspection, it cannot be shipped into our State."

We favored that legislation because we felt that in a country like this we should not have tariff walls between the States.

Mr. HEMPHILL. Is the producer deserving of protection?

Mr. JOHNSON of Wisconsin. That depends on what kind of protection he wants.

Mr. HEMPHILL. Your theory is that the producer deserves no protection?

Mr. JOHNSON of Wisconsin. Well, I think that in a country like ours, the man who can produce the product the cheapest and the best should have the market. I can see why we have to have tariffs to keep products out of the United States, but I do not think we have to have them in each one of the 50 States. I do not think we should have a wall at each State line so that you cannot come in with a product because we say, "We have somebody in Wisconsin who wants to produce that product."

If a man in South Carolina can produce something cheaper and of the same quality as a man in Wisconsin, and can get it up there, he should be allowed to bring it in to the State and to sell it there.

Mr. HEMPHILL. Then your theory is just as Mr. Rogers said, is that some few can get all of the milk in the United States, including your own?

Mr. JOHNSON of Wisconsin. They will have to follow Federal orders.

Mr. HEMPHILL. They could follow the Federal orders, and still do it.

Mr. JOHNSON of Wisconsin. I do not know—there is an awful lot of milk produced in the United States—I do not know how any man can get control of the market.

Mr. HEMPHILL. Well——

Mr. JOHNSON of Wisconsin. No one man will get control of the dairying of the United States.

Mr. YOUNGER. Will you yield?

Mr. HEMPHILL. Yes.

Mr. YOUNGER. What is the attitude of Wisconsin on this subject of oleo? Do you have a tax on it?

Mr. JOHNSON of Wisconsin. We may have a tax against it. Maybe Mr. Thomson can answer that question. At one time I know there was a 15-cent tax on colored oleo.

Mr. YOUNGER. Yes. Yet Wisconsin wants to have its milk received by all of the States, but you do not want to have oleomargarine come in. Is that not a little inconsistent for Wisconsin?

Mr. JOHNSON. I am not a member of the Wisconsin Legislature. I am a Member of the Congress at this time.

Mr. HEMPHILL. Let me ask you this: Have the States asked for this legislation other than Wisconsin?

Mr. JOHNSON of Wisconsin. Have they what?

Mr. HEMPHILL. Have any States asked for it except Wisconsin?

Mr. JOHNSON of Wisconsin. In the last session of Congress, there were Congressmen from North Dakota, Minnesota, Wisconsin, Iowa, Missouri—I do not know, there may be some other States—who introduced the same legislation.

Mr. HEMPHILL. The majority of the States have not asked for this legislation.

Mr. JOHNSON of Wisconsin. No, I think at this point your dairying is pretty much concentrated in the East North Central States, Ohio, Indiana, Illinois, Michigan and Wisconsin, which produced 429,552,000 pounds in 1958.

In the West North Central States, Minnesota, Iowa, Missouri, South Dakota, North Dakota, Nebraska and Kansas, they produced 734,-479,000 pounds.

The total production was 1,389,575,000 pounds.

I would like to ask for permission to put into the record the production shown on page 403 and page 404 of the Agricultural Statistics for 1960, following my statement.

The CHAIRMAN. Without objection, that may be done.

Mr. JOHNSON of Wisconsin. It gives the committee some idea where the dairy production is in this country.

(The information referred to follows:)

TABLE 578.—*Dairy products: Factory production of specified items, by States, average 1952–56, annual 1957 and 1958*

State and division	Creamery butter (including whey butter)			Total American cheese [1]			Total cheese [2]		
	Average 1952–56	1957	1958	Average 1952–56	1957	1958	Average 1952–56	1957	1958
	1,000 pounds	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*
Maine	212	194	171						
New Hampshire							8,315	8,852	9,470
Vermont	2,057	1,736	3,390	5,007	6,278	6,989	2,768	3,517	3,418
Massachusetts	288	193	202						
Rhode Island							358	678	695
Connecticut									
New England	[3] 2,558	2,123	[3] 3,775	[3] 5,012	6,278	6,989	[3] 12,185	[3] 13,601	[3] 14,233
New York	30,563	15,346	28,047	36,377	27,981	36,241	98,595	98,561	106,735
New Jersey	25						3,310	3,615	3,292
Pennsylvania	12,193	10,883	13,690	812	342	458	9,763	9,354	9,453
Middle Atlantic	42,781	[3] 26,238	[3] 41,748	[3] 37,197	[3] 28,389	[3] 36,884	111,668	111,530	119,480
Ohio	55,878	44,157	39,711	22,886	11,317	12,002	42,002	31,769	33,211
Indiana	32,344	20,856	21,194	29,032	30,363	25,482	41,108	46,920	37,910
Illinois	52,093	45,303	39,069	46,890	46,908	36,904	87,779	86,357	84,417
Michigan	48,689	40,000	39,323	30,950	29,401	29,226	33,881	33,649	35,832
Wisconsin	210,097	268,997	290,255	452,797	462,442	447,003	588,015	615,536	21,629
East North Central	399,101	419,313	429,552	582,555	580,431	550,617	792,785	814,231	812,999
Minnesota	275,002	317,819	316,573	55,184	45,739	42,451	74,543	63,311	63,604
Iowa	184,597	191,136	180,013	20,751	38,359	40,797	21,739	39,504	41,873
Missouri	58,383	57,445	48,970	83,341	92,502	86,077	84,869	99,151	94,102
North Dakota	49,855	56,759	57,365						
South Dakota	33,322	38,269	39,116	2,731	5,320	6,866	2,731	5,320	6,866
Nebraska	76,022	70,408	61,478	715			717		
Kansas	42,008	36,050	30,964	11,739	14,148	13,289	11,739	14,148	13,289
West North Central	719,189	767,886	734,479	174,461	[3] 196,633	[3] 190,004	196,338	[3] 222,001	[3] 220,261
District of Columbia									
Delaware									
Maryland	3,134	3,184	3,277						
Virginia	7,158	5,916	4,522						
West Virginia	451	101	102						
North Carolina	1,981	2,630	1,360						
South Carolina	152	162	103						
Georgia	450	284	294						
Florida				570		823	570		823
South Atlantic	[3] 13,338	12,277	9,658	[3] 3,693	[3] 7,221	[3] 7,157	[3] 3,702	[3] 7,232	[3] 7,164

Kentucky	16,965	16,145	12,594	35,848	49,330	50,963	36,059	49,445	51,098
Tennessee	11,515	10,881	9,381	37,807	45,731	38,090	44,131	53,708	46,798
Alabama				3,157	3,133	2,316	3,157	3,133	2,316
Mississippi	5,172	5,371	3,878	15,407	18,328	13,968	15,408	18,328	13,968
Arkansas	4,282	3,845	3,543	12,921	13,405	11,412	15,630	17,001	15,258
Louisiana	333			241			241		
Oklahoma	27,486	22,650	20,441	6,812	7,314	6,329	8,967	7,314	6,329
Texas	6,637	6,084	5,771	4,247	4,733	4,117	4,250	4,862	4,185
South Central	[3] 72,427	[3] 65,260	[3] 55,750	116,440	[3] 142,225	[3] 127,419	127,843	[3] 154,042	[3] 140,176
Montana	5,990	5,082	4,687	3,671	3,821	4,135	3,672	3,822	4,150
Idaho	27,627	30,929	32,405	20,474	22,556	22,805	25,684	28,744	29,471
Wyoming	2,339	2,494	2,282	280			1,735		
Colorado	14,915	12,712	11,767	1,487	1,369	929	1,556	1,471	1,061
New Mexico	701	363	269						
Arizona									
Utah	5,448	6,602	6,895	6,519	6,529	6,650	11,207	9,681	10,529
Nevada	518	544	471						
Mountain	[3] 57,862	[3] 59,203	[3] 59,074	32,431	[3] 34,381	34,519	[3] 44,048	[3] 45,460	[3] 47,004
Washington	18,755	17,471	19,422	3,030	2,749	1,695	4,383	3,631	2,409
Oregon	14,812	12,739	12,513	22,414	19,906	19,596	22,983	20,168	19,801
California	28,259	31,550	23,604	4,515	3,515	3,093	14,561	15,527	15,857
Pacific	61,826	61,760	55,539	29,959	26,170	24,384	41,927	39,326	38,067
United States	1,369,082	1,414,060	1,389,575	981,748	1,021,728	977,973	1,330,496	1,407,423	1,399,384
Maine							3,599	5,136	5,129
New Hampshire							1,313	1,202	1,071
Vermont				20,996	24,168	28,162	1,618	1,616	1,502
Massachusetts				3,180	3,900	4,436	22,752	25,480	25,691
Rhode Island							3,691	2,807	2,570
Connecticut							8,012	8,792	9,149
New England				[3] 24,975	[3] 28,289	32,598	40,985	45,033	45,112
New York				140,278	121,075	142,838	63,479	67,379	68,152
New Jersey							16,252	18,571	18,823
Pennsylvania				26,296	27,643	34,185	71,523	73,125	71,461
Middle Atlantic	[3] 67,890	[3] 62,979	[3] 102,651	[3] 166,684	[3] 148,814	[3] 177,210	151,254	159,075	158,436
Ohio	252,483	244,410	253,594	53,684	50,217	40,217	38,923	42,468	41,373
Indiana	68,066			31,341	19,811	18,555	21,356	23,795	23,953
Illinois	143,594	152,666	145,970	15,025	17,846	15,335	30,981	33,352	35,851
Michigan	133,071	62,937		55,532	57,527	72,836	30,032	31,500	31,242
Wisconsin	476,450	405,364	353,378	354,970	460,670	475,338	19,413	21,294	21,512
East North Central	1,073,664	[3] 896,513	[3] 840,750	510,552	606,071	622,281	140,705	152,409	153,931

See footnotes at end of table.

TABLE 578.—*Dairy products: Factory production of specified items, by States, average 1952–56, annual 1957 and 1958*—Continued

State and division	Creamery butter (including whey butter)			Total American cheese [1]			Total cheese [2]		
	Average 1952–56	1957	1958	Average 1952–56	1957	1958	Average 1952–56	1957	1958
	1,000 pounds	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*	*1,000 pounds*
Minnesota				277,883	446,111	477,809	15,641	16,643	17,118
Iowa				43,189	109,647	128,904	11,949	12,005	12,322
Missouri	131,994			37,588	41,870	36,415	16,448	17,366	15,339
North Dakota							2,037	2,294	2,324
South Dakota						18,285	2,249	2,077	2,146
Nebraska				5,282	5,066	3,131	6,082	6,675	7,695
Kansas	56,514	47,309	40,589	17,322	21,055	18,058	6,822	6,054	5,988
West North Central	[3] 259,342	[3] 236,955	[3] 196,485	[3] 383,183	[3] 642,716	[3] 690,214	61,228	63,114	62,932
District of Columbia							5,661	6,222	6,588
Delaware							1,976	1,993	3,447
Maryland				10,897	10,220	10,495	10,531	12,244	12,602
Virginia				6,491	6,532	5,000	10,742	10,879	10,533
West Virginia							5,293	5,488	5,099
North Carolina							13,764	12,825	13,155
South Carolina							2,696	3,358	2,557
Georgia							7,574	7,726	8,003
Florida							13,402	16,442	17,080
South Atlantic	[3] 192,863	[3] 211,753	[3] 206,680	[3] 19,468	[3] 20,229	[3] 16,659	71,639	77,177	79,064
Kentucky	207,140	230,673	217,636	2,183	3,672	2,250	5,653	4,787	4,784
Tennessee	161,559	169,531	184,325	2,383	3,933	841	12,969	13,931	14,050
Alabama							7,940	8,396	8,007
Mississippi	75,282			4,913	6,066	4,786	3,336	3,229	3,142
Arkansas							2,599	2,722	2,897
Louisiana				741			8,220	8,860	8,734
Oklahoma				3,716	5,410	5,163	5,458	4,896	5,170
Texas				2,550	5,377	6,766	20,347	18,794	18,406
South Central	[3] 504,177	[3] 542,212	[3] 517,322	16,486	[3] 25,317	[2] 19,930	66,522	65,615	65,190
Montana							2,668	2,386	2,364
Idaho				46,953	55,344	58,510	2,468	2,461	2,650
Wyoming				1,819			731	632	564
Colorado							5,882	6,319	6,733
New Mexico							1,350	1,490	1,565
Arizona							2,620	2,793	3,351
Utah	57,351	54,575	50,966	6,814	8,573	8,027	3,073	3,450	3,787
Nevada							711	534	581
Mountain	[3] 158,916	[3] 150,001	[2] 140,201	[3] 55,935	[3] 65,926	[3] 68,859	19,503	20,245	21,395

Washington	65,663	70,057	----------	14,061	15,636	20,874	9,632	10,656	11,365
Oregon	----------	----------	----------	7,522	7,596	7,632	5,880	5,511	5,711
California	278,718	265,878	223,552	54,475	63,286	53,407	45,539	51,748	54,039
Pacific	[3] 352,640	[3] 347,224	[3] 294,243	76,058	86,518	81,913	61,051	67,915	71,115
United States	2,609,492	2,447,637	2,298,332	1,253,341	1,623,880	1,709,664	612,887	650,583	657,175

[1] Includes colby, washed curd, high and low moisture jack, Monterey and granular cheese.

[2] Excludes full-skim American and cottage cheese.

[3] Includes data for individual States which have less than 3 plants and are not shown separately.

Source: Agricultural Marketing Service.

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Mr. NELSEN. Will you yield?

Mr. HEMPHILL. Yes.

Mr. NELSEN. There is one point, Mr. Johnson, that might well be made here. Being a dairy farmer myself, some of these marketing areas establish the price and pretty well limit the sale of the product thereby within the area. And others who live outside of the area are denied entrance into the market.

The inequality that irks me, to quite a degree, is the fact that the producers within the marketing area invade the competitive market with their surplus, yet we are denied entrance into the market where a fixed price is enjoyed.

I think that is something that needs to be taken into account in the consideration of the whole problem.

Mr. JOHNSON of Wisconsin. Yes.

Mr. HEMPHILL. As I understand it, your bill proposes that State employees will do the inspecting?

Mr. JOHNSON of Wisconsin. My bill proposes that any milk that meets the Federal sanitation standards, which I contend are the highest in the United States, when you take all of these standards into consideration, can go anywhere in the United States. And if it is in condition, when it arrives at your State of South Carolina, and complies with those standards, in your own testing and inspection, you cannot keep it out just on the ground that your inspector from South Carolina could not come to Wisconsin and look over the dairy farms and the dairy plants.

Mr. HEMPHILL. Perhaps you misunderstood my question.

As I understand your bill, you intend to use State employees as inspectors for the Federal bureaucracy?

Mr. JOHNSON of Wisconsin. These State inspectors are now operating and will continue to do it. They will be federally trained. We have as good inspectors in the State of Wisconsin as you will find anywhere in the United States.

Mr. HEMPHILL. I do not differ with you on that question, but if you are going to let the State employees or State inspectors be the Federal inspectors, why are you saying——

Mr. JOHNSON of Wisconsin. No, you misunderstood me, Mr. Hemphill. He is not going to be the Federal employee. He will still be a State employee. He will be checked by the Federal inspectors. They will spot check his farms and spot check his herds. They will do what they call spot checking to see whether his certification of that plant and that herd is correct. He might be saying that plant A has a rating of 95, and the Federal man might go into that plant and inspect that herd and see whether that inspection is correct. There will be spot checks made by the Federal inspectors.

Mr. HEMPHILL. I believe that you said that the Federal inspection standards were higher than those of the States.

Mr. JOHNSON of Wisconsin. No, I said the Federal milk sanitation standards are higher than those of States having different standards.

Mr. HEMPHILL. As I understand it, the U.S. Public Health Service gives the rating to milk coming from States that do not require any tests for tuberculosis or brucellosis; is that not true?

Mr. JOHNSON of Wisconsin. I think that statement is incorrect but the Public Health Service will testify later on today. I hope that

you will ask them that question. I think that the answer will be "No."

Mr. HEMPHILL. When the questions get down to me I will ask them that question. Thank you.

The CHAIRMAN. Thank you, Mr. Johnson.

Mr. JOHNSON of Wisconsin. Thank you.

The CHAIRMAN. Mr. Thomson, do you wish to make a statement now?

STATEMENT OF HON. VERNON W. THOMSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. THOMSON. Mr. Chairman and members of the committee, it is not unusual that the State of Wisconsin would have a considerable interest in the movement of its principal product from its principal industry, which is dairying. Wisconsin produces more milk than any State in the Nation. It produces more cheese than all of the States in the Nation. It is either first or second in the production of butter. I think last year Wisconsin produced 19 billion pounds of milk, and 85 percent of the milk goes into manufactured dairy products.

We, incidentally, produce a large part of the dairy herds in other States by means of the sale of the heifers from the fine producing herds in the State of Wisconsin.

We have found a very complex and growing problem of restrictions against the movement of milk.

Just recently this body, and, probably, this Congress passed an act giving the Federal Government wide and additional powers in the control of the pollution of streams of the Nation—over every stream that moves and is a navigable stream. The Federal Government has been give control over them.

This bill is a simple request for some justice in the field of interstate commerce. Milk is the only food against which a barrier is raised in the free movement in interstate commerce.

Every type of device is used against it. One of the very finest companies in Wisconsin, the Swiss Colony Cheese Co., of Monroe, Wis., which processes different types of cheese and ships much in interstate commerce all over the Nation, was advised by one State, that they would have to take out a license before they could ship cheese into that State. I contacted the attorney general of that State, who was then Roy Beeler and suggested to Mr. Beeler that I was not familiar with the people in his State, that the only ones I knew well in that State were himself, Mr. Beeler and Jack Daniels. That was the State of Tennessee. And I suggested that dairy products from the State of Wisconsin should have the equal right to move into that State as Jack Daniels did to move into the State of Wisconsin. He wrote back and said that he was sorry, that it was a movement in interstate commerce, that one of his assistants had made an error.

But then they passed a law in the legislature that you cannot sell milk in that State—you cannot bring it into the State—you cannot sell it or offer it for sale unless it is produced in a marketing area within that State and that you cannot sell it if you get it in there at a price that is less than the prevailing price within the State.

We are simply asking that a quality, healthful, sanitary product have the right to come to your State, and after it gets there and you find that it does not meet the standards which have been established

by the Federal Government you have a right to reject it. We think that under the law of the Nation we are entitled to have the right to move a food in interstate commerce that is healthful and sanitary without imposing duties and restrictions upon it.

According to the testimony in the 86th Congress, Wisconsin exports milk to 21 States, but does not export continuously because those States have dairy herds around their communities that produce milk part of the year. But when the local herds cannot provide the milk that is necessary for those communities, and that State permits Wisconsin milk to be imported—they rely on the sanitation requirements of the exporting States and they permit the milk to come to their State without the requirements that inspectors go to the exporting State to check the milk before it is shipped. That is an indication of the intent of those local regulations. They are economic in character, although they are designed under the guise of a health standard.

Wisconsin, with the biggest dairy herds of any State in the Union, was the first State, or the second State, at least, that was certified to be free from brucellosis and has a certificate as a State that it has met those standards. It was a tremendous job, but Wisconsin did it because Wisconsin is the No. 1 dairy State in the Union.

The University of Wisconsin has developed a concentrated form of milk which is sterilized. It is canned in the sterile form. It eliminates the necessity of shipping all of the water along with that milk. We have found States raising barriers even against that. And the dairy that makes this sterilized product is the Sanna Dairy of Madison, and the trade name is "Sanatized Cream." However, some of the importing States say that they will not even permit a sterile product to enter their State.

One of the dairy economic burdens under the guise of health standards is the very imposition of the inspectors who are sent from the importing State to the exporting State under the guise of checking the sanitary requirements of those States. This record that was made 2 years ago is replete with testimony by the Public Health Service that the States which criticize the health standards were found to have standards which were inferior to those of the Public Health Service. And the multitude of fees that are imposed and the other charges that are assessed against this industry, in order for us to gain access to a market which we feel we are entitled to do under the Constitution, prohibits economically the importation of those products, or their export to those certain States. These are barriers that exist.

This bill does not completely strike down those fees that are imposed.

In Wisconsin it is a matter of some humor, I might say, as to some of these inspectors who come from other communities and States into Wisconsin. You can imagine, perhaps, that one reason Wisconsin is such a great tourist State is the fact that we have such a multitude of inspectors coming from all over the United States of America to observe the high standards of dairy processes that we maintain in Wisconsin. I sometimes think one reason that Wisconsin sells more out-of-State fishing licenses than any other State in the Union results in part from the invasion of these farm inspectors who are well versed in the opening day of the muskellunge season in the State of Wisconsin and arrive simultaneously to conduct their inspection. But when there is a deficit of milk in the importing States, they do not send

their inspectors. They rely on the inspection that is made in the State of Wisconsin.

All we are saying to this committee is that we feel, as long as they have such a high degree of confidence in the inspection made in the State of Wisconsin when they badly need the milk, why are we not entitled to the same high degree of confidence the remainder of the year and to permit this milk to move freely in interstate commerce?

You have raised the question of monopolies or syndicates that are going to take over the dairy industry in America. I think that is ridiculous. Many of these large producers in Wisconsin are cooperative creameries. We have the Pure Milk Products Cooperative that represents 15,000 dairy farmers in Wisconsin and Illinois and Minnesota. I want to say to you that those farmers are well educated and very alert to the threat of monopolies; that are formed in part to resist and prevent syndicates and monopolies from taking over their own business, and they are doing an excellent job. No one syndicate or no group of syndicates is going to take over the dairy business in America.

The question was raised about getting milk into South Carolina. According to testimony before this committee in the 86th Congress, South Carolina exports to Georgia and to North Carolina and imports milk from Illinois, North Carolina, Ohio, Tennessee, Virginia, and Wisconsin.

Mr. HEMPHILL. If you will permit me to interrupt, I had in mind all of the time that because South Carolina is not erecting any barriers—we have Wisconsin milk coming there every day.

Mr. THOMSON. You are very fortunate.

Mr. HEMPHILL. The people have to come up to our standards. We do not want those who do not come up to our standards exporting into South Carolina. Your State does ship. I have the highest regard for your State and its dairy products. However, I think the fact that South Carolina accepts the milk from Wisconsin shows that South Carolina is trying to express cooperation with those States which, like their own State, is trying to do a good job.

Mr. THOMSON. I thank the gentleman from South Carolina. And I think that when the Public Health Service, the Department of Health, Education, and Welfare testified, their testimony is adduced at this hearing, I will ask them to supply for the record the requirements as to dairy farm requirements, pasteurization, plant requirements——

Mr. HEMPHILL. Let me interrupt again.

Mr. THOMSON. And compulsory pasteurization, frequency of inspection, bacterial count, frequency of laboratory examination, adulteration, antibiotics, pesticides, et cetera, both for the State of Wisconsin and for the State of South Carolina.

Mr. HEMPHILL. I think the gentleman from Wisconsin would be happy in the fact that South Carolina has accepted Wisconsin milk. I am happy in the fact that you people have the standards you do have, but I do not see the necessity of imposing Federal bureaucracy on this thing when, apparently, Wisconsin and South Carolina have been able to work out any differences they have had.

Mr. THOMSON. Well, I have some sympathy for your views on Federal bureaucracy. I am not sure but what a statement in this bill

simply to the effect that the term "Federal Milk Sanitation Code" means the Public Health Service's recommended milk ordinance and code and amendments or revisions thereof which shall be published in the code of the Federal regulations—which would be the statement of the milk sanitation law, and the people residing in the exporting States would have the sole responsibility for meeting those standards, and the people in the importing States would have the complete discretion, in the acceptance or rejection of that milk, dependent upon its meeting those standards.

Mr. HEMPHILL. I want to look over the testimony again when I get it.

Mr. THOMSON. I am very hopeful that a bill I think is essential if we are to eliminate discrimination in the field of food should have the favorable views of this committee.

Thank you for the opportunity of appearing here.

The CHAIRMAN. Could I ask just one question?

Mr. THOMSON. Yes.

The CHAIRMAN. What effect would a proposal of this kind have on milk marketing orders?

Mr. THOMSON. Mr. Chairman, I presume that the marketing order would supersede this particular statute, because it is a special type of organization and regulation which is imposed on an area or on a community.

This just affects those who are supplying the milk to that partciular market.

The CHAIRMAN. There would be some conflict here, possibly, of one Federal statute with another Federal statute?

Mr. THOMSON. Well, milk marketing orders are an exception, I think, to the antitrust laws. They have been sustained and resustained. They certainly prevent the free movement of milk into a marketing area because of a device they have which is called a compensatory payment clause which, in effect, adds to the price of the milk which is imported and amounts to making its equivalent to that paid in that area in addition to the cost of transportation. So it is very effective and prohibits the introducton of milk from other marketing areas.

I think that is a subject the Department of Agriculture and a committee of this House should look into.

The CHAIRMAN. Thank you.

Mr. YOUNGER. Mr. Johnson was not sure of the present law on oleomargarine. Do you know what is the present situation on oleomargarine in Wisconsin?

Mr. THOMSON. I think the present situation relates only to colored oleomargarine. There is a bill pending in the Wisconsin Legislature which, I believe, passed the house that even eliminated any vestige of tax that remained in the State of Wisconsin.

Mr. YOUNGER. But they have had a tax on it?

Mr. THOMSON. In 1931, when the La Follette administration put a tax on oleomargarine, it was presumably because it was an imitation for the butter that was produced in the State.

Mr. YOUNGER. Thank you.

Mr. ROGERS of Florida. Something like California keeping Florida oranges out?

Mr. YOUNGER. That is on account of the color, is it not?
Mr. ROGERS of Florida. You may say that.
Mr. MOSS. Will the gentleman yield?
Mr. ROGERS of Florida. Yes.
Mr. MOSS. I believe we permit them to come in if they come in under their own skins. [Laughter.]
Mr. YOUNGER. Thank you.
The CHAIRMAN. Thank you.
We will next hear from our colleague Mr. Nelsen.

STATEMENT OF HON. ANCHER NELSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. NELSEN. Mr. Chairman and fellow members, I want to compliment my colleague on his fine statement. Under the circumstances, Wisconsin is pretty parallel to the problems in the State of Minnesota, and producers are, to again use the term, irked by the fact that right here in the District of Columbia, the Nation's Capital, we are denied a market. A year ago I procured figures from Land O Lakes, which indicated that we could bring milk to the District of Columbia at a lower rate than presently being quoted at a fair profit to us.

We sell to the military and to other Federal installations. We think that the market belongs to all of the people.

I have a prepared statement I would like to file in the record.

I also have a letter from Land O Lakes which I should like to ask permission to include in the record.

The CHAIRMAN. Permission is granted for that material to be filed.

(The prepared statement of Hon. Ancher Nelsen, and the letter dated July 25, 1961, from Land O Lakes Creameries, Inc., follow:)

STATEMENT OF HON. ANCHER NELSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. Chairman, I am very pleased that these hearings are being held on the many proposals which have been introduced to provide for a Uniform National Milk Sanitation Act. As you may know, I have introduced a companion bill to my good friend, Mr. Johnson's bill, H.R. 50. We Members here in Congress from America's dairyland feel that our area is to the Nation's dairy industry what the so-called breadbasket of the Great Plains is to the Nation's cereal industry. Coming from the State of Minnesota, I am very aware of the fact that our sister State of Wisconsin is widely known as America's Dairyland, but I am sure that they would afford us the privilege of joining them on a regional basis and that we together be recognized as that area which produces more dairy products than any other in the entire Nation. In 1959, Minnesota ranked second in the Nation after Wisconsin in total milk production and in the amount of milk marketing by farmers, Minnesota ranks third in the Nation after Wisconsin and New York. The farmers of Minnesota marketed a total of 9,751,000 pounds of milk in 1960. The North Star State ranks second in the total number of milk cows on farms with a total of 1,265,000 cows in 1960. I might also add that Minnesota produced 324,170,000 pounds of creamery butter in 1960 which is more than any other State in the Nation—in fact, more than twice as much as any single State except Wisconsin.

Mr. Chairman, I point out these facts to emphasize the importance of the pending legislation to the dairy farmers of my State of Minnesota and to the farmers of my congressional district which is in the dairy belt of Minnesota.

For many years now the dairy farmers of Minnesota have been concerned about the extent to which they are locked out of the great fluid milk markets of the Nation. Official recognition has been given to this concern by the legis-

lature of the State and in the past years by the Governor. This is why I introduced H.R. 60 and joined with my colleagues from Minnesota and Wisconsin in urging the establishment of a Uniform National Milk Sanitation Act to insure the free flow of fine quality milk in interstate commerce. We in the heart of America's dairyland produce milk of the highest quality and of sanitary standards acceptable under the standards set by the U.S. Public Health Service. These standards have been established by the health agency of our National Government and any standards more stringent than these are superfluous and must be construed as being in fact economic barriers in the free flow of milk from one State to another.

I compliment you, Mr. Chairman, for your cooperation in your holding hearings before the full committee and I urge that the committee give favorable consideration to this legislation which is of the upmost importance to the overall economy of our dairyland.

LAND O LAKES CREAMERIES, INC.,
Minneapolis, Minn., July 24, 1961.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE HARRIS: Both Congressmen Lester Johnson and Ancher Nelsen have advised of hearings before your Committee on Interstate and Foreign Commerce with reference to the milk sanitation bill (H.R. 50). These hearings are to take place July 31 and August 1.

H.R. 50 would provide that the standards and code of the U.S. Public Health Service should be applicable to all milk in interstate commerce. This bill would also provide for the inspection of milk under the direction of the Surgeon General by inspectors now available to the various administrative officers throughout the United States. The members of Land O Lakes are proponents of such legislation.

Milk production is growing very rapidly in some areas under various pricing arrangements. This increase in production also increases competition from butter and cheese and other manufactured products produced from surplus milk with the butter and cheese traditionally produced in the Middle West. We believe that most pricing and location advantages in the production and marketing of milk should be eliminated and competition should be more free. Adequate health standards should be provided, but the farmers, themselves, should be permitted a greater degree of determination as to the source of the milk and the dairy products. Special pricing and marketing arrangements should not be permitted.

Enclosed is a copy of resolution No. 6 passed by the members of Land O Lakes Creameries at our annual meeting last March.

Sincerely,

GORDON W. SPRAGUE.

6. NATIONAL UNIFORM SANITARY STANDARDS FOR MILK

Municipalities, counties, States, and other governmental units rely more and more on the sanitary standards and code of the U.S. Public Health Service in the formulation of sanitary regulations for milk and dairy products. Such regulations have demonstrated their adequacy and usefulness over a wide area and for many years. Such regulations are consistent for the best interest of farmer producers of milk and the best interests of consumers.

Land O Lakes favors mandatory legislation applicable to all milk shipped in interstate commerce prescribing the uniform sanitary standards for milk recommended by the U.S. Public Health Service. Such standards should be administered by qualified personnel, presently available through the local units to whom these personnel usually report, but under the supervision and control of the U.S. Public Health Service.

Mr. DOMINICK. I wonder if I might just ask Mr. Thomson a question.

Knowing of your broad experience in legal matters and your interest in the State of Wisconsin, I would ask you what you feel about the validity of section 809 of this bill which changes the present require-

ment as to amount in controversy in order to give a Federal district court jurisdiction over a dispute.

As you remember, it used to be $3,000 as to the value, and then very recently, I think, $5,000, and maybe it is a little more, maybe it is $6,000, but this eliminates it so that you can have a peanut as the value of the controversy and still get into the Federal district court.

It seems to me, perhaps, we are taking pretty extreme liberties with the jurisdiction of the Federal district court in regard to assisting milk.

Mr. THOMSON. I am aware of the change. Of course, we would have diversity of citizenship. The only change is in the dollar volume. I wish that you would not use the analogy of peanuts.

Mr. ROGERS of Florida. You can say goobers.

Mr. THOMSON. I presume that the change was made to avoid the necessity of sending tankload after tankload of pure sanitary, wholesome milk to a State until you had reached the dollar volume before you had any recourse to such protection.

I think it is a legitimate and modest request in view of the devices that are thrown up to prohibit the movement in interstate commerce of a food.

The Congress, naturally, sets any standards they want. We thought some consideration was justified because of the particular type of movement of this commodity in interstate commerce.

Mr. DOMINICK. What you are really doing is saying that you can bring this into Federal court because we, Members of Congress, do not believe that the State courts, which do not have to worry about jurisdictional amounts, can handle this without prejudice. You are really saying that the Congress does not have confidence in State courts to handle it.

I just wondered if this is a fair implication.

Mr. THOMSON. There are some other reasons, Mr. Dominick. If we go into a State court we have found through sad experience that it is almost impossible to move this particular type of litigation through a State court in a State which requires this type of barrier and obstruction to this very movement in interstate commerce.

Mr. DOMINICK. Thank you.

The CHAIRMAN. If there are no further questions, we now have with us our colleague, Mr. Fred Marshall, of Minnesota.

STATEMENT OF HON. FRED MARSHALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. MARSHALL. Mr. Chairman, I want to thank the committee for taking under consideration this vital question of milk sanitation standards. Like most bills relating to agriculture, this bill is also a consumer's bill. Milk is one of the most important foods in the American diet. Nutritionally, it is one of the best of all foods and for its value it is one of the least expensive. Americans do drink milk—and admittedly ought to be drinking more milk. We in the Congress have taken note of this in the special milk programs which we have approved. The primary purpose of the bill before you is to assure all consumers of an adequate supply of this wholesome food everywhere in the United States.

We also want to acknowledge the great work done in this field by the author of the bill, Lester Johnson, of Wisconsin. He continues to be a tireless leader in this effort and an able and conscientious friend of the dairy farmer and the dairy industry. His hard work on the bill before you is another example of his genuine interest in the welfare of the American farmer and his concern over the need for quality products for the American consumer.

It is our hope that the bill before you will be favorably considered so that the long effort to fix uniform standards of sanitation for milk in interstate commerce will be successful. If we can knock down the artificial barriers disguised as sanitary regulations, we will create a larger market for milk products and consumers will be assured of quality products at fair prices.

The purpose of the bill is simply to fix one clear and uniform standard of purity for milk in interstate commerce. It is a high standard but it is designed solely to assure wholesome milk and not to create trade barriers.

The U.S. Milk Ordinance and Code is already being used in its entirety or in part by many States, counties, and municipalities. Across the country, however, there are still other localities operating under a patchwork of complex and unreasonable regulations designed solely to maintain monopoly markets.

Everyone is agreed that consumers should be protected against fraud and deceit and that they should have assurance that the glass of milk they drink anywhere in the country is a pure product. This is the proper purpose of sanitary regulations.

Now, however, the whole involved maze of contradictory and overlapping regulation goes far beyond the requirements of public health and actually tends to block milk consumption. Dr. W. E. Peterson of the Department of Dairy Husbandry at the University of Minnesota put it well several years ago when he said:

> Nothing outside of drugs is more regulated than milk and the regulations cover not only the production, but the processing and marketing. As a result it is frustrating to people with ingenuity to go ahead and market milk.

The result is greater expense to the consumer without assurance that the regulations throughout the country are of a uniformly high standard. With a population as mobile as ours, consumers ought to be able to know that all milk moved in interstate commerce is a pure and quality product ready for the dinner table.

Once we have this uniform standard, we can reduce some of the marketing expenses arising from tricky regulations and the costly duplication of inspections. The pyramiding of inspection costs on farms and in plants cannot help but be reflected in marketing costs.

Milk remains one of the best buys in food. Milk prices at retail have actually risen less than other foods on a comparative basis and no food so well meets the dietary needs of the human body. Certainly any action to help keep this delicious and healthy food available at a fair price will be applauded by consumers.

To permit the continuation of costly inspection systems for reasons which have absolutely no bearing on sanitation is to penalize both the dairy producer and the consumers of his products. By denying them the benefits of fair competition, we are arbitrarily singling out one food from more than 2,000 items handled in food stores and contributing to its increased cost.

We realize that your committee is a busy one and that you have many bills before you affecting the Nation's commerce. The American farmer and the American housewife, however, will be grateful to you if you take this forward step in promoting a uniform high standard for our most important food product.

The CHAIRMAN. Thank you for your very fine statement Mr. Marshall. It was a pleasure to have you with us today.

Next we will call upon Mr. Reuss of Wisconsin.

STATEMENT OF HON. HENRY S. REUSS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. REUSS. Thank you, Mr. Chairman. I appreciate the opportunity to testify here this morning in behalf of H.R. 50—the national milk sanitation bill. Although I have introduced an identical bill—H.R. 52, I prefer to speak of H.R. 50, because of the unquestioned leadership in this field of its sponsor, Congressman Lester Johnson. Congressman Johnson has for a long time spearheaded the fight to eliminate the use of arbitrary and outdated local barriers against milk. Any discussion of this problem would be incomplete without recognition of his leadership, and of the fact that we would not be where we are today if he had not been working on this problem for the last 5 years.

But what is the problem? In brief, Mr. Chairman, it is this: local health standards, which originally were vitally necessary to protect the public from disease transmitted through milk, are presently being used as trade barriers to block the free flow of milk without regard to quality and cleanliness. While at one time regulations which limited procurement of milk supplies in local areas made sense, today—with modern technological developments in refrigeration, transportation, and processing—it is possible to establish a uniform system of public health milk control providing for the free flow of safe milk nationwide.

Congressman Johnson has drafted a bill which would do just that. While avoiding the addition of another layer of expensive milk inspections, this bill would recognize the constitutional protection to interstate commerce. Milk which attained uniformly recognized national standards of the highest quality—standards set up by the Public Health Service's tried and proven milk code—could not be discriminated against in local areas.

These standards would be applied by local inspection agencies which would work under the supervision of the Surgeon General. He would list those plants which passed inspection and which could ship their milk freely in interstate commerce subject only to local regulations on packaging and the like. As protection to any milk "importing" area the Surgeon General must, under section 807(b)(4), reexamine any plant as to whose output the importing locality raises a complaint. If his decision is adverse to the complaining locality it can appeal to the U.S. Court of Appeals under section 807(d)(1).

Thus, while the free interstate flow of clean milk is assured, localities are protected against unclean milk. The twin constitutional principles of federalism and free interstate commerce are expertly blended by Congressman Johnson.

In closing, I want to thank Congressman Johnson once again for the hard work he has put in on this legislation. I hope that the committee will adopt it so that there will be no further delay in permitting the free flow of high quality milk from State to State.

The CHAIRMAN. Thank you, Mr. Reuss, for a fine statement. If there are no questions we will continue along with our colleague from Minnesota, the Honorable Clark MacGregor.

STATEMENT OF HON. CLARK MacGREGOR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. MACGREGOR. Thank you, Mr. Chairman, and members of the committee. I am happy to have this opportunity to express my wholehearted support of the Milk Sanitation Act. I have sponsored a companion bill to H.R. 50 and am happy in joining with my colleagues from both sides of the aisle to urge your favorable consideration of this very important measure.

It is my firm belief that health protection is of critical importance to the safety of every citizen and hence we must continually provide health regulations that will permit only the highest quality milk to reach the consumer's table. This critical factor must never be overlooked when considering any amendment such as this to the Public Health Service Act. It is because of the necessity of this essential safeguard that the present system of conflicting State and local milk regulations came into being. The setting of minimum sanitary controls is and has been a State and local responsibility and I am one who certainly would like to keep this regulation close to home.

But you and I are well aware of the fact that the present conflicting and contradictory maze of milk sanitation standards most often serves only to promote a local monopoly by successfully preventing any competition from milk producers outside of the immediate area. This, gentlemen, is a flagrant case of blocking the free flow of commerce and offends the intent of article I, section 8, of the Constitution.

Numerous instances can readily be cited where the sale of milk of the highest quality is prohibited throughout major parts of the country by entirely unnecessary arbitrary regulations which only local milk producers can fulfill. I submit that the sanitary regulation of milk products is both national in scope and in need of uniform regulation. It then seems only justified that this badly needed piece of legislation should quickly become law in order to end this deliberate discrimination against milk producers and consumers alike.

In light of these needs many of my distinguished colleagues have introduced legislation to remedy these defects in earlier sessions of Congress. I am happy to cosponsor this legislation which will establish the tried and proven milk code of the U.S. Public Health Service as the quality yardstick for milk shipped from one State to another in interstate commerce. Fluid milk and fluid milk products meeting the standards of this code could not be kept out of interstate commerce because of varying local health rules. Dairy plant inspections would continue to be carried on by State and local health officers with the results then being certified by the U.S. Public Health Service. Milk from certified plants could move freely from State to State.

My strong interest in the success of this legislation is based on the fact that I represent a district of 700,000 consumers and many producers of dairy products, in a State which ranks second in the Nation in milk production. For the benefit of consumer and producer alike, I feel it is essential that this trade discrimination be eliminated now. Certainly the consumer should be assured that the glass of milk on his table will be of high quality and reasonable price, while the producer should be able to know what the standards are and be permitted to meet them. This would be accomplished, gentlemen, with the enactment of the Milk Sanitation Act and I therefore urge your favorable consideration of this bill.

The CHAIRMAN. Thank you, Mr. MacGregor. We enjoyed having you with us today.

Next, we have the distinguished Congressman from Wisconsin, the Honorable Melvin R. Laird.

STATEMENT OF HON. MELVIN R. LAIRD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. LAIRD. Thank you very much, Mr. Chairman. Wisconsin has a tremendous stake in H.R. 57 and the 13 identical companion bills which you are considering this week.

As the No. 1 milk-producing State in the Nation, our dairy farmers are placed in a position where 85 percent of the milk which we produce must move to markets outside of our State boundaries. In the past few years, a very small percentage of Wisconsin's whole milk has moved in interstate trade. At no time has the percentage of whole milk moving out of our State exceeded 14 percent of our total production. Even though only a small portion of our whole milk has moved in interstate commerce, it should be pointed out that each year the whole milk export from Wisconsin exceeds the total production of 36 of our 50 States. During the past few years, over 70 percent of Wisconsin's milk production has had to move from Wisconsin in the form of manufactured dairy products. This of itself has a very adverse effect upon the future price possibilities for Wisconsin milk producers.

The Wisconsin dairy farmers in my congressional district feel strongly that their milk products are arbitrarily being discriminated against through the use of hundreds of separate, unrealistic milk sanitation codes which have sprung up around many of our metropolitan areas. The legislation which you are considering would make possible the establishment of a uniform milk standard of sanitation by providing that the U.S. Public Health Service Milk Code serve as a yardstick.

I am sure the committee realizes that years ago, separate local milk sanitation codes were required. This was before the drastic revolution which has taken place in the production, processing, refrigeration, and transportation of milk.

Mr. Chairman, first I support this National Milk Sanitation Act because it would bolster the economy of the dairy farmer of Wisconsin by removing artificial barriers which block the free flow of milk and milk products throughout the United States. And secondly, I support this legislation because it would assure to the consuming pub-

lic in the United States a National Milk Sanitation Code which would guarantee every consumer in America healthful, pure milk products.

During the past few years we have been hearing a great deal of talk about eliminating trade barriers which have been built up between various countries of the world. It seems to me to be important that the trade barriers which have been built up right in the backyard of our Nation's Capital, through the use of unrealistic milk sanitation codes should be immediately corrected.

This legislation is a step in that direction and should be adopted. The monopolistic practices that have grown up within milk marketing areas in the form of trade barriers are not fair to the milk industry as a whole nor are they fair to the consuming public in America.

The purpose of H.R. 57 is simply to fix one clear and uniform standard for purity for milk in interstate commerce. It is a high standard but it is designed solely to assure wholesome milk and not to create artificial trade barriers. The U.S. Public Health Service in cooperation with the State public health officers has worked out a recommended uniform milk code. The legislation which is presently before the Interstate and Foreign Commerce Committee places this code in effect to cover the shipments of all milk and milk products in interstate commerce. I have been cooperatively working with the other sponsors of this legislation because we all feel that no State or local government has the right to obstruct the free movement in interstate commerce of milk and milk products of high sanitary quality by the use of unnecessary sanitary requirements or other health regulations. The officers of the U.S. Public Health Service in testimony before the Health, Education, and Welfare Appropriations Subcommittee have clearly stated that the Milk Sanitation Code as is recommended by them will completely protect the health and well-being of the milk-consuming public throughout the United States.

Consumers should have assurance that the glass of milk they drink anywhere in this country is a pure product. The adoption of H.R. 57 will give every consumer that protection. The legislation merely points up the fact that the Congress recognizes that the sanitary control of fluid milk and certain milk products is necessary to protect the public health. The legislation recognizes that the sanitary regulations are primarily the responsibility of the State and local governments, but no State or local government has the right to obstruct the free movement of high quality milk in interstate commerce by the use of unnecessary sanitary requirements or other health regulations.

The CHAIRMAN. The committee thanks you for your statement Mr. Laird. Are there any questions of the committee?

Next, we have the Honorable William Proxmire, of Wisconsin. Senator, we will be honored to have your statement.

STATEMENT OF HON. WILLIAM PROXMIRE, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator PROXMIRE. Mr. Chairman, I greatly appreciate this opportunity to testify in favor of a National Milk Sanitation Act. I am a sponsor of the Senate bill on this subject, S. 212. Such legislation would benefit consumers, farmers, and processors, and in my firm opinion is long overdue.

Let me take this opportunity to thank this committee for holding these hearings. You are providing the means by which the attention of Congress and the general public can be focused on an important and much misunderstood problem. I feel certain that these hearings will help clear up a situation of doubt and confusion. By making this possible, you are performing a signal public service.

I also want to express thanks to Congressman Lester Johnson of the Ninth District of Wisconsin. All of us interested in national milk legislation are grateful to him for his dedication and preservance in this cause.

Enactment of a national milk sanitation law would have many beneficial consequences. At present, so-called sanitation regulations are used as economic trade barriers. They exclude milk as effectively as a skyscraping tariff or a zero import quota in international trade. They distort trade patterns in the same way that a maze of national regulations made a patchwork quilt of European trade in the 1930's, and have helped create a similar "Balkanization" of milk markets in the United States, thus violating the principle of free interstate commerce.

This fragmentization of markets came about because large quantities of milk were needed in each major metropolitan area, at a time when the technology of portable refrigeration had not advanced to its present high level. Until quite recently moving fresh whole milk more than a few miles was virtually impossible; it was difficult enough for the rural dairy farmer to rush his milk, in individual containers, to a nearby town, in time to be pasteurized and sold before it began to sour. The sight of a small pickup truck bouncing along a country road with milk cans jiggling behind is a familiar memory to many.

But it is no more than that, a memory. Today, fresh milk moves through pipes, hoses, and tanks, to a gleaming glass-lined ice-cold hermetically sealed tank on a refrigerated truck, which rolls smoothly from farm to city, and from city to city. The milk can be delivered a thousand and more miles from its source with absolutely no impairment of quality or purity.

The sanitation codes of many localities date from the time in the past when efficient refrigerated conveyance of milk was unknown. Today the codes remain as monuments to the obsolete requirements of a vanished era, anachronisms in a new world of reliable refrigeration and rapid transportation.

Though historic in origin, the problems caused by fragmented milk markets are very current in their effects. The American marketplace for milk as for nearly every product is potentially national in character. The benefits of free trade which accrue to all parties in a transaction, and to all citizens of a country, are well known. In the present case, the consumer in particular would gain if trade in milk could follow the road map delineated by the forces of supply and demand, undistorted by a proliferation of obsolete sanitation and inspection requirements.

I'd like to state some facts about our dairy economy which may not be known to the committee. My State of Wisconsin produces about one-seventh of the Nation's milk. Milk receipts are half of Wisconsin's total annual farm income. In 1959, more than a third of the State's milk qualified as the top grade specified by the U.S. Public

Health Service Code. However, only half of this grade A milk was marketed for class I, fluid use. The rest was used to make cheese, butter, and milk powder. Besides the large portion which is grade A, a very substantial share of the milk which gets labeled grade B in Wisconsin is in fact practically equal to the top grade. Many Wisconsin dairymen could easily qualify their milk as grade A if they thought there was a market for it. But as it is, all this high quality grade B must go for manufacturing purposes, where it brings a significantly lower return.

Arbitrary and superfluous sanitation requirements help prevent Wisconsin milk from moving according to the promptings of supply and demand. For example, some municipalities require a 2-inch outlet valve on bulk milk coolers. Elsewhere the 1½-inch is standard. Some areas require that milk-handling machinery be sterilized by steam and heat, while others demand chemical sterilization. The poor dairyman is caught in a crossfire of conflicting regulations. With the best will in the world, he is unable to satisfy flatly contradictory requirements.

In the crazy quilt of milk regulations which blankets the country, inspection requirements are among the most whimsical and discriminatory in their effect. Many cities insist on sending their own public health officials to inspect any dairy facility which handles milk consumed in their area. This may entail a trip of several hundred miles each way, frequently at the expense of the dairy farmer. Obviously when a dairy farmer in Wisconsin has to pay the expenses of an inspector coming from a State several hundred miles away, it simply makes it impossible for him to compete. If he ships to several areas, he may be inspected as often as 100 times each year, as the sanitation officials from various communities fulfill their varying requirements. This puts an unnecessary and irritating burden on the dairyman, and because the inspections are redundant they do not in any way heighten the sanitary level of the final product.

Capricious administration of local codes is another way to discriminate against and exclude out-of-State milk. A municipality may waive its discriminatory health ordinance from time to time, when it needs Wisconsin milk. When it has enough, it clamps the restrictions back on, with no warning, forcing the trucker to sell the milk at the class II price or cart the milk back home again.

I want to stress the fact that we already have a fine model U.S. Public Health Service Milk Code. Thus the present bill would not require a study of the dairy industry to determine standards of quality and purity. There is no need for prolonged technical arguments about what constitutes a permissible bacteria count, or how to measure butterfat content. These questions have already been examined and settled by Government scientists.

Local sanitary codes could continue to contain standards and provisions which differ from the national code. This bill will not force a municipality to bring its own milk purity standards in line with the Federal level. If a particular municipality wishes to allow milk which does not conform to the Federal code, it may continue to do so.

However, and this is the crux of the matter, the municipality may not exclude milk which meets the U.S. standard of purity and wholesomeness. Passage of this bill would prevent the misuse of sanitation regulations as barriers against free trade.

At the same time it would establish in law a very useful quality code. Inspection and grading is a service to consumer and producer alike, which is well handled by the Federal Government. Uniform standards are the bedrock of quality and purity and they should not vary from place to place.

Because the sanitation standards enunciated by the proposed law are high, it is plain that a defense of the existing system must be a defense of trade barriers, actual or potential. These barriers restrain interstate trade, and thus give effect to a practice which article 8 of our Constitution was intended to prohibit.

Legal action has been one method by which such trade barriers have been broken down.

One of the best known cases stems from an action in my own State. It is not many years since an ordinance of the city of Madison still prohibited the sale of milk not pasteurized within 5 miles of the city. When that ordinance was first enacted, the 5-mile designation was not important because it was not possible for dairies in other cities to ship milk into Madison and maintain its quality. When because of technological developments, it became feasible to ship milk from hundreds of miles away to Madison, the interest of the local dairies in preserving the local market for themselves, were so strong that it was politically impossible to secure a repeal of this ordinance. Thus, a part of a health ordinance became an economic barrier and it took a decision of the U.S. Supreme Court to clear it away. See *Dean Milk Co.* v. *City of Madison* ((1931) 340 U.S. 349).

However, the high cost of court action and the small size of many markets frequently make it impractical to bring such suits. It would be economically wise and simpler to enact a specific statute defining the legality of restrictive sanitation ordinances. Such a standard would settle the question clearly, once and for all, eliminating the need for prolonged and expensive litigation.

It seems plain to me that the bill currently before the committee must strike any unprejudiced observer as an eminently sane and desirable piece of legislation. I think, therefore, that it may clarify the subject if we face up to the fact that the opposition to this bill is mainly motivated by a fear that milk from the most efficient producing areas, like Wisconsin, will flood markets, depress prices, and take established business away from local dairy farmers. An examination of the facts shows that this is not a sound prediction. The high cost of transportation, which averages $2.18 per hundredweight per 1,000 miles (based on Wisconsin experience) will permanently give local producers an enormous cost advantage. Because they are already established near the ultimate consumer, they will continue to be able to provide milk to their traditional market.

The main benefit that will accrue to the Nation and to the dairy industry from the passage of this bill lies in the future development of new markets. The present pattern of marketing areas satisfies the milk needs of our present population, as presently distributed. But our population is increasing, rapidly and, it is clear, unevenly. Some sections, particularly in the West and Far West, are spurting ahead. Western cities are mushrooming, and whole new metropolitan centers are being created.

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It would be silly if these new population centers of the jet age enacted sanitation and inspection codes suited to a model T generation. Passage of national milk sanitation legislation would give these communities the assurance that their milk is pure and wholesome, while sparing them the need to create and administer codes of their own. There would be no excuse for building up a high-cost, inefficient dairy industry, on lands far better suited to truck farming, citrus fruits, livestock, and timber. It is in the national interest that the section of our country which has a comparative advantage in dairying should provide milk to these new markets.

My own State of Wisconsin recently passed a "grade A" law which accomplished on a State basis what passage of a National Milk Sanitation Act would achieve nationally. This statewide quality and sanitation law has cut redtape, helped the dairy farmer, and assured reliable and unvarying top quality milk to all consumers, including those not protected by any previous local regulations. Passage of a National Milk Sanitation Act would bring similar benefits to the entire country.

The CHAIRMAN. Thank you very much for your statement Senator.

I would now like to call on the distinguished Senator from Minnesota, the Honorable Eugene J. McCarthy.

Welcome to the committee, Senator.

STATEMENT OF HON. EUGENE J. McCARTHY, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator MCCARTHY. Mr. Chairman, I appreciate the opportunity which you and other members of the committee have given me to testify on H.R. 50, a bill to amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without unduly burdening such commerce.

H.R. 50, introduced in the House by the Representative from Wisconsin, Mr. Johnson, is a companion bill to one introduced in the Senate (S. 212) by Senator Hubert Humphrey. I joined Senator Humphrey as a sponsor of this bill in the Senate.

I believe the Congress should enact this bill into law. It is legislation in the best interest of the dairy producers, and the processors, and the consumers of dairy products throughout the country.

As you well know, the present health and sanitation regulations in the various States and communities have now become so many and so complex as to serve as barriers for the free movement of milk in interstate commerce. In some areas, these health and sanitation regulations have become a shield behind which some dairy interests hide their fears of free and open competition in the industry.

But the main point to be considered is that the basic food, milk, should be permitted to move freely throughout the country as long as the American consumer is guaranteed milk that is safe and of high quality.

The national milk minimum sanitation standards which this bill provides will help free the entire dairy industry from the maze of different regulations and standards that now exist. One national standard will permit the flow of quality milk in interstate commerce. State and local regulations will still remain in force for their own milksheds, but no milk meeting the national standard set by the Surgeon General

of the United States and the Public Health Service could be barred from interstate shipment.

Modern means of transportation and refrigeration make it feasible to transport milk over great distances. Science makes the inspection of the milk before and after shipment simple. Antiquated sanitary regulations should not be permitted to act as economic barriers to interstate shipments of milk.

The population of the United States is increasingly mobile. Great population shifts have occurred in the last decade. These shifts have affected the milk supplies. Growing communities are finding that former milk supplies are no longer adequate and must seek milk from outside their traditional milkshed. Milk supplies for a community are also subject to seasonal variations, and again milk must come periodically from other, usually more distant, sources.

The dairy industry has managed to meet these problems of supply and demand by improvements in rapid sanitary means of transportation. But outdated and abused sanitary regulations stand in the way of the free flow of milk to the consumers wherever they may be in the United States.

The enactment of this legislation will help give the American dairy industry economic freedom. It will also give the American housewife a uniform guarantee of high-quality milk at prices set by free competition in the dairy industry.

I support the enactment of this bill into law.

Mr. Chairman, I should like to include with my statement a resolution adopted by the State Legislature of Minnesota at its regular session in 1961. This resolution requests the Congress to enact legislation which will permit the free flow of pure and wholesome dairy products between the States.

The CHAIRMAN. Let the resolution appear at this point in the record.

(The resolution supplied by Senator McCarthy follows:)

RESOLUTION 3—MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LAWS TO PERMIT THE FREE FLOW OF DAIRY PRODUCTS

Whereas the economy of the State of Minnesota is based to a large degree upon its large and productive dairy industry; and

Whereas production of pure and wholesome dairy products in the State of Minnesota exceeds the consumption in the State; and

Whereas certain dairy interests in the eastern markets have been instrumental in the erection of artificial milk barriers which inhibit the free flow of milk and dairy products from the productive areas of the Midwest; and

Whereas it would be to the mutual interest of the midwestern producer and eastern consumers to have Federal health standards for milk and dairy products which would be uniform throughout the Nation: Now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That the Congress of the United States be requested to enact Federal laws which will permit the free flow of pure and wholesome dairy products between the States; be it further

Resolved, That the secretary of State be requested to send copies of this resolution to the Members of Congress from the State of Minnesota, to the President of the United States, and to the Secretary of Agriculture.

Senator MCCARTHY. Thank you, Mr. Chairman.

The CHAIRMAN. We were indeed honored to have your statement, Senator McCarthy.

We now have our colleague, the Honorable Albert Quie.

STATEMENT OF HON. ALBERT H. QUIE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. QUIE. Mr. Chairman, I am Congressman Quie of the First District of Minnesota. The people of my district are tremendously interested in this legislation, and that is why I introduced my bill, H.R. 59, which is a companion bill to Congressman Johnson's bill, H.R. 50.

I will present a statement for the record, so that you will not have to listen to me at length.

I just want to say the reason why we are interested in my area is that I represent a great number of dairy farmers. I am, myself, a dairy farmer. In the past, they have had different sanitary regulations in different areas of the country, and it is difficult for the farmers to meet all of these regulations, because the regulations are detailed and go into the size of the milkhouses, their distance from the barn, the equipment they contain, and what not.

A friend of mine, who produces milk not far from me, as we were changing sales from one area to another part of the country, wished that he could make his milkhouse of rubber, he said, so that he could change it as often as they wanted him to change it.

The other reason why this is important to us is that we produce high-quality milk in our part of the country. To give you an idea, we ship into the South. We ship into Texas in the fall of the year when it is still a hot month; we ship down there with not more than 75,000 bacterial count. The U.S. Public Health Standards is 200,000 bacterial count. Some areas have 100,000 as their limit. The Public Health Service feels that 200,000 is adequate. Perhaps they are right. Personally, I would have no objection to seeing it dropped to 100,000, because we could easily meet that. In the plant to which I ship we have set a limit of 50,000 on Grade A. No farmer can sell milk in there with more than 50,000 bacterial count. I think that is something that can be worked out under one section of the bill which permits the Surgeon General to do a further study into sanitary regulations.

Most important is that milk not be denied admittance into a stated locality due to certain health standards. This bill does not go any further than that. The marketing orders can still exist. The State laws, if they have them, as in California and many of the other States which regulate the pricing of the milk, would still continue to exist. The barriers due to transportation costs would still exist. This would enable us to know where we stand because in Minnesota where we ship 80 percent of our milk out of the State we would like to know what kind of standards exist in all areas as we ship it in interstate commerce.

Further than that, I will put my statement in the record.

The CHAIRMAN. Thank you. You may insert your statement in the record at this point.

(The prepared statement of Hon. Albert H. Quie is as follows:)

STATEMENT OF HON. ALBERT H. QUIE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. Chairman, I have stated my position on this question of milk sanitation many times before the Interstate and Foreign Commerce Committee, and I welcome the opportunity to restate my position here today.

For years now, many local health regulations—while justified under the guise of needed sanitary standards to protect the public health—have, in fact, operated and served only the cause of not-too-subtle trade barriers.

Surely it cannot be argued—at least in good faith—that milk meeting the grade A standards of the U.S. Public Health Service—is unfit for the transportation and sale to, and consumption of, our citizens in all parts of the country.

In essence, this legislation would prevent the exclusion of any grade A milk from any market in the United States for health or sanitation reasons provided that this milk has been produced and processed in conformance with the milk ordinance and code recommendations of the Public Health Service and meets these standards at the time of delivery.

The sanitary regulations developed by most municipalities have been recognized as necessary in the past—but they have now in many cases been implemented to act as trade barriers, not to maintain high sanitary levels. The milk produced in such States as Minnesota is of the highest quality, and its cost is substantially below that of many markets here in the United States.

I can think of no justifiable reason why the freedom to trade should be denied to grade A milk which meets established health standards.

I urgently recommend favorable action on this proposed legislation because it is in the interest of the entire country and not just a section of it. The freedom to trade quality products at reasonable prices is fundamental to our philosophy of government, but that principle has been denied for years when it comes to milk.

This legislation would untie the snarl by asserting the authority of the Federal Government to regulate sanitation practices including the production, processing, shipment, and preparation for sale of fluid milk and milk products moving in interstate commerce.

To sum up, I believe that this legislation would have three desirable effects:

1. It would set a uniform pattern of sanitation—and one does not have to investigate very deeply into the confusing patchwork quilt of discriminations to see what a salutary effect this would be.

2. It would serve to bolster the economy of the dairy farmers by the removal of these walls which prevent the free flow of milk.

3. It would serve the interest of the American consumer by elimination of duplications that make higher prices necessary. One system of inspection would result in lower costs in some areas and a benefit to the consumer.

4. It would enable farmers and milk plants to meet the standards of all areas at the same time.

Now, I have said that in Minnesota we can produce high quality milk at lower costs. Let me be more specific. In some southern States such as Georgia or Florida, it costs about $6 or $6.25 a hundred to produce milk. In Minnesota, we can do it for a little over $3 a hundred. We, of course, would have to overcome the economic barrier of distance. This gives local areas—in deficit-producing areas—quite an advantage. However, there are many areas of our country to which our Minnesota dairy farmers could ship their milk and sell it at a lower cost than these local areas can produce their own milk for themselves.

Finally, I wish to point out that 70 percent of the States and municipalities in the country presently use the U.S. ordinance and code and comply with it. I think many of the others would upgrade their quality standards if they also went under the code, and at least a standardization would be effected.

I think that the Congress is long overdue in taking action in this matter, and I respectfully hope that this committee will see fit to take this recommended action. I thank you for your attention; it was a privilege for me to appear before you.

The CHAIRMAN. Are there any questions of Mr. Quie?

(No response.)

The CHAIRMAN. If not, we have a statement from the Governor of the State of Wisconsin, asking that it be inserted in the record and without objection it will be included in the record at this point.

(The statement of Hon. Gaylord A. Nelson is as follows:)

STATEMENT OF HON. GAYLORD NELSON, GOVERNOR, STATE OF WISCONSIN

The State of Wisconsin has an intense interest in any legislation that affects the marketing of milk. Of all the States, Wisconsin is the largest producer of milk. In 1960 we produced nearly 18 billion pounds of milk, and sales of milk account for about one-half of our total farm income.

We regard the National Milk Sanitation Act as an essential legislative objective of our dairy industry. We must be permitted to place more of our vast milk production in the marketplaces of the Nation without artificial restrictions if our State's economy is to register proper growth.

As a State Wisconsin imports many goods and services that are produced elsewhere, and I feel it is only fair that we have access to the markets in other States without contending with undue legal barriers.

Passage of the National Milk Sanitation Act will assure consumers throughout the Nation of a more abundant supply of wholesome, pure milk, quite possibly at lower prices than would otherwise prevail.

It would accomplish this, first, by providing a uniform national standard of purity and wholesomeness for the production, processing, and marketing of fluid milk. This is a standard of quality in which every housewife, every mother, every consumer can place her complete confidence and trust.

Secondly, it would prohibit any artificial, uneconomic restriction based upon milk sanitation or inspection ordinances which are at variance from the U.S. Public Health code from barring the sale in interstate commerce of milk which does meet the requirements of the USPHS code.

I want to emphasize that the USPHS code is a dependable standard for protecting the health and welfare of consumers. In my opinion, adoption of this standard will actually raise the general quality of milk received by consumers.

The major economic effect of passing this bill will be to promote the future development of our national milk industry in accordance with sound principles. It is in the interest of consumers and the Nation generally that the lowest cost resources available should be devoted to the production of the additional supplies of milk that will be needed in the future. Dairy farmers can produce milk more cheaply in Wisconsin than in many of the sections which are experiencing rapid population growth.

Local consumers and the national economy will benefit if artificial barriers to the interstate movement of milk are removed.

It is for these reasons that I respectfully ask this committee to report favorably on this legislation.

The CHAIRMAN. I notice that our colleague from Maine, Mr. McIntire is in the audience. Did you wish to be heard?

Mr. MCINTIRE. I have a very short statement.

The CHAIRMAN. We will be glad to hear from you.

STATEMENT OF HON. CLIFFORD G. McINTIRE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. MCINTIRE. Mr. Chairman and members of the committee, the bills before you today are of vital concern to all citizens because they deal with one of the most vital of food products—milk. No food product is consumed more universally in our country and no product has greater total importance to producers, distribution elements, and consumers. This product is vital to children and adults alike and its use at home, in schools, public eating places, hospitals, and a multitude of other places, require that it be of the highest quality and wholesomeness.

Because of its universal use in fresh and processed form, there is a long history of action on the part of boards of health of our local communities, counties, States and Federal Bureau of Public Health, toward the end that constant improvement be made in making certain that the people in each jurisdictional area can be assured that good wholesome milk and milk products are offered for sale and the health of the consumer protected. We know that pathologically milk is a medium for the growth and transmission of many bacteria such as tuberculosis, undulant fever, typhoid, to name but three.

Anyone familiar with milk production realizes that effective control of wholesomeness begins at the farm. Cleanliness in the barns is vital

to low bacteria count. TB and Bang's disease are controlled by herd inspection and elimination of reactors. Constant care in handling the milk from producer to consumer is vitally important. Producers in many areas have done an outstanding job in producing milk of high quality. Local health officials, supported by county and State officials, are on the job and are to be commended for their fine work in protecting the health of consumers—they can and do move promptly in meeting local problems.

This bill proposes to transfer local protection to Federal supervision and Federal control. It denies local or State health officials the right to set standards which they feel are necessary for the protection of their citizens. Reading the bill would give one the impression that these standards need upgrading to protect the consumer and only the Federal Government can do this upgrading. I would point out, however, that the purpose of this legislation may actually be the reverse. The bill gives no protection to any community or State wherein the standards are today above those that would be promulgated by the Surgeon General.

A State agency might readily desire high standards but could be overruled by provisions of section 806. By the wording on lines 19 to 23 on page 8 of H.R. 50, one would be led to believe that the judgment of the Surgeon General would be "the protection of the public health." This should be considered in the context of the wording in the "congressional findings" wherein it states that—

no State or local government has the right to obstruct the free movement in interstate commerce of milk and milk products of high sanitary quality by use of unnecessary sanitary requirements or other health regulations.

We are considering the health of children, adults, and the public at large. Is it possible that local and State boards of health are too diligent in their earnest desire to protect the health of the people? This bill is predicated on such an assumption.

May I, Mr. Chairman, direct the attention of the committee to section 813. This section exempts all manufactured dairy products from the act and presumably exempts the milk used in the manufacture of these products. In many areas of this country, the manufactured products of milk are made from milk that is surplus to the fluid market and is the same high level of wholesomeness. Why have lower standards?

The objective of this legislation is obvious. The proponents, representing areas of surplus milk production, want to use Federal regulation to break down and, in some instances, lower local and State standards—and push into other markets notwithstanding local health standards. The bill is applicable to fluid milk and products related in use to fluid milk because the major fluid milk markets are the markets they wish to open. They have many producers now producing milk only for manufacture of products not covered by the act and do not want to have the Surgeon General set the standards of sanitation for this milk. Why?

Considering the high quality of milk and its products, it is obvious that State and local health authorities are doing a fine job. Improvement of health standards of milk by Federal control is, in my opinion, sort of an afterthought when one analyzes the real objective of this legislation.

I recommend the bill not be reported by the committee.

The CHAIRMAN. Are there any questions?

Mr. Keith?

Mr. KEITH. I have a question that I would like to ask. Bearing in mind some of the activities of the Federal Government in the field of pure food and drugs, do you know of any instance where the action of the Federal Government might not have been more harmful and not as constructive as those of State governments?

Mr. MCINTIRE. Well, there is a very definite area which I am sure every member of this committee is very conscious of because of the jurisdiction of this committee, but, certainly, some of the situations that grew out of rulings in connection with the cranberry industry, and which are now pending in relation to the use of insecticides and fungicides, in connection with the fresh fruit and vegetable industry, are areas of deep concern, as far as Federal regulation is concerned, notwithstanding the fact that everybody wishes to have these products free of any materials detrimental to public health. Certainly, a great many people have had real experiences in this regard.

Mr. KEITH. Previous witnesses have mentioned a lot of what appeared to be almost ridiculous regulations on the part of State health bodies. Is there no recourse from such particular restrictions in the courts or elsewhere?

Mr. MCINTIRE. I presume that matter is entirely within the statutes of the States, as far as the State boards of health be concerned, and within the ordinances of the local communities, as far as the local boards would be concerned.

Mr. KEITH. Unlawful restrictions in trade as to health regulations, as has been pointed out.

Mr. MCINTIRE. We do not need to limit this area specifically to milk. There are many specific actions within the context of interstate commerce where each of the several States, in the interests of protecting some of the economy within that State, have regulations in relation to the movement of various commodities in the States. They are, perhaps, burdensome in a way, but I think that we must recognize there is a very deep principle involved here. States and communities ought to be respected for their particular jurisdictions and responsibilities.

Mr. NELSEN. With reference to that part of your statement as to manufactured products: In the event you have a surplus of milk products, they are put into manufactured products and are in the competitive market; is that not true?

Mr. MCINTIRE. Certainly.

Mr. NELSEN. On the other hand, those that live outside of the area, even though they meet the stringent regulations which you have in your marketing area, are denied entrance to your market, but you are permitted entrance to the overall market; is that not true, with the manufactured product?

Mr. MCINTIRE. Well, the thing which interests me here, Mr. Nelsen, is why does this bill exclude manufactured milk. As an author of one of the bills, could you elaborate on that point for me?

Mr. KEITH. I will be glad to yield further on that point.

Mr. NELSEN. Frankly, as I see it, the marketing area protects the local enterprises, yet those of us who live outside of the area, and meet

the standards, are denied the market, to compete with those in the market. That presents a rather unfair picture in many cases.

Mr. McINTIRE. Well, I know in the discussion this morning, there has been some cross-reference, may I say, to this. My study of this bill would lead me to believe that the milk pricing is not involved in this bill.

Mr. NELSEN. That is true, but it has become a factor that governs the monopoly, and this health standard has been used as a medium to protect the price. I think the public health has been secondary. This has been proven by the statements of the gentleman from Wisconsin, Mr. Thomson, where he points out that milk from Wisconsin is admitted into an area when they need milk, and when they do not need it, the standards do apply—the yardstick is rather an elastic one, so far as the standards are concerned. I will agree that we should be protecting the health of the public, but I do not think that this type of regulation should be used for that purpose.

Mr. McINTIRE. I am sure that you are familiar with the fact that in many areas manufactured milk does meet that.

Mr. NELSEN. That is true.

Mr. McINTIRE. The same high inspection requirements are met because the surplus milk is simply that of the fluid milk production.

Mr. NELSEN. I have no objection to the standards as to manufactured products. They should be very stringent. I have no objection to that.

Mr. McINTIRE. I was very much interested that the bill specifically excludes milk for manufacturing.

Mr. NELSEN. Thank you.

The CHAIRMAN. Are there any further questions?

(No response.)

The CHAIRMAN. If not, we thank you.

Mr. THOMSON. I have a question. I notice that the distinguished Congressman from Maine is one of the very finest orators in the field of agriculture. I would just like to ask him a question or two on his statement. You have said that this bill exempts manufactured dairy products from this act. And you asked the question, "Why?"

Mr. McINTIRE. Yes.

Mr. THOMSON. Have you ever heard of a trade barrier or a prohibition against the movement of cheese or other manufactured products in interstate commerce?

Mr. McINTIRE. I think not.

Mr. THOMSON. Do you not think that is the answer to your question?

Mr. McINTIRE. No; no.

Mr. THOMSON. There is no trade barrier at the present time against cheese.

Mr. McINTYRE. I was not aware of any, but may I say that the extent of my observation is here directed to the fact, as I understand the bill, that the jurisdiction of the Surgeon General is not to apply to those who are producing milk for manufacture. Am I correct in that interpretation?

Mr. THOMSON. Yes, that is correct.

Mr. McINTIRE. That is my question, "Why?" Why should not those who are producing milk for manufacture, produce milk under

regulations of wholesomeness as well as those who are producing milk which is going to wind up in powdered milk, which is reconstituted, and things of that sort?

Mr. THOMPSON. You are not suggesting that it is not produced under sanitary standards?

Mr. MCINTIRE. No.

Mr. THOMSON. Adequate to protect the public health?

Mr. MCINTIRE. No. I am just saying the objective of the bill is to bring the Surgeon General into an area of jurisdiction over all standards, but milk for manufacture is exempted. I wondered why.

Mr. THOMSON. Well, perhaps, the reason is that there have been no complaints about arbitrary, artificial restrictions and burdens on the movement of that milk.

Mr. MCINTIRE. Yes?

Mr. THOMSON. Will you give us an example—can you give us a comparison of the standards in Maine, for instance, with the Public Health standards?

Mr. MCINTIRE. I do not have it at hand, sir. I am very frank to say that. But I will say that I was looking simply at the context of the language of the bill, and the language of the bill very definitely gives the Surgeon General the right to set the standards, and it says very specifically that no local jurisdiction can take exception to the standards. If they wish to put in higher standards than those of the Surgeon General, then the Surgeon General can overrule these desires for higher standards. Am I not correct in this interpretation?

Mr. THOMSON. Well, that is correct, but if the standards set by the Surgeon General are completely adequate for the protection of the public health, should other added requirements be imposed on the dairymen which do nothing to protect the health of the consumer?

Mr. MCINTIRE. I am inclined to think, Governor, that the interpretation of what is "adequate" could be a matter of the difference of opinion, even among experts. And I would leave this final decision to that of the local jurisdiction. This is the area of difference of opinion between the standards set by the Surgeon General and those which would be set by the local boards of health, which, presumably, will include some people who have medical backgrounds. This bill says that notwithstanding any desire on the part of the local board of health to set a standard, if this desire is higher than that set by the Surgeon General, he overrules then. And if those standards by chance now are higher, then he overrules them and lowers the standards.

Mr. THOMSON. But you have no specific or factual information?

Mr. MCINTIRE. I will file that for the record, sir.

Mr. THOMSON. Will you file it?

Mr. MCINTIRE. Yes.

Mr. THOMSON. I intend to ask the Under Secretary of Health, Education, and Welfare to obtain the requirements in the State of Maine as to all of the requirements and the health of the dairy cow, the dairy farm requirements, pasteurization, plant requirements, compulsory pasteurization, bacterial count, frequency of inspection, frequency of laboratory examination, adulteration, antibiotics and pesticides, so that we may have a comparison with the State that you represent.

Mr. MCINTIRE. Yes, sir.

Mr. THOMSON. With the standards of the Surgeon General.

Mr. MCINTIRE. Yes, sir.

(The information requested follows herewith:)

COMPARISON OF THE MILK SANITATION REGULATIONS OF THE STATES OF MAINE AND SOUTH CAROLINA WITH THE PROVISIONS OF THE U.S. PUBLIC HEALTH SERVICE RECOMMENDED MILK ORDINANCE AND CODE

MAINE

The laws relating to production, processing and sale of milk and the uniform rules and regulations governing the production, sale, and distribution of milk and cream for sale within the State of Maine, adopted by the Maine Department of Agriculture, and which became effective February 12, 1946, were reviewed and compared with the health and sanitation provisions of the Milk Ordinance and Code, 1953 recommendations of the Public Health Service.

The laws, rules, and regulations of the State of Maine pertaining to dairy farms are similar in scope and intent to the requirements contained in the Public Health Service recommended milk ordinance and code, but lack specificity with respect to some important requirements. The Maine laws, rules, and regulations pertaining to pasteurization plants do not contain a number of the requirements specified in the PHS recommended milk ordinance and code. A comparison of some of the principal provisions of the Maine laws, rules, and regulations with those of the PHS recommended milk ordinance and code follows:[1]

Health of cows

Maine law requires that all cows be tested annually for tuberculosis; however, the Maine milk regulations do not contain this requirement. The regulation simply states that "all cows in the herd shal be free from disease. and that any cows producing abnormal milk shall be removed from the herd."

The PHS recommended milk ordinance and code requires all milk to be from dairy herds which are located in a modified accredited tuberculosis-free area as determined by the U.S. Department of Agriculture, and which have been tested within 6 years of the adoption of the ordinance, and at least every 6 years thereafter. The Public Health Service ordinance further requires that if the herd is located in an area that fails to maintain a modified accredited tuberculosis-free status, or in an area in which the incidence of bovine tuberculosis is in excess of 0.2 of 1 percent, the herd must be individually accredited by the U.S. Department of Agriculture as tuberculosis-free, or must pass an annual tuberculin test.

The Maine law and regulations make no specific provision for the testing of herds for brucellosis if the milk is to be pasteurized; however annual testing for brucellosis is required of herds producing milk to be sold to the final consumer as retail raw milk. It is known, however, that all the counties in Maine attained a modified certified brucellosis status on July 1, 1950.

With regard to bovine brucellosis, the PHS recommended milk ordinance and code requires that all milk must be from herds which are following the program of the U.S. Department of Agriculture for eradication of brucellosis. The present USDA program results in each herd being subjected to semiannual milk ring tests for brucellosis, with followup blood agglutination tests on the individual cows in all herds showing positive ring test results.

The PHS recommended milk ordinance and code also requires that cows which show a complete induration of one or more quarters, whether secreting abnormal milk or not, shall be permanently excluded from the herd. Also, the PHS ordinance requires that cows giving stringy, or otherwise abnormal milk, shall be excluded from the herd.

Dairy farm requirements

In general, the Maine laws and regulations cover the same dairy farm sanitation items covered in the PHS milk ordinance and code; however, the Maine regulations are not as specific with regard to a number of such items.

Maine does not have specific requirements covering the location, construction, and protection of dairy farm water supplies, and the testing of such water supplies. The PHS recommended milk ordinance and code is quite specific on the construction and protection of farm water supplies, since a contaminated water supply can result in contamination of the milk with disease organisms.

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[1] This comparison was made by the milk and food program, Division of Environmental Engineering and Food Protection, Bureau of State Services, Public Health Service, U.S. Department of Health, Education, and Welfare, on Aug. 4, 1961.

Maine laws and regulations are not as specific as the PHS milk ordinance and code with regard to acceptable methods for bactericidal treatment of utensils and equipment. Maine regulations do not specify temperatures, time of exposure, or concentration of chemical solution to be used. The PHS milk ordinance and code contains such provisions.

The Maine laws and regulations do not specify that cow's udders and teats, and the milker's hands, be rinsed with an approved bactericidal solution before milking as does the PHS milk ordinance and code.

Pasteurization plant requirements

The Maine laws and regulations do not contain specific specifications for pasteurization equipment, controls and thermometers used on pasteurizers. No frequency for testing pasteurization equipment is specified. The PHS recommended milk ordinance and code contains specific provisions relating to these important items to insure that the pasteurization process is properly carried out, and that the pasteurized milk is protected against recontamination.

The Maine law and regulations are not specific with regard to construction and repair of containers and equipment. They only require that such equipment "meet with the approval of the Commissioner." The PHS milk ordinance and code contains specific requirements on the construction of containers and equipment. The PHS milk ordinance and code also requires bacteriological examination of single-service containers.

The Maine law and regulations do not provide sanitation requirements governing "cleaned-in-place" milk pipelines. The PHS milk ordinance and code contains requirements for both the construction and operation of "cleaned-in-place" milk pipelines.

The Maine law and regulations are quite general with respect to protection of pasteurization plant water supplies against contamination, and no requirements are provided covering the construction of plant water supplies when the source is other than a public supply. Maine regulations do not specify a frequency for bacteriological examination of private water supplies used by pasteurization plants, and they do not specifically prohibit cross connections with unsafe water supplies. All of these items are specified in the PHS milk ordinance and code.

The Maine law and regulations are not specific with regard to proper disposal of wastes, or prevention of contamination of milk equipment by sewage backflow, or the protection of milk equipment against leakage from overhead plumbing or drain lines. The PHS milk ordinance and code contains requirements covering these items.

The Maine law and regulations do not contain specific provisions on the following pasteurization plant sanitation items:

(1) Insect and rodent control.

(2) Provision of covers, flanges, and condensation deflectors on milk equipment to protect the milk against contamination.

(3) Prevention of the straining of pasteurized milk through material other than perforated metal.

(4) Prohibition against the handling of unapproved products in the plant.

(5) Proper storage and handling of all ingredients.

(6) Proper handling, storage, and labeling of toxic substances, such as insecticides.

The PHS recommended milk ordinance and code contains requirements covering all of the above items.

The Maine law and regulations do not contain requirements that adequate hand-washing facilities be provided in milk plants. The PHS milk ordinance and code specifically requires such facilities, including hot and cold running water, soap, and sanitary towels.

The Maine law and regulations do not require that the bottle cap, or cover, protect the pouring lip of the container to its greatest diameter, and that all single-service containers protect both the contents and the pouring lip of the container against contamination. The PHS milk ordinance and code contains specific requirements on these items.

Compulsory pasteurization

The Maine law and regulations do not require compulsory pasteurization of all milk sold or offered for sale, as is provided for in the PHS milk ordinance and code.

Bacterial counts

The Maine bacterial standard for raw milk for pasteurization is identical with the bacterial standard for raw milk for pasteurization specified in the PHS milk ordinance and code. The Maine law and regulations require that the bacterial count of pasteurized milk not exceed 25,000 per milliliter at the time of its delivery, as contrasted with the PHS recommended milk ordinance and code maximum bacterial count for pasteurized milk of 30,000 per milliliter as delivered to the consumer. This is not a significant difference.

The Maine law and regulations do not specify a maximum coliform count for pasteurized milk as does the PHS milk ordinance and code. The presence of coliform organisms in pasteurized milk is significant, since such organisms are destroyed or inactivated by proper pasteurization, and, thus, the presence of coliform organisms in pasteurized milk is an indication that such milk has been contaminated after pasteurization.

Frequency of inspection

The frequency of dairy farm and pasteurization plant inspection is not specified in the Maine law or regulations. The law specifies only "adequate inspection."

The PHS milk ordinance and code requires inspection of both dairy farms and pasteurization plants prior to the issuance of permits; requires at least one inspection of each farm and plant every 6 months; and further requires followup inspections to insure correction of violations.

Frequency of laboratory examinations

The Maine law and regulations do not specify a frequency for laboratory examination of milk and milk products. In addition, coliform tests and phosphatase tests are not required. The PHS milk ordinance and code specifies that bacterial counts, coliform tests, and phosphatase tests shall be made at a minimum frequency of four times each 6 months for milk and all types of milk products sold.

Adulteration, antibiotics, and toxic substances

The Maine law contains a section (s) on "adulterated" milk; however, no specific reference is made to antibiotics or toxic substances. The PHS milk ordinance and code specifically provides for the control of adulteration, antibiotics, and pesticide residues, and other toxic substances in milk.

Time and temperature of pasteurization

The Maine law prescribes time and temperature requirements for pasteurization by the 30-minute hold method. No time and temperature requirements are specified for high-temperature short-time (HTST) pasteurization, as is the case in the PHS milk ordinance and code. The Maine law, however, does permit the commissioner to approve processes which use higher temperatures for shorter periods of time.

SOUTH CAROLINA

The rules and regulations governing milk and milk products, as adopted by the South Carolina State Board of Health in April 1956, and amended in February 1960, were reviewed and compared with the health and sanitation provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. A comparison of some of the principal provisions of the South Carolina rules and regulations with those of the PHS recommended milk ordinance and code follows:[1]

Health of cows

The South Carolina regulations require annual testing for bovine tuberculosis and brucellosis.

The Public Health Service recommended milk ordinance and code requires all milk to be from dairy herds which are located in a modified accredited tuberculosis-free area as determined by the U.S. Department of Agriculture, and which have been tested within 6 years of the adoption of the ordinance, and at least every 6 years thereafter. The Public Health Service ordinance further requires that if the herd is located in an area that fails to maintain a modified accredited tuberculosis-free status, or in an area in which the incidence of bovine tuberculosis is in excess of 0.2 of 1 percent, the herd must be individually accredited by the U.S. Department of Agriculture as tuberculosis-free, or must pass an annual tuberculin test.

With regard to bovine brucellosis, the PHS recommended milk ordinance and code requires that all milk must be from herds which are following the program of the U.S. Department of Agriculture for eradication of brucellosis. The present USDA program results in each herd being subjected to semiannual milk ring tests for brucellosis, with followup blood agglutination tests on the individual cows in all herds showing positive ring test results.

Dairy farm requirements

The dairy farm sanitation requirements of the South Carolina milk regulations are practically identical to the requirements of the PHS recommended milk ordinance and code.

Pasteurization plant requirements

The pasteurization plant sanitation requirements of the South Carolina regulations are identical to the requirements of the PHS recommended milk ordinance and code.

Compulsory pasteurization

South Carolina regulations do not require compulsory pasteurization of all milk sold to the consumer.

The PHS recommended milk ordinance and code provides for compulsory pasteurization.

Bacterial counts

The South Carolina bacterial count standards for raw milk for pasteurization and for pasteurized milk and milk products are identical to the bacterial standards contained in the PHS recommended milk ordinance and code.

Frequency of inspection

The frequency of inspection of dairy farms and pasteurization plants, as specified in the South Carolina regulations, is identical to that specified in the PHS recommended milk ordinance and code.

Frequency of laboratory examination

The frequency of laboratory examination of samples of milk and milk products specified in the South Carolina regulations is identical with that specified in the PHS recommended milk ordinance and code.

Adulteration, antibiotics, and toxic substances

The South Carolina regulations contain the same requirements as the PHS recommended milk ordinance and code on adulteration, antibiotics and pesticides, and other toxic substances.

The CHAIRMAN. Thank you very much.

Mr. MCINTIRE. Thank you, Mr. Chairman.

The CHAIRMAN. Are there any other of our colleagues here who wish to make a statement for the record?

The committee will recess at this time until 2:30 this afternoon.

(Whereupon, at 12:05 p.m. the committee recessed until 2:30 p.m. the same day.)

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

Our first witness this afternoon is the Honorable Hubert Humphrey, the distinguished Senator from Minnesota. Senator, we are honored to have your statement.

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[1] This comparison was made by the milk and food program, Division of Environmental Engineering and Food Protection, Bureau of State Services, Public Health Service, U.S. Department of Health, Education, and Welfare, on Aug. 4, 1961.

STATEMENT OF HON. HUBERT H. HUMPHREY, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator HUMPHREY. Mr. Chairman, I appreciate this opportunity to testify in support of H.R. 50, the National Milk Sanitation Act sponsored by that great champion of dairy farmers, Congressman Lester Johnson of Wisconsin, which is designed to remove the artificial trade barriers which presently prevent the free flow of high quality milk in interstate commerce. I have introduced in the Senate, on behalf of myself and Senators McCarthy, Proxmire and Wiley, a companion measure to H.R. 50.

This proposal, aside from minor technical changes to clarify the wording of several provisions, is identical to the milk sanitation bill Congressman Lester Johnson and I introduced in the last Congress.

Last year extensive hearings were held on this proposed legislation by the Subcommittee on Health of the Senate Labor and Public Welfare Committee and by the House Subcommittee on Health and Safety during which the proposal was discussed in detail.

By establishing the U.S. Public Health Service's proven Milk Code as the quality yardstick for milk moving in interstate trade, the National Milk Sanitation Act would eliminate the use of arbitrary local health standards as trade barriers against the shipment of high-quality milk from one State to another. Currently, many eastern and southern milk markets are hemmed in by sanitary standards which do more to protect local milk manopolies than to protect the public health.

Milk and milk products are the only agricultural products prevented from moving freely in interstate commerce. This is obviously unfair to those producers who live in areas, such as Minnesota and Wisconsin, that provide the ideal conditions for volume production. It is also unfair to the consuming public to deny them the benefits resulting from the free flow of trade.

The National Milk Sanitation Act is intended to bring commerce in milk and milk products out of the 19th century into the present day for the betterment of the general welfare.

I respectfully urge this distinguished committee to approve this legislation which is in the best interest of the dairy farmers of the Nation and the public at large.

The CHAIRMAN. Thank you for your fine statement, Senator.

Are there any questions?

[No response.]

The CHAIRMAN. Our next witness this afternoon will be Mr. Ivan Nestingen, Under Secretary, Department of Health, Education and Welfare.

I believe you have with you several staff members. Would you like to identify them for the record, Mr. Secretary?

STATEMENT OF IVAN NESTINGEN, UNDER SECRETARY, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, ACCOMPANIED BY DR. ROBERT J. ANDERSON, DEPUTY CHIEF, BUREAU OF STATE SERVICES; JOHN D. FAULKNER, CHIEF, MILK AND FOOD BRANCH, BUREAU OF STATE SERVICES, PUBLIC HEALTH SERVICE; AND THEODORE ELLENBOGEN, LEGISLATIVE ATTORNEY, GENERAL COUNSEL'S OFFICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. NESTINGEN. Yes, I would.

I would like to introduce Mr. Ted Ellenbogen of our General Counsel's staff; and Mr. John Faulkner of the Pubilc Health Service, and Dr. Robert Anderson of the Public Health Service.

Mr. Chairman and members of the committee, I would like to say that we appreciate this opportunity to testify concerning the views of the Department of Health, Education, and Welfare on H.R. 50 and the identical bills.

H.R. 50 would amend the Public Health Service Act in such a way as to require the Surgeon General to promulgate a Federal Milk Sanitation Code and to administer a program for certification of interstate milk plants, whose milk and milk products, subject to certain conditions, could not be excluded from a receiving State or locality on health grounds if they complied with the provisions of the Federal Milk Sanitation Code.

The Department of Health, Education, and Welfare recommends enactment of H.R. 50. The reasons are contained in our Department's report on the bill. My presentation will be limited to a discussion of Public Health Service interests and activities in the field of milk sanitation which appear pertinent to the bill, and to further amplification of several points made in the Department's report.

The interest of the Public Health Service in milk stems from two important public health considerations. First, of all foods, none surpasses milk as a source of those dietary elements needed for the maintenance of proper health—especially of children and our older citizens. For this reason, the Service has, for many years, promoted increased milk consumption. Second, milk has a potential to serve as a carrier of disease, and has, in the past, been responsible for disease outbreaks of major proportions.

The incidence of milkborne disease in the United States has been sharply reduced in recent years; however, occasional outbreaks still occur. Such outbreaks indicate that it is a measure of control through constant vigilance rather than elimination of milkborne disease which has been achieved.

The milk sanitation program of the Public Health Service is one of its oldest and most respected activities. This program was initiated at the turn of the century when the Service undertook a comprehensive study of the role of milk in the spread of disease. Research was then undertaken to identify and evaluate sanitary meausres necessary for control of milkborne disease, including studies on proper methods of pasteurization.

More than 35 years ago, the Service initiated a program to assist States and municipalities institute effective programs for prevention of milkborne disease. In 1924, a model regulation, now known as the Milk Ordinance and Code recommended by the Public Health Service, was developed for State and local use. With the aid of a national advisory committee, including representatives from State and municipalities, and from the U.S. Department of Agriculture, this ordinance and code has since been revised 12 times in order to translate new knowledge into public health practice. In both the development and revision of this code, every effort has been made to include only those provisions necessary to protect the public health, and to exclude nonessential requirements.

The current milk sanitation program of the Public Health Service includes research and investigations, development of sanitary standards, education and training, and development of laboratory methods. While primarily designed to provide assistance to States and municipalities, it includes enforcement activities regulating the sanitary quality of milk and frozen desserts served on interstate conveyances. In addition, the Service has, for 10 years, participated with the States in the conduct of a national, but voluntary, program for certification of interstate milk shippers.

To conserve time, I will not discuss the overall program of the Service in greater detail. It is described in the supplement to my statement, which I request, Mr. Chairman, be incorporated in the record.

The CHAIRMAN. Very well, it may be received, with your statement.

(The statement referred to is as follows:)

SUPPLEMENT TO STATEMENT OF HON. IVAN A. NESTINGEN, UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE

I. MILK SANITATION PROGRAM OF THE PUBLIC HEALTH SERVICE

The activities of the Public Health Service in milk sanitation date back to 1896, when an investigation of the incidence of typhoid fever in the District of Columbia associated milk with the transmission of the disease. Following this investigation, the Service undertook a comprehensive study of the role of milk in the spread of disease, the results of which were published in 1908. These early studies were followed by research to identify and evaluate sanitary measures which might be used to control milkborne disease, including studies which led to improvement of pasteurization processes.

In 1923, the Service established an Office of Milk Investigations to assist States in the development of effective milk control programs at both State and municipal levels. In 1924, a model milk sanitation regulation, now known as the Milk Ordinance and Code recommended by the Public Health Service, was published, which established "Grade A" standards for both raw and pasteurized milk. The provisions of these "Grade A" standards cover 24 major items of sanitary significance on the dairy farm and 23 major items in pasteurization plants and, in addition, establish requirements for bacterial counts, temperatures, and frequency of inspection and testing.

The Milk Ordinance and Code has, with the aid of a national advisory committee, been revised 12 times since 1924. It is now utilized by 36 States and more than 1,900 municipalities and counties. A list of these States, and the number of local adoptions by States, is presented in both tabular and chart form in part II of this supplement.

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The current milk sanitation program of the Public Health Service covers fluid milk, fluid milk products, frozen desserts, and dry milk products intended for use in the reconstitution or manufacture of pasteurized milk products. Program objectives are to encourage the establishment of effective and well-balanced programs in each State; to encourage the adoption of adequate milk sanitation standards by States and municipalities, and the uniform application thereof; to provide technical assistance to State and local agencies and to industry on problems and new developments which have public health significance; to encourage industry support of, and day-to-day compliance with, State and local milk sanitation programs; and to stimulate increased consumption of pasteurized milk and milk products as a positive public health measure.

To implement these objectives, the Service engages in a number of coordinated and related activities which can be grouped broadly into six major categories, as follows: (1) Development of recommended sanitation standards, technical procedures, and other program guides; (2) conduct of research and investigations; (3) provision of technical and advisory assistance to States, municipalities, and industry; (4) education and training; (5) development of sanitary criteria for the design and construction of dairy equipment; and (6) interstate program responsibilities.

Two Public Health Service milk sanitation activities are interstate in nature. The first of these, initiated in 1929, is a regulatory function and relates to the enforcement of the Interstate Quarantine Regulations. Under these regulations, the Service is required to approve sources of fluid milk and milk products served on interstate conveyances. The second activity of an interstate nature in which the Service participates is the cooperative State-PHS program for certification of interstate milk shippers. This program was initiated in 1951. As of July 1, 1961, 752 interstate shippers, located in 37 States and the District of Columbia, held a current certification status. Participation in this certification program, on the part of both States and the dairy industry, is voluntary.

The milk sanitation activities of the Public Health Service are carried out through field and research staffs. Each DHEW regional office is staffed with two milk sanitation specialists who carry out PHS responsibilities related to approval of sources of milk and milk products served on interstate conveyances and certification of interstate milk shippers, and who provide technical assistance to the States. Research activities are carried out by Service investigators at the Robert A. Taft Sanitary Engineering Center, Cinicinnati, Ohio. Training of State and local personnel in laboratory methodology is also carried out at the Sanitary Engineering Center.

II. STATE ADOPTIONS OF THE MILK ORDINANCE AND CODE RECOMMENDED BY THE PUBLIC HEALTH SERVICE [1]

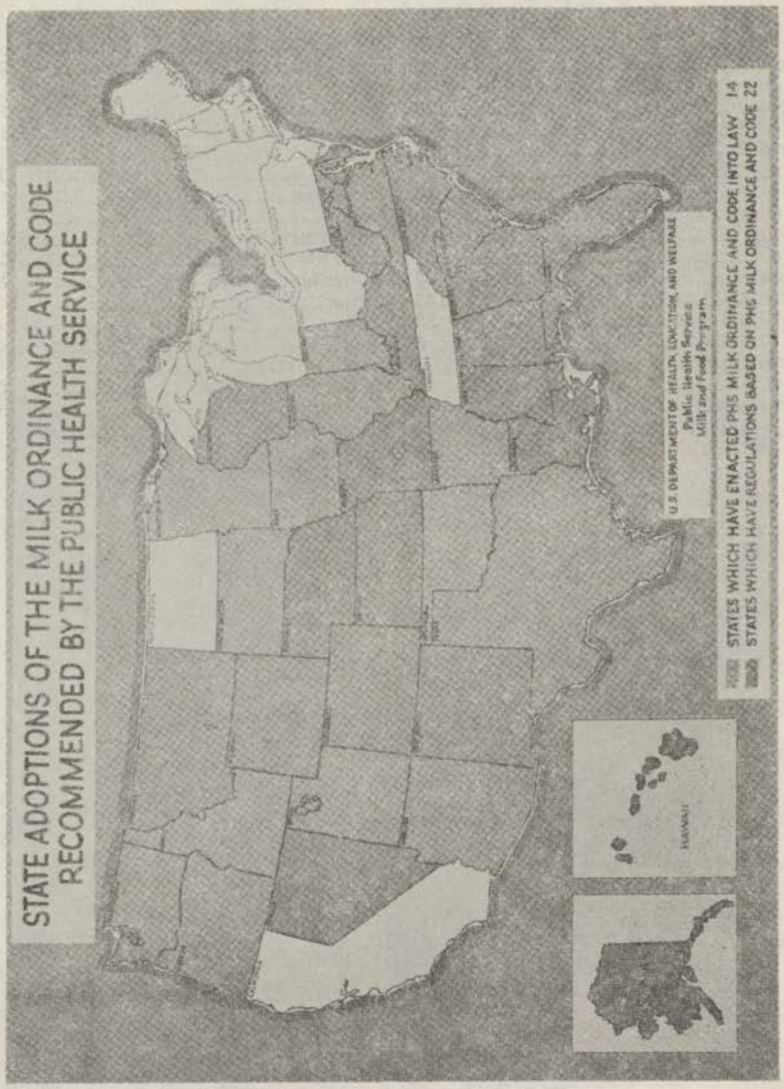
A. States which have enacted PHS Milk Ordinance and Code into State law (14):

Arizona	Iowa	Texas
Arkansas	Minnesota	Utah
Idaho	Oklahoma	Virginia
Illinois	Oregon	Washington
Indiana	South Dakota	

B. States which have regulations based on PHS Milk Ordinance and Code (22):

Alabama	Kentucky	New Mexico
Alaska	Louisiana	North Carolina
Colorado	Maryland	South Carolina
Delaware	Mississippi	West Virginia
Florida	Missouri	Wisconsin
Georgia	Montana	Wyoming
Hawaii	Nebraska	
Kansas	Nevada	

[1] As of January 1, 1961.


STATE ADOPTIONS OF THE MILK ORDINANCE AND CODE
RECOMMENDED BY THE PUBLIC HEALTH SERVICE
U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service
Milk and Food Program
HAWAII
STATES WHICH HAVE ENACTED PHS MILK ORDINANCE AND CODE INTO LAW 14
STATES WHICH HAVE REGULATIONS BASED ON PHS MILK ORDINANCE AND CODE 22

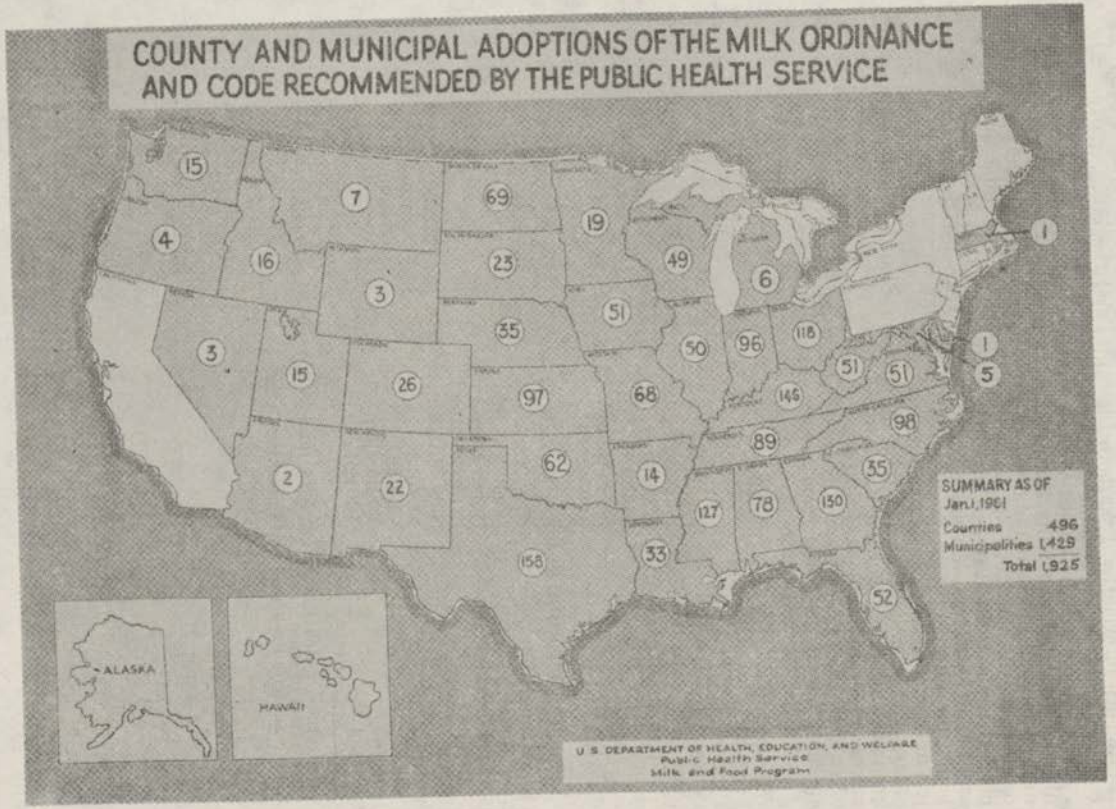
COUNTY AND MUNICIPAL ADOPTIONS OF THE MILK ORDINANCE AND CODE RECOMMENDED BY THE PUBLIC HEALTH SERVICE, APRIL 1961

A. Total adoptions:

Counties	496
Municipalities	1,429
Total	1,925

B. Number of adoptions by States:

Alabama	78	Montana	7
Arizona	2	Nebraska	35
Arkansas	14	Nevada	3
Colorado	26	New Mexico	22
Delaware	1	North Carolina	98
Florida	52	North Dakota	69
Georgia	130	Ohio	118
Idaho	16	Oklahoma	62
Illinois	50	Oregon	4
Indiana	96	South Carolina	35
Iowa	51	South Dakota	23
Kansas	97	Tennessee	89
Kentucky	146	Texas	158
Louisiana	33	Utah	15
Maryland	5	Virginia	51
Massachusetts	1	Washington	15
Michigan	6	West Virginia	51
Minnesota	19	Wisconsin	49
Mississippi	127	Wyoming	3
Missouri	68		


COUNTY AND MUNICIPAL ADOPTIONS OF THE MILK ORDINANCE AND CODE RECOMMENDED BY THE PUBLIC HEALTH SERVICE
15
7
69
19
1
4
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23
49
6
3
35
51
3
15
26
97
68
30
96
118
1
51
51
5
146
98
89
2
22
62
14
35
127
78
150
158
33
52
ALASKA
HAWAII
SUMMARY AS OF Jan.1, 1961
Counties 496
Municipalities 1,429
Total 1,925
U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service
Milk and Food Program

III. MILK EXPORTING AND IMPORTING STATES

According to Public Health Service records, most of the States both export and import milk and milk products for the fluid market to some extent each year. This is true even of those States which rank high in total milk production, such as New York and Pennsylvania.

Information as to the total volume, or total pounds, of milk exported or imported annually by each State is not available. Attempts have been made to obtain such information from both the States and the U.S. Department of Agriculture; however, no reliable data could be provided.

Listed below are the names of those States which, according to PHS records, are the principal exporting States and the principal importing States. It is desired to point out that the order of precedence in which the States are listed does not mean that State No. 1 exports or imports more milk than State No. 2, etc. It is also desired to call attention to the fact that some Sates both export and import considerable volumes of milk each year. With regard to this latter point, the milk imported from out-of-State sources may be "raw" milk, and the milk exported "pasteurized" milk; or a large city within a given State may secure part of its milk supply from an adjacent State or States because of geographical location. The picture is further complicated by the fact that milk producers located in several States may ship routinely to a large market in another State; i.e., Chicago, and by the fact that during periods of seasonal shortage milk may be imported from several distant sources.

Principal exporting States: [2]

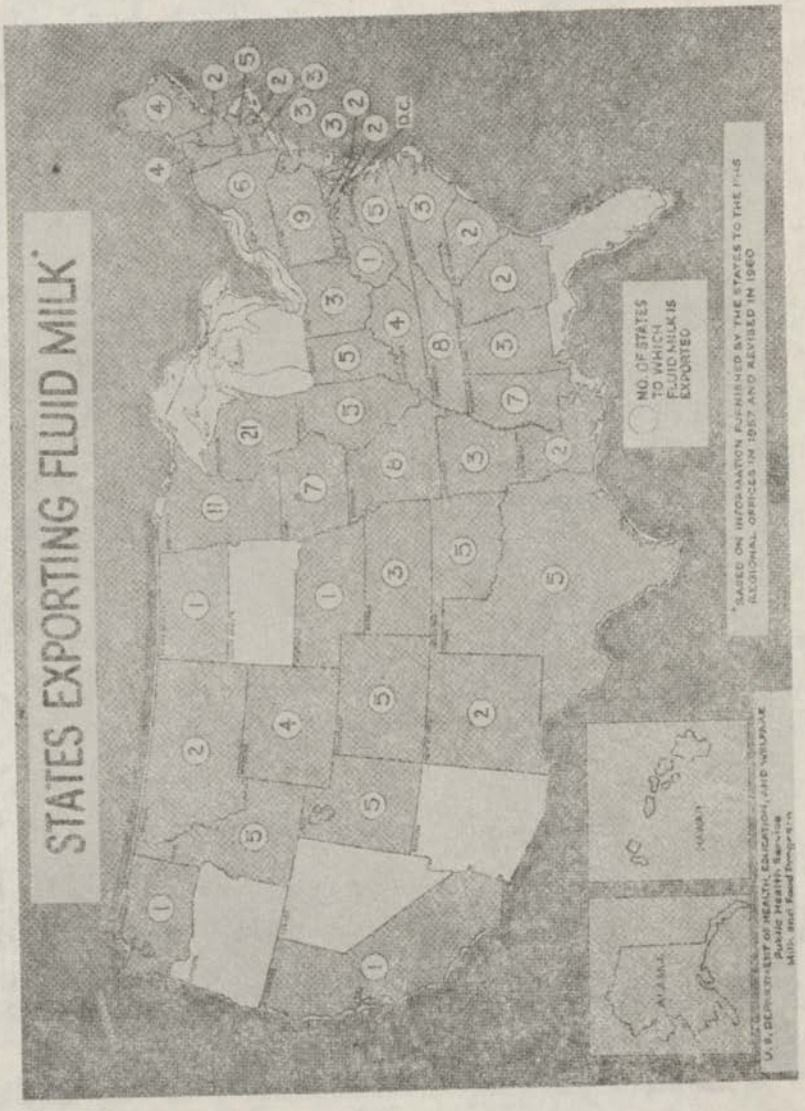
Wisconsin	Indiana	Oklahoma
Vermont	Michigan	Virginia [3]
Minnesota	Texas [3]	North Carolina [3]
Pennsylvania [3]	Kentucky [3]	Utah
Iowa	North Dakota	Colorado [3]
Illinois [3]	Kansas	Maine
Ohio	Idaho	Arkansas [3]
New York [3]	Mississippi [3]	Delaware
Missouri [3]	Tennessee [3]	

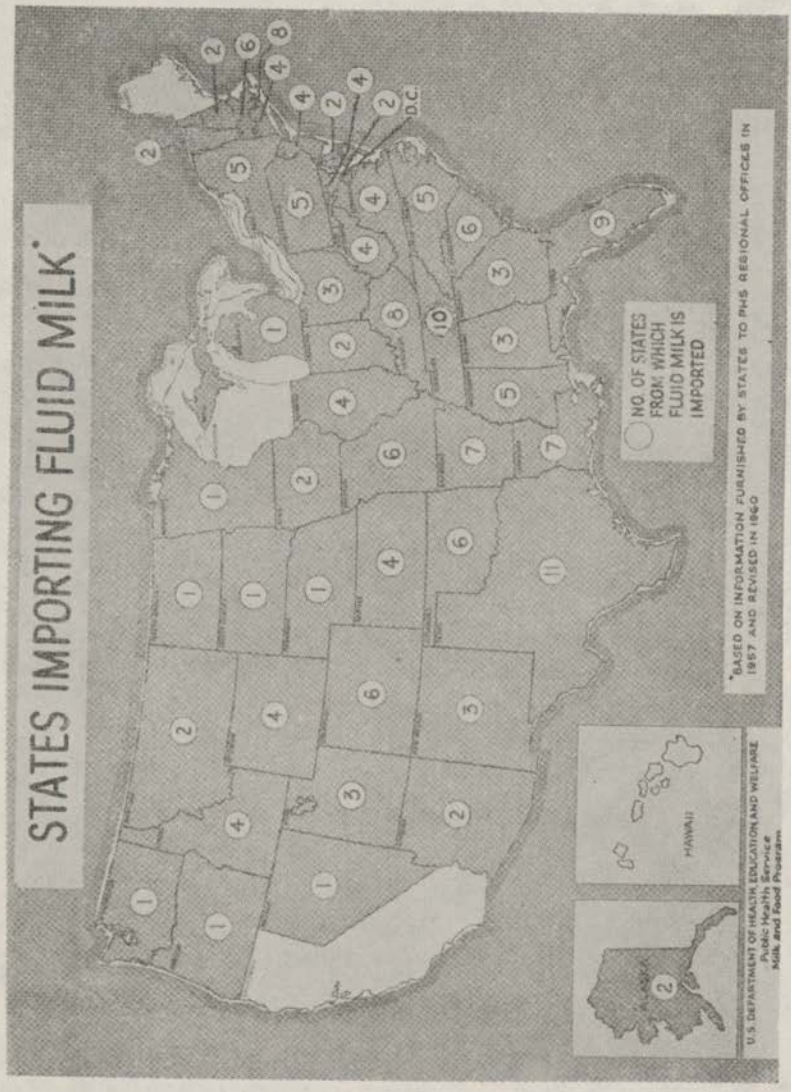
Principal importing States:

Massachusetts	New York [3]	Tennessee [3]
New Jersey	West Virginia	Virginia [3]
Rhode Island	North Carolina [3]	Illinois [3]
Louisiana	Pennsylvania [3]	Mississippi [3]
Florida	New Mexico	Missouri [3]
South Carolina	Arizona	Kentucky [3]
Texas [3]	Nevada	Oregon
Georgia	Connecticut	Wyoming
Alabama	Colorado [3]	Arkansas [3]

[2] California, which ranks fourth in total milk production, neither exports nor imports large volumes of milk.

[3] Indicates both exporting and importing State.


STATES EXPORTING FLUID MILK*
D.C.
NO. OF STATES TO WHICH FLUID MILK IS EXPORTED
*BASED ON INFORMATION FURNISHED BY THE STATES TO THE 11 U.S. REGIONAL OFFICES IN 1957 AND REVISED IN 1960
ALASKA
HAWAII


STATES IMPORTING FLUID MILK*
NO. OF STATES FROM WHICH FLUID MILK IS IMPORTED
*BASED ON INFORMATION FURNISHED BY STATES TO PHS REGIONAL OFFICES IN 1957 AND REVISED IN 1960
HAWAII
U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
Public Health Service
Milk and Food Program

The CHAIRMAN. I notice there are certain charts.

Mr. NESTINGEN. Yes, sir; I would like to comment on those, if I might.

The CHAIRMAN. We may have some difficulty including these charts in the record, I am not sure.

Mr. NESTINGEN. I think that the oral comment on the charts will be sufficient, sir.

Section 803 of the bill specifically states that the "Grade A" sanitation standards and practices of the Milk Ordinance and Code recommended by the Public Health Service should be used in the development of the Federal Milk Sanitation Code which the bill would authorize. Therefore, I would like to discuss first the extent to which the Milk Ordinance and Code is utilized by States and municipalities.

The sanitation provisions of the Milk Ordinance and Code recommended by the Public Health Service are already being applied by the majority of the States. This is indicated on this chart which we have prepared for the information of the committee.

As will be noted, the Milk Ordinance and Code recommended by the Public Health serves as the basis for the milk sanitation regulations of 36 States. Fourteen of these States have adopted the code as State law; these are colored in red. Twenty-two of the States—colored in blue—have adopted regulations based on the code.

You will note that only 14 States—colored in white, and mostly concentrated in the Northeast—have adopted different type regulations. Of these 14 States, New Hampshire and Rhode Island utilize the sanitary standards of the Milk Ordinance and Code which pertain to pasteurization plants. In another one of these States, North Dakota, the dairy commissioner, by legislative act, is required to be guided by the interpretation of the sanitary provisions of the Milk Ordinance and Code in his enforcement of the State's "Grade A" milk program. And in California, the milk sanitation regulations, although more detailed in certain respects than the Milk Ordinance and Code, are considered equivalent in terms of public health protection provided.

State utilization of these sanitary standards is but part of the picture. More than 1,900 counties and municipalities throughout the United States have adopted the Public Health Service Code as local regulations.

The geographical distribution of these counties and municipalities is shown in my second chart. You will note, gentlemen, that this chart shows rather impressively how widely the Milk Ordinance and Code has been adopted as local regulation on a countywide or a municipal basis. As of January 1 this year, more than 1,900 counties and municipalities in 39 States were utilizing the code as local regulations.

The number of adoptions in each State are shown by the figure in the circles. These figures might not be closely identifiable to you, but quite notable among them, for example, is the State of Ohio, which State has not acted in its own right on the code, but 118 municipalities and counties within that State, by way of illustration, have acted on local initiative.

The State of Kentucky, for example, with 146 local adoptions, has one of the highest figures.

On the other hand, in the Northeast, and in California, local municipalities in the main have not acted, with the exception of one municipality in the State of Massachusetts.

But through the various States, whether it be in the Southeast or in the Midwest or in the Far West, you will find local units of government which have been acting on this type of code.

The code has been widely adopted on a local basis in several of the States which do not utilize the Public Health Service code as State regulations, Ohio, as I indicated, being a notable illustration. Tennessee, where 89 local units have enacted it, is another illustration; and in North Dakoa 69 local units of government have acted.

Mr. Chairman, a list of States which have adopted the milk ordinance and code as State law or regulation, together with the number of municipalities and counties, by States, which have adopted the code as local regulations, is included in the supplement to my statement, which is made a part of the record.

The milk ordinance and code is also the basic standard used in the voluntary program for the certification of interstate milk shippers, which I will discuss later. It has been incorporated by reference in Federal specifications, and it is used as the sanitary regulation for milk served on interstate carriers. It is considered by most public health agencies and the milk industry as the national standard for milk sanitation.

We believe, Mr. Chairman, that the use of Public Health Service recommended "Grade A" sanitation standards in the promulgation of a Federal milk sanitation code would, under the system of at least 90 percent compliance and other safeguards provided for in the bill, fully protect the public health of consumers in milk-receiving areas.

I would now like to discuss briefly the voluntary program for certification of interstate milk shippers that is now in use, since H.R. 50 would require full utilization of State and local supervision and inspection, and State certification, in a manner quite similar to that used in this voluntary activity.

In 1951, at the request of the Association of State and Territorial Health Officers, a voluntary State-Public Health Service program for certification of interstate milk shippers was established to provide State and local authorities in milk-receiving areas with reliable information on the sanitary quality of milk supplies being shipped interstate. The basic agreements under which this voluntary program operates were developed by the National Conference on Interstate Milk Shipments, composed of representatives of official State milk sanitation agencies.

In this program, inspection and laboratory control of interstate milk supplies are performed by the States and municipalities having routine jurisdiction over the supply. Sanitation ratings of each shipper's supply are made by the State of origin, using the Public Health Service milk ordinance and code and rating method as uniform criteria for evaluation. The States then certify to the Service those shippers whose products and plants have been rated by them in accordance with these criteria, and the service publishes quarterly a list of the sanitation ratings of such shippers for the information of authorities in those jurisdictions desiring to import milk. In order to validate the sanitation compliance ratings submitted by the States, the Service periodically checks such ratings and evaluates the work of each participating State. Mr. Chairman, all of these basic features of the voluntary program have been incorporated into H.R. 50.

In our opinion, this program has been helpful in facilitating the interstate movement of milk supplies of high sanitary quality. However, being voluntary in nature, it has not, and cannot, eliminate the deliberate or unreasonable use of health regulations as trade barriers. Such barriers do exist.

The use of health regulations to restrict the interstate movement of milk is an outgrowth of the early pattern of sanitary control of milk which was developed on a local milkshed basis. At that time, sanitary control of milk was not extensive in the United States, refrigeration of milk on the farm left much to be desired, and there was not sufficient refrigerated transport in use to rapidly move large volumes of milk long distances. Because of these conditions, many communities included in their regulations a requirement that no milk could be sold within their jurisdiction unless inspected at the source by their own personnel. Under the conditions then existing, this requirement was probably justified.

Conditions, however, have changed considerably during the past 25 years. Population expansion and growth of our metropolitan centers, with the attendant reduction of land available for dairy farming, has compelled many communities to look to outside sources for more and more of their grade A market milk supplies. According to our records, practically all States now both export and import fluid milk and milk products to some extent each year; even those States which rank high in total milk production. This is portrayed on two charts to which I would like to direct your attention.

A certain amount of discussion this morning was devoted to the State of Wisconsin and the State of Minnesota as having keen interest in this legislation, and it certainly is true that they do have. But I think that what has been overlooked is the large extent to which milk moves in interstate trade, both exportwise and importwise, and the extent to which milk is shipped by States other than the two States which were primarily mentioned this morning as being most directly involved.

Wisconsin, for example, as an exporting State, exports to 21 States, not continuously through the months of the year, but during the course of the year.

Minnesota exports to 11; Arkansas, to 3; Texas, to 5; Pennsylvania, exports to 9; New York State, to 6; Massachusetts exports to 5; Mississippi exports to 7 States; Wyoming, to 4 different States; and so on through the country.

The movement of milk in interstate commerce on an exporting basis is widespread, and it affects practically every State in the Union.

I think you will find that there are five or six States not shown as being exporting States.

And this is quite important from the standpoint of the Public Health Service; from the standpoint of recognizing the needs of interstate shipment on a broad scale throughout the country.

The next chart shows the importing States, and the number of States from which they import. There are three States in the Union which the chart shows do not import milk, those being California, Wisconsin, and Maine.

With the growth of population being experienced in California, economically California's milk picture has been balanced as the population has increased. But I would offer for the consideration of the

committee the thought that in the years ahead the population growth of California will probably require that State to become an importing State as far as milk is concerned.

Wisconsin being in the position it is, and to a lesser degree Maine, it is understandable that it is not being shown as an importing State. But I would like to call your attention to the fact that 46 States are importing States, and some to a considerable degree. And this is rather important from the standpoint of consideration of this legislation.

The twofold aspect of the overall picture of the country with respect to interstate milk movement negates the impression of a localized atmosphere that might have been gained from the nature of the questioning this morning as applied to Wisconsin and Minnesota.

Developments in sanitation, farm refrigeration, processing techniques, and refrigerated transport now make possible the movement of quality milk and milk products safely to any point in the Nation. In addition, sanitary control of milk is now extensive, and milk sanitation programs are now being conducted in all parts of the United States. Under the conditions which now exist, we do not believe there are any sound reasons for a State or community to exclude, on health grounds, a milk supply of high sanitary quality, when such milk is under an adequate program of supervision and laboratory control at the source and is protected in transit.

The question was raised this morning as to why it is that milk, and only some, primarily fluid, milk products, are covered by this bill as compared to certain manufactured products in which milk is one of the primary ingredients and which are excluded. There are two primary reasons in our judgment as to why this is the case. The first is that there has not been a comparable circumstance of the use of health regulations as trade barriers for such manufactured products. And the second is this: Most of the manufactured products excluded from the bill are not covered by the Public Health Service's current recommended ordinances and code, and are not under the present voluntary certification system, because the prospects of transmission of disease through milk and fluid milk products is much greater as compared to these manufactured products, whether they be cheese or other products.

And for those two reasons, primarily, exclusion of certain manufactured products was provided for in the bill, which was commented upon this morning.

Despite the change in conditions, there is evidence to indicate that milk sanitation regulations of States and municipalities are frequently used to obstruct the movement of milk of high sanitary quality in interstate commerce. The U.S. Department of Agriculture, several years ago, conducted a study of the impact of sanitary requirements, Federal orders, State milk control laws, and truck laws on price, supply, and consumption, the results of which were published in Marketing Research Report No. 98. The report states, page 20, under "Examples of Restrictive Sanitary Regulations":

> **By far the most common policy standing in the way of free movement of milk was the refusal of given jurisdictions to accept milk produced or handled under the supervision of other jurisdictions having substantially equivalent sanitary standards.**

Our own experience indicates that there are milk sanitation regulations and administrative practices, of little or no public health significance, which obstruct the movement of high quality milk in interstate commerce. Examples are: (1) The charging of high inspection fees which distant shippers feel they do not wish to pay, considering the volume of milk likely to be sold; (2) inclusion in milk regulations of certain detailed specifications, or differing sanitation requirements, which are not required by the State of origin and which have little or no effect on the sanitary quality of the milk; (3) refusal to accept milk from an out-of-State source because the producing jurisdiction does not have an identical bacterial standard in its regulations, regardless of whether or not the milk itself meets the bacterial standards of the receiving jurisdiction; (4) refusal, or unwillingness, to inspect farms or plants located beyond an arbitrarily fixed distance; and (5) more stringent application of standards to out-of-State sources than are enforced locally.

It is desired to emphasize that even when the milk sanitation regulations of a community contain no restrictive or discriminatory provisions, and theoretically a barrier does not exist, that in fact a barrier may be created by administrative policies governing inspection of out-of-State sources. Such policies are frequently influenced by local economic considerations. I would like to reaffirm at this time that the Department of Health, Education, and Welfare believes that milk sanitation regulations can be justified only for the bona fide purpose of protecting the public health, and should not be used as a means of regulating the economic aspects of milk marketing.

I would like to make one further comment on the policy of some jurisdictions to insist that their own personnel make inspections of out-of-State milk supplies. In most instances, this is a costly duplication of existing services. Often a single supply is inspected by authorities from 6 to 10 different States and municipalities in a year's time. We cannot agree with the advocates of direct inspection that this is the only way that they can be assured that out-of-State milk supplies are safe for consumpion within their own jurisdictions.

There is wide agreement today among health authorities as to the basic sanitary requirements necessary to protect milk supplies, and the voluntary certification program has demonstrated that States and municipalities can obtain reliable information on the sanitary status of out-of-State supplies without sending inspectors to distant sources. In our opinion, those agencies, which unnecessarily spend part of their health appropriation to duplicate the inspection services of other health agencies, would be better advised to spend such funds to strengthen local milk sanitation services, or for other pressing health needs.

I also wish to comment on the safeguards which have been included in H.R. 50 to assure that only milk of high sanitary quality is certified for interstate shipment. Mr. Chairman, no matter how comprehensive milk sanitation regulations may be, they afford protection to the consuming public only to the extent to which their provisions are followed in the production, processing, pasteurization, and distribution of milk and milk products. In recognition of this fact, the Public Health Service developed a numerical rating method to provide an objective means for determining the sanitary quality of fluid milk. Most of the States now use this method.

Over the years, the Public Health Service has had considerable experience in rating milk supplies throughout the United States. A study of these ratings indicates that there are supplies of high sanitary quality and of mediocre quality in most every State. This fact was recognized by the Association of State and Territorial Health Officers in its official statement, "Need and Recommended Principles for Federal Milk Sanitation Legislation," when it recommended that no fluid milk and milk products be certified for interstate shipment which had not achieved a sanitation compliance rating of 90 percent or more. We believe the authors of H.R. 50 and identical bills, were wise to include in section 804(b) of the bill a provision that milk and milk products, to be eligible for certification, must achieve a sanitation compliance rating of 90 percent or more.

The bill would also preserve to receiving jurisdictions the right to reject milk, certified under the provisions of the bill, if such milk had been mistreated in transit, or if it otherwise failed to conform to the criteria of the Federal Milk Sanitation Code.

These safeguards would assure fluid milk and milk products of high sanitary quality to jurisdictions receiving milk and milk products under the provisions of the bill. In fact, we believe it inevitable that the immunities conferred by the bill, together with the prestige attached to compliance with a high Federal standard, would inspire both industry and official agencies to seek necessary improvements in their local supplies. Consequently, we are certain that H.R. 50 would result in added health protection for consumers of milk in many areas.

In conclusion, Mr. Chairman, the Department of Health, Education, and Welfare favors enactment of H.R. 50 for the following reasons:

1. H.R. 50 would provide an effective means of eliminating barriers to the interstate shipment of fluid milk and fluid milk products resulting from unduly restrictive milk sanitation regulations and differing sanitation requirements without displacement of existing State and local milk sanitation personnel and agencies. It would apply the force of Federal law only where health regulations or enforcement practices unnecessarily obstruct the interstate marketing of wholesome milk of high sanitary quality.

2. H.R. 50 does not call for direct Federal regulation. Rather, it would provide for utilization of the existing structure of State and local milk sanitation services for supervision, inspection, laboratory control, rating, and certification of interstate milk supplies, in a manner quite similar to that now used in the voluntary program for the certification of interstate milk shippers. The Surgeon General, through means provided in the bill, would assure the integrity and reliability of the system.

3. H.R. 50 would utilize, as a basis for the Federal Milk Sanitation Code, the tried and proven "Grade A" sanitation standards of the Milk Ordinance and Code recommended by the Public Health Service.

4. H.R. 50 does not contain an "affects interstate commerce" clause and, thus, would not deprive States and local communities of the right to exercise full sanitary control over their intrastate supplies.

5. H.R. 50 would assure fluid milk and milk products of high sanitary quality to jurisdictions receiving milk and milk products under its provisions.

6. H.R. 50 would discourage State and local jurisdictions from sending their own personnel to make inspections of out-of-State milk sources and thus, to a large degree, would eliminate unnecessary and wasteful duplication of inspection services.

7. The provisions of H.R. 50 could be carried out by the Surgeon General of the Public Health Service at a relatively modest expenditure by the Federal Government. A statement of estimated administrative costs of the bill projected over the next 5 years is enclosed with the Department's report on H.R. 50, and is being made a part of the record together with the supplementary statement which has been submitted by our Department.

Congress Thomson, I might add, Mr. Chairman, raised a question about the standards in Maine, for example, versus the Public Health Service standards.

We can make a copy of a comparison available to you, if you would like, sir.

Generally speaking, the Maine code is similar in scope and intent to requirements contained in our milk ordinance and code. However, Maine requirements lack specificity with respect to certain important items of sanitation.

With respect to pasteurization, their regulations omit many important plant requirements necessary for proper pasteurization of milk and protection of pasteurized milk from contamination. Such requirements are specified in our code.

As to the health of cows, Maine laws require that all cows be tested annually for tuberculosis, but make no reference to brucellosis control except in the case of the production of retail raw milk.

The U.S. Public Health Code specifies compliance with the U.S. Department of Agriculture programs for tuberculosis and brucellosis control, which does not require annual testing for bovine tuberculosis but requires at least semiannual testing for brucellosis.

On bacterial counts, the Maine standard is substantially identical with the bacterial standards contained in our code. The Maine bacterial standard for pasteurized milk is not more than 25,000 per millimeter after pasteurization. Our code specifies a maximum of 30,000 as delivered to the consumer.

Finally, the frequency of inspections and laboratory examinations is not specified in the Maine regulations. Our code specifies that each dairy farm and each plant shall be inspected at least once every 6 months.

I will make a copy available to you and send it to you if you wish.

That concludes the presentation of our Department, subject to any questions that we might be able to answer that might be raised.

The CHAIRMAN. Do I understand, then, that the import of what you recommend here would be to federalize the State and local inspections?

Mr. NESTINGEN. It would not. Our proposal, in effect, would be to utilize—did you say federalize or utilize?

The CHAIRMAN. Federalize.

Mr. NESTINGEN. Our proposal would be to utilize the State personnel. Our proposal also would be to add certain personnel in our Department to provide for an overall program on a national basis, but to utilize current State personnel, with their existing programs.

The CHAIRMAN. How could you utilize the State personnel without their becoming a part of your organization or else entering into an agreement with reference to State service?

Mr. NESTINGEN. We would work with them, sir, under the prime purpose of the bill. This bill would provide certain minimum standards as prescribed by the Surgeon General. The State personel would still conduct their own programs within the States.

The CHAIRMAN. Does this bill provide that if the Surgeon General were to promulgate such regulations, that it would be mandatory on the States then to follow it?

Mr. NESTINGEN. It would forbid any local unit of Government, or any State, from excluding milk from a certified plant meeting the standards of the Federal Milk Sanitation Code.

It would not require, however, every State to buy milk only from this certified list of producers. It would provide that no State or locality shall forbid importation of milk from a listed plant if the milk meets the requirements of the Federal code.

The CHAIRMAN. That still gets away from the question I raised, not to use a State inspection service.

Mr. NESTINGEN. We would continue to utilize it.

The CHAIRMAN. What would you do, adopt the reports of the State inspection service, or would you supervise it?

Mr. NESTINGEN. It would be supervised.

The CHAIRMAN. Then you would federalize it?

Mr. NESTINGEN. Mechanically, the Surgeon General would promulgate a set of rules and regulations under the terms of this legislation from the standpoint of adequate sanitary standards on milk. And the participating exporting States would have to comply with the standards insofar as milk being available for interstate shipment——

The CHAIRMAN. I understand fully well what the objective is here. But I want to know how you are going to bring it about, and it seems to me there is a very important problem to deal with here involving the Federal Government.

Mr. NESTINGEN. And with the rules and regulations promulgated by the Surgeon General.

The CHAIRMAN. Do you know of any other program or any procedure whereby we provide, by Federal law, that Federal inspectors of the Federal agencies supervise the State people?

Mr. NESTINGEN. I would like to ask Mr. Ellenbogen, from our General Counsel's office, if they have comparable——

Mr. ELLENBOGEN. May I say this, Mr. Chairman: This bill would not require any exporting State to come into this system. It would come into this system only upon its own application, that is, upon submission of a State plan which would be approved by the Surgeon General——

The CHAIRMAN. Does this require a State plan to be submitted?

Mr. ELLENBOGEN. It does not require a State plan to be submitted, unless the State wants to participate in the system and receive the benefit of this bill.

If the State does wish to receive the benefits of this bill, the bill requires a State plan to be submitted which would have to meet criteria to be established by the Surgeon General to assure the integrity of this system. I am speaking about the exporting States.

The CHAIRMAN. I thought this was a requirement; I thought all States had to comply.

Mr. ELLENBOGEN. No, sir. Let us assume that Wisconsin, being an exporting State, wants to receive the benefit of this system; if it doesn't wish to, it doesn't have to come in at all. If it did, it would submit, to the Surgeon General, a plan for carrying out the rating system. That system would be provided for by the Surgeon General by regulations, and would be based upon the Federal Milk Sanitation Code to be promulgated by the Surgeon General, under this bill.

Once the State plan had been approved, this system would be administered within the exporting State by State rating officers who had been certified as qualified by the Surgeon General, but those would be State officers. The State would then certify to the Surgeon General only those interstate milk shippers that are within that State, and their milk supply, that have received from the State a sanitation rating of compliance with the code of at least 90 percent, or whatever the minimum promulgated by the Surgeon General is, which might be even higher than 90 percent but not lower.

At that point, if the milk shipper wants his milk plant to be on the list of certified milk shippers to be published by the Public Health Service under the bill,—he doesn't have to be—but if he wants to be, and has been certified, the Surgeon General would place this milk plant on the interstate list.

Now, then, the Surgeon General, in order to guarantee the integrity and reliability of the system, would be authorized and called upon from time to time to go into the State and verify the operation of the system by actual spot checks, both at State level and at local level, and even down to the dairy farm.

He, or rather his representatives, would go along with the State rating officers and the State officials that operate the system. In addition, if he puts a shipper on the list and a receiving State or locality believes that that shipper is not entitled to be on the list because its milk supply does not square, or its operations do not square, with the requirements of the Federal Milk Sanitation Code, that State or locality could complain to the Surgeon General and would be entitled to have a hearing and to have judicial review of the action of the Surgeon General taken on the basis of the hearing.

Thus, there would be no compulsion to come into the system on the producing States, but the receiving States and localities could not exclude milk from a certified shipper on the Public Health Service list, assuming that the milk meets the physical standards of the code upon arrival.

The State would be entitled to examine the milk, when it arrives, in the laboratory and determine whether it actually meets the Federal physical standards.

The CHAIRMAN. In other words, then, would it be proper to interpret from what you have said that what this does is to set up the Surgeon General as a referee between the producing and receiving States?

Mr. ELLENBOGEN. I think that is a fair characterization of it. It is a cooperative Federal-State certification system which does have the force of regulation wherever it is in effect.

But no producing State or shipper would have to come into this system if it didn't want to.

The CHAIRMAN. Yes, but if no State wanted to receive this milk, could it be forced to do so?

Mr. ELLENBOGEN. If a receiving State wanted to refuse to accept milk from a shipper that is on the list, it has the remedy of going before the Surgeon General and complaining that the shipper is not rightfully on the list. But if it didn't do that, the bill would require that State to receive that milk, assuming that on arrival it meets he physical standards of the code.

The CHAIRMAN. But from a practical standpoint, it is just a question of the producers in certain States working out arrangements with the Surgeon General, and the consuming States would have nothing to say about it.

Mr. ELLENBOGEN. They would in the first instance be heard——

The CHAIRMAN. I know they would be heard, you explained that. But you set up a proposal here by which you outline what the Surgeon General first tells the producing State, and if the producing State then works out this arrangement with the Surgeon General, then what good would it do the receiving State to complain to the Surgeon General, if something is already done?

Mr. ELLENBOGEN. In the first instance, at the time of promulgating the Federal Milk Sanitation Code and compliance rating regulations certainly the Surgeon General would make a proposal which would be published, and he would undoubtedly call a conference of all of the States interested and hear all the parties before promulgating such a code.

Secondly, he would promulgate regulations for plan approval which States that want to come into the system, the producing States, would have to meet. Again, at that point, I am assuming that he would invite and receive comments and suggestions of receiving States.

Now, the Surgeon General's interest is not an economic one, his interest is in having a high Federal sanitary standard.

The CHAIRMAN. Is there anything wrong with the present sanitary standards in any part of the country?

Mr. ELLENBOGEN. I would ask Mr. Faulkner to answer that, if I may.

Mr. FAULKNER. I think basically the objectives of all State milk sanitation standards are the same as far as the health protection is concerned. I think there is little question from the present evidence that some of these standards contain requirements which are not intended to protect health.

The CHAIRMAN. Then you are judging on your own responsibility that a particular State is going beyond what it is supposed to do insofar as interstate shipments are concerned.

Mr. FAULKNER. I am not judging the States one way or another, sir.

The CHAIRMAN. You just made a statement——

Mr. FAULKNER. I didn't intend to.

The CHAIRMAN. How could you make a statement without passing judgment on it?

Mr. FAULKNER. What I meant was that there are requirements which have been included in certain milk regulations that would require that milk, that was from a point more than a certain distance away, could not come into the market. Now, in today's system of transportation, for example, this is no longer a health factor, whereas

a number of years ago it might have been a very serious health factor because of the time delay, the lack of refrigerated transport, and so forth. This is what I had in mind.

The CHAIRMAN. I am just trying to go the heart of it to find out what is in it, and what is proposed to be done here, and how it is going to affect the country.

But, first, I want to find out if there is anything wrong with the sanitation code in any area of the United States insofar as milk is concerned.

Mr. FAULKNER. I think the crux of the problem is that the regulations of some of the States do contain different requirements.

Now, as Mr. Nestingen has pointed out, 36 of the States have either passed a State law adopting the standards of the Public Health Service's recommended Milk Ordinance and Code, or have based their regulations on the sanitation provisions of the Public Service Code.

The CHAIRMAN. There are 36 States, then, that do not need this?

Mr. FAULKNER. I don't think the bill, sir, is directed at solely the regulations. I think the bill is directed at the use of health regulations in such a way as to obstruct the movement of milk. I think that is the intent of the bill.

The CHAIRMAN. And that is the only purpose of this legislation, then, is it not?

Mr. FAULKNER. I would say that there are two purposes in the legislation, sir, as I see them. One would be to prevent the use of health regulations in such a way as to prevent the movement, or obstruct the movement, of milk on health grounds when such health grounds were not justified. That would be, I would say, the primary objective of the bill.

The second objective of the bill is to insure that any milk that is certified under the provisions of the bill is of high sanitary quality.

The CHAIRMAN. I still have not got an answer to my question.

Do you know of any area or community in the United States where the sanitation code is not sufficient to assure the proper health provisions for the people?

Mr. FAULKNER. I would say that the enforcement of programs in some areas is not nearly as good as the enforcement of programs in other areas. This, I would say first.

There are still communities which permit the sale of raw milk. And this we consider to be definitely a health hazard. We recommend that——

The CHAIRMAN. Then the answer to my question is there are some areas in the United States whereby it is doubtful whether they are using the necessary precautions?

Mr. FAULKNER. That is correct.

The CHAIRMAN. But that would not be, then, in the 36 States referred to that have complied?

Mr. FAULKNER. I would not say that either, sir, because within the States themselves, where you have State regulations, you still have a very wide variance in the types of ordinances sometimes adopted by the municipalities within those particular States.

The CHAIRMAN. Well, then, is there a third reason or purpose to this legislation; that is, to make uniform, standardized health laws and regulations?

Mr. NESTINGEN. In my judgment, Mr. Chairman to promote uniformity of milk sanitation laws and practices at a high level would be an important consequence of this bill, and that is well advised, yes.

The CHAIRMAN. What would it do to marketing orders and agreements?

Mr. NESTINGEN. It has no effect with respect to marketing orders and agreements; it is not designed to touch on that. We are interested in this from the public health standpoint; that is the health consideration.

The CHAIRMAN. I do not follow you all the way through. If you have a law here that is passed providing a sanitation code nationally, and somebody from X State meets the requirement and wants to ship into Y State where there is a marketing order and agreement in effect, can you prevent that shipment?

Mr. NESTINGEN. There is nothing that prevents that shipment as long as the sanitary code is complied with, from the health standpoint.

But the point I am making is this:

It conceivably can have an indirect effect in one way or another on some existing economic circumstances, whether it be marketing agreements or whether it be competition on the market, because of expenses of operation being lower in one area than in another, because certain requirements of a receiving State or locality—for example, out-of-State inspection of the milk supply, and payment of fees for it—would not have to be met.

It can have an economic effect indirectly.

Our purpose in recommending adoption of this legislation is on health considerations. If marketing arrangements are involved in one State, and that State finds that certain legislation exists contrary to the Federal code, it could conceivably have an effect, but it arises from the health considerations which can be met independent of any marketing or economic arrangements.

The CHAIRMAN. I do not know anything about marketing arrangements, or agreements, as far as the milk business is concerned. I do not want to get over my head on this matter, but it would seem to me that the Congress has provided the machinery for such a program, and there was an economic reason for it. Everybody knows that.

It was primarily for the benefit of the industry.

And if this is not economic, I do not know what it could be. And I would like to be convinced otherwise if I am wrong.

Mr. NESTINGEN. May I ask Mr. Ellenbogen to comment further on this question?

Mr. ELLENBOGEN. The question was whether this bill, if I understood it, would override the exclusionary effects of milk marketing orders.

And the answer is "No," for this reason:

This bill says that a State, a receiving State or locality, may not exclude milk that emanates from an interstate milk shipper's plant in another State, if that plant is on the certified list and if that exclusion is based on the receiving State's or locality's health and sanitary laws and regulations.

The bill does not say that milk may not be excluded—or whatever is done under a milk marketing order—at all; it does not touch upon

or deal with that problem. The only effect that it might have on a milk marketing order is perhaps this: I think these orders require compliance with the sanitary laws and regulations of the area involved. Now, that aspect of it might possibly be affected by this bill, but not the economic parts of a milk marketing order. This bill is not concerned with that, and we are not passing judgment on that problem one way or the other.

The CHAIRMAN. Well, I do not know enough about it to ask intelligent questions, much less to try to dispute the matter with you. But it seems to me that this needs a great deal of discussion, but I need too much time.

Mr. ROGERS of Florida. May I ask one question along that line?

From what I understand on a marketing agreement, it covers one area of the milk shed from where they draw the milk supply to market it in a certain area.

Mr. ELLENBOGEN. Yes, sir.

Mr. ROGERS of Florida. Suppose there is a marketing agreement within one State, or maybe two States, and a third State desires to market milk in this particular area. Now, under the provisions of the bill you are now supporting, would it not be a violation of this law, if this is passed, to refuse to receive that milk, and, yet, there is a marketing agreement that says the milk will only be supplied from a certain area for this particular market?

Mr. ELLENBOGEN. Before I answer that, may I ask, what is the assumption—is the refusal based on the economic provisions of the milk marketing order, or is it based on some local health or sanitary laws?

Mr. ROGERS of Florida. Well, I would think it would be on the economic, the marketing agreement.

Mr. ELLENBOGEN. Then the answer is "No," this bill would not touch that.

Mr. ROGERS of Florida. It would not have any effect on that?

Mr. ELLENBOGEN. Not on that.

Mr. ROGERS of Florida. Simply if it would refuse because of a sanitation requirement?

Mr. ELLENBOGEN. That is right.

The CHAIRMAN. Who is going to refuse it? Who has any authority to refuse it?

Mr. ELLENBOGEN. Well, I am assuming that—unfortunately, I am not too familiar with the economic aspects of milk marketing orders—but there are regulatory provisions, I assume, that govern the bringing of milk into a milk marketing area; and whoever has authority to enforce the marketing order would subject that milk to those regulations. And, as I say, except insofar as these orders relate to sanitary aspects, this bill would not have any effect on that whatsoever.

The CHAIRMAN. Mr. Younger?

Mr. YOUNGER. Mr. Nestingen, I am, like our chairman, somewhat confused by your statement.

Is it true that you are only interested in the sanitation in connection with the milk?

Mr. NESTINGEN. That is correct. That is the primary intent of this bill, yes, sir.

Mr. YOUNGER. That is the primary consideration?

Mr. NESTINGEN. Yes.

Mr. YOUNGER. Yet, you say that if a State promulgates sanitary rules more severe than your rules, they are in violation of your law.

Now, where does the Federal Government get such power?

Mr. NESTINGEN. I do not think there is any question, in my judgment, but that the standard of the Public Health Service has been, and will be, such a high standard that I am not going to be concerned, speaking for myself—and I am sure this is the feeling of the people in our Department—it will be such a high standard that we do not need to be concerned about its adequacy to protect the public health.

But what has been the case—and this has not been isolated in the sense of frequency—is that relatively minor standards are added to these requirements which make it almost impossible, or extremely difficult economically, to comply with on the shipping end, and that this is not a fair basis on which to base judgment about the eligibility of shipments of milk.

And with this code that the bill would establish, health would be well protected.

Mr. YOUNGER. Has the Public Health Department any such authority to say that if the milk is sanitary, yet, because the State puts some other regulation in, to prohibit milk coming into that State, that you have the right, and not the Federal Trade Commission, or not the Agriculture Department or somebody else to force the acceptance of the milk?

Where do you get such authority as that?

That is what I cannot understand.

Mr. NESTINGEN. If you would like, I would like to ask Mr. Faulkner to illustrate specifically with some of the items they have run into in this regard from the standpoint of sanitation, of our concern about the sanitary aspects of milk on the market.

Mr. YOUNGER. All right. Give me a typical example.

Mr. NESTINGEN. Mr. Faulkner, please.

Mr. FAULKNER. If I might, Mr. Younger, try to put this into proper perspective by——

Mr. YOUNGER. Let us have a specific example of a State which has passed some law which is obnoxious to the REW.

Mr. FAULKNER. I can give you some examples, yes, sir.

These are examples that have been reported to us, in some instances by the States themselves, where municipalities within States have used their health regulations to keep out milk from the outside for reasons that they do not believe—actually, the State that reported to us did not believe—had any effect upon the sanitary quality of the milk.

For example, Baltimore, Md., milk regulations require that only milk pasteurized in Baltimore can be sold in the city.

Mr. YOUNGER. Please stop there. So far as the milk was concerned, it was sanitary milk, was it not?

Mr. FAULKNER. I assume that the milk would be sanitary milk, yes.

Mr. YOUNGER. I mean locally, their regulations provided for sanitary milk, is that not right?

Mr. FAULKNER. Yes.

Mr. YOUNGER. Now, so long as the people were served sanitary milk—and your sole concern, as your paper states, your only interest is in the sanitary condition of the milk—then where do you have any authority to step in over and above that?

Mr. FAULKNER. We do not have any authority now. And the point that I wanted to mention to you a moment ago was, we have operated for 10 years in cooperation with the States, in fact with a large number of States, including California and South Carolina, a cooperative State-Public Health Service program for certification of interstate milk shippers.

Actually, one of the first States to ask that the Public Health Service set up such a system and to certify the sanitation compliance of milk that came into that State happened to be South Carolina. Now, this voluntary program was set up on an overall basis in 1951 at the request of the Association of State and Territorial Health Officers. But before doing so, the Surgeon General called a conference of the States, including the State health and State agriculture departments, to arrive at uniform criteria, to establish the methods of evaluation of supplies, and to set up the system which Mr. Nestingen described in his statement.

Now, this program has operated, I believe very effectively, in those areas that wish to import milk. There has been a gradual improvement in the sanitary quality of milk offered for shipment by the shippers who participate in the program.

At the present time the program has under it a total of 750, I believe, interstate milk shippers located in some 36 or 37 States, which have been certified to the Public Health Service—to the Surgeon General of the Public Health Service—by the States, as having complied substantially with the sanitation provisions of the Public Health Service code.

Now, this is the criterion that the States agreed upon at this national conference. This does not mean that a State has to adopt the Public Health Service ordinance and code, but it is the criterion for evaluation of sanitary quality.

Now, this program, as I mentioned, has worked quite well as far as those areas that desire to import milk are concerned. And I believe that that is why the people who recommended—in fact, why the Association of State and Territorial Health Officers recommended—that this particular type of certification approach be used in Federal milk sanitation legislation.

The program has been voluntary. It has not, and cannot, force anyone to take milk that they do not want to take regardless of sanitary quality. I think our great concern in this matter has been that if there is to be economic regulation of a market, it should be on the basis of economics, and that health regulations per se should not be used as economic barriers. That, I think, is one of the basic points of our concern.

Mr. YOUNGER. Well, it seems to me like you are making two diametrically opposed statements. You say you are not trying to force anybody to accept milk, is that not right, did you not say that?

Mr. FAULKNER. Not intentionally. I think that the bill itself, as Mr. Nestingen stated, is a bill which would eliminate the unwarranted use of health regulations as trade barriers, and at the same time would assure the receipt in the municipalities of milk of high sanitary quality.

Mr. YOUNGER. That is true.

And I think you have done an excellent job in raising the standards throughout the country. I am not belittling the efforts of the Depart-

ment. The thing that I cannot understand, the part of the bill that is a mystery to me, is:

If some State adopts the regulation that has to do with sanitation that is over and above the Federal regulation as prescribed in this bill, and you are only interested in sanitation, and they are giving you more sanitation than you asked for, where should the Department come in on that?

Mr. FAULKNER. Well, I would think, Mr. Younger, that if a State found that there was some sanitation requirement necessary to protect the health of milk consumers, that if this State—and it was an essential requirement—that the State should communicate with the Surgeon General to immediately bring about an amendment of the Federal regulation, so that the consumers in all States could be protected.

Mr. NESTINGEN. This morning you were raising questions about the use of the word "intent," and how can you tell whether or not there was an intentional effort by a receiving State or locality to raise barriers rather than a good faith effort to prescribe a high standard. This is one of the real areas of difficulty which I think is most justifiably raised. If an additional sanitary requirement is imposed, it could well be with good intent, or on the other hand it could well be, in a particular case, a way of stopping the flow of milk into the area based on economic competition. However that may be, the standard of the Public Health Service has been, and will be, drawn with sufficient care, and is such a high standard, that there would not be any need or cause for concern about whether or not anything in addition needs to be imposed upon it.

This will avoid the very nature of the type of question you were raising this morning as to how you can tell if it were a well-intentioned act, or whether or not it is an effort to erect trade barriers in the guise of health regulations.

Mr. YOUNGER. Well, that is true, that is one phase of it. And the other phase that I am trying to get at which confuses me is, it looks to me as though your Department, as long as there is sanitary milk under your regulations, that is all you are concerned with; that anything else, any law that is passed by a State that prohibits the flow of interstate commerce, is not any concern of yours; it ought to be with the Attorney General or some other department; you are not a law enforcement organization of that type.

Now, you deal with the Agriculture Department, do you not?

Mr. NESTINGEN. Yes.

Mr. YOUNGER. Can you tell me why the Agriculture Department has not taken any position or has not answered any letter as to this bill?

Mr. NESTINGEN. I am not at liberty to state that they will or they would not; it has been my understanding that they will have a position forwarded to the committee very shortly, if it has not already reached you.

Mr. YOUNGER. They will shortly? They have not yet.

Mr. NESTINGEN. I am informed that it will be very shortly, sir.

Mr. YOUNGER. That is all.

The CHAIRMAN. Mr. Dingell?

Mr. DINGELL. Mr. Secretary, I would like to compliment you on a very fine job. I think that your interest in this is very wholesome,

and I think it is a sincere effort to eliminate the trade barriers, and, at the same time, to preserve the interests of the consuming public.

And I think in this regard your statement has been most valuable and helpful to the committee.

Mr. NESTINGEN. Thank you.

Mr. DINGELL. I would like to discuss with you very briefly some of my very strong feelings with regard to a very closely kindred subject which we have here which is administered by your Department. And I would refer to the field of water pollution. And I would like to discuss it from the standpoint of the capability of the Surgeon General to administer a program of this importance. I am sure you are aware of the problem which we have in this country with water pollution, and of the fact that this program is invested by statute in the Surgeon General.

I am wondering if you are aware of the fact that a colleague of mine in the House sent a list of some 30 bodies of water to the Secretary in which the Surgeon General had been failing to take action to abate pollution under the provisions of Public Law 660 previously passed. My reason for asking this question is simply this: In this committee we will naturally seek to do what is best to protect the people. But having witnessed an instance like this, how are we to know, if the administration of a program of this importance is vested in the Surgeon General, that it will be carried out with the vigor that the public interest requires?

Mr. NESTINGEN. In reply to your request about this list of cities that were forwarded to the Secretary, I have not seen the list, I have been aware of it.

With respect to the interest of our Department on the question of water pollution and enforcement and taking action which is needed—and there can be no question about the need for action across the country in this general field—I have no doubt in my mind that the activity of our Department is going to be a very good and constructive activity within the framework of the law. This is a subject in which I know you have a keen interest.

By the same token, I have no question in my mind but what this bill, if adopted, would be enforced, and enforced well and on a fair basis across the country.

Mr. DINGELL. Let me give you a more recent example, if I may.

Are you aware of the situation in Raritan Bay where any number of people contracted infectious hepatitis by eating shellfish, mussels, and so forth?

Mr. NESTINGEN. I am.

Mr. DINGELL. From polluted waters?

And, Mr. Secretary, the transportation of shellfish in interstate commerce and the matter of determining and assuring the safety of shellfish and so forth, in interstate commerce, is a function of the Public Health Service of the Surgeon General, is it not?

Mr. NESTINGEN. It is.

Mr. DINGELL. Now, they have been scrutinizing this Raritan Bay and handling the transit of shellfish from this area for a number of years in the Surgeon General's office, have they not?

Mr. NESTINGEN. As I understand; yes, sir.

Mr. DINGELL. And it was only in the very recent days that they have finally begun to crack down and to establish some really workable standards on the taking of shellfish from this bay, am I correct?

Mr. NESTINGEN. I am not familiar with the details on this matter. Are you, Mr. Faulkner?

Mr. FAULKNER. I can add to that, Mr. Dingell, that I think the result of the investigation of this disease outbreak indicated that the shellfish involved, that came out of Raritan Bay, were taken illegally, according to the State laws of New Jersey, and from polluted waters.

Mr. DINGELL. This is really the responsibility of the Surgeon General, too, is it not?

Mr. FAULKNER. To the extent that we operate with the States a voluntary program for the certification of interstate shellfish shippers similar to the milk shippers' certification program. Under this—if I may add this one point, because I think it is a key point—under this program the waters for shellfish growing are classified as approved waters, provisionally approved waters, and prohibited waters.

Now, as I understand from the information that was made available to us from the investigation, by our own people, of this outbreak, the shellfish that were involved were clams in New Jersey taken from polluted areas.

Mr. DINGELL. Were they taken from approved waters or provisionally approved waters, or disapproved waters?

Mr. FAULKNER. It is my understanding that they were taken from prohibited waters.

Mr. DINGELL. And in this particular instance, the sampling mechanism which had been set up in this area was based on an arbitrary grid, was it not, which was just drawn, rather than carefully cataloging the particular waters to determine the safety or lack of safety?

Mr. FAULKNER. Not to my knowledge; no, sir. It should be added that the first outbreak of infectious hepatitus associated with shellfish ever reported in the United States occurred in Pascagoula, Miss., in February 1961. There had been one previous outbreak—reported in the literature—an outbreak in Sweden in 1955. The Public Health Service was asked to investigate the Pascagoula outbreak, and it was several days before any definite association of the disease with oysters was determined. This, again, was the taking of oysters from an area that was grossly polluted and which had not been an approved area certified by the State board of health.

The CHAIRMAN. Mr. Dingell, the Chair does not wish to listen to the discussion of another bill. We are pressed for time, and we still have a number of witnesses to be heard.

Mr. DINGELL. Mr. Chairman, I am coming to another point.

Were there any representations made in this area by the Surgeon General for administrative action by that agency or improvements in voluntary programs?

Mr. FAULKNER. Yes, there have been. In fact, the Surgeon General immediately contacted the State health officers concerned when it became apparent that there might be a relation between shellfish and this outbreak of infectious hepatitis, and many areas were closed until they could be investigated.

Mr. DINGELL. Previous or subsequent to the outbreak?

Mr. FAULKNER. Those were closed subsequent to the outbreak.

Mr. DINGELL. But no recommendation was made previous to the outbreak?

Mr. FAULKNER. The recommendations made previous to the outbreak, sir, were those——

Mr. DINGELL. There wasn't a single recommendation made previous to the outbreak, was there?

Mr. FAULKNER. As far as the Service was concerned?

Mr. DINGELL. That is right.

Mr. FAULKNER. When this Pascagoula outbreak occurred all State health officers were advised by letter of the situation there——

Mr. DINGELL. Subsequent to the outbreak?

Mr. FAULKNER. Following the Pascagoula outbreak they were advised of this situation.

Mr. DINGELL. Subsequent to the outbreak and not previous?

Mr. FAULKNER. In the Pascagoula outbreak there were 2½ million gallons of sewage discharged about a mile and a half from the place where the oysters involved were taken.

Mr. DINGELL. But no recommendations were made to the Surgeon General previous to the outbreak?

Mr. FAULKNER. The general regulations on classification of waters and not taking shellfish from polluted waters were in force.

Mr. DINGELL. But no recommendations were made with regard to these specific instances previously except in a general sort of way, no recommendations, no action taken by the Surgeon General in either of these instances until after the outbreak of hepatitis had occurred; am I correct?

Mr. FAULKNER. Yes, sir; with respect, as you relate them to the outbreak, but the shellfish came from polluted areas, and there were Public Health Service recommendations to the States against taking shellfish from polluted areas.

Mr. DINGELL. But not from these specific areas, though?

Mr. FAULKNER. In the Raritan Bay the waters from which the clams involved were taken, as I understand it, had been classified as prohibited.

Mr. DINGELL. But there was no recommendation from the Surgeon General with regard to taking from these particular areas?

Mr. FAULKNER. There is a standing recommendation to all States against taking shellfish from sewage-polluted areas.

Mr. DINGELL. You are not answering my question.

There was no recommendation made by the Surgeon General in regard to these specific waters and these particular shellfish until you had the outbreak; is that correct?

Mr. FAULKNER. That is correct.

Mr. DINGELL. Mr. Chairman, the point I have been leading up to is simply this: If we can't look to the Surgeon General to protect the public health more vigorously than I have shown you in these areas that I have been discussing, how are we going to entrust him with a program regarding milk?

Mr. FAULKNER. I do not believe, as far as the shellfish program is concerned, that if the States concerned had carried out the recommendations which they had agreed to on adequate patroling of classified waters, there would have been this mishap.

Mr. DINGELL. The simple truth of the matter is that in these instances gravely affecting the health of the American people in the

vigor of the Surgeon General in protecting the American people from dangerous and unsafe products, was not all that could be desired; am I correct?

Mr. FAULKNER. I think the Service moved very promptly, as did the States, in this situation, sir.

Mr. DINGELL. I don't want to intrude on the time of the committee, but I can tell you some other things about the vigor with which the Surgeon General offices moved in this instance as well as other instances.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Nelsen?

Mr. NELSEN. Relative to the health standards set up by States and municipalities, is it not true that actually some of these standards are set up even in marketing agreements sometimes, is that not one of the problems?

Mr. FAULKNER. I have no personal knowledge that the marketing agreements specifically set up milk sanitation or health regulations as barriers as part of the marketing agreement; but I believe, Mr. Nelsen, that the marketing agreement requires compliance with the sanitation standards of the area. And in that sense, it would be true that they would then——

Mr. NELSEN. In this instance, the marketing agreement which is approved by the Secretary of Agriculture could be rejected or could be accepted.

Now, the Secretary of Agriculture will review the marketing agreement, will he not?

Mr. FAULKNER. Yes, I presume he does.

Mr. NELSEN. He may accept it or he may reject it.

Now, we have heard the statement made that actually we did not need this type of legislation at all, that the Secretary of Agriculture would have authority enough to set uniform standards under the marketing agreement if he wishes. Now, is that true, or is it not true?

Mr. NESTINGEN. Mr. Ellenbogen is best qualified to answer that.

Mr. ELLENBOGEN. I am not familiar with that legislation, but I don't think that would be true. All that the milk marketing orders call for is compliance with whatever sanitary regulations and standards exist in the area.

I rather doubt, although I do defer to the Department of Agriculture on that, that they would under existing law have authority to establish independently a code of sanitary regulations.

Mr. NELSEN. But would not the Secretary of Agriculture, if he felt the existing requirements were unreasonable, it would be within his power to refuse to approve the marketing order agreement?

Mr. ELLENBOGEN. I would not be able to answer that offhand; I would wish to inquire of their lawyers on that.

Mr. NELSEN. And you have no knowledge as to when the Department will make a statement on that?

Mr. NESTINGEN. We were told any time, sir.

Mr. ELLENBOGEN. I think they were quite preoccupied with farm legislation. As you know, this was their primary overwhelming concern, and I think that is out of the way, so I assume their report on the bill should arrive any day.

Mr. NELSEN. Of course, the feeling that I have is that these marketing agreements were set up by authority granted by the Department of Agriculture of the Federal Government, and if the terms under which they operate present an economic handicap that is unreasonable to other areas of the country, it becomes a responsibility on the part of the Federal Government to be sure that the rules under which we operate are fair, because there are farmers that live outside of the area, and some in the marketing areas, and therefore I think these standards ought to be fair, they ought to be protective to the people with adequate health requirement that are receiving these dairy products, but they should not be designed to provide a monopoly for anybody.

That is the purpose, that is my interest, in the bill.

Thank you.

The CHAIRMAN. Mr. Rogers, do you have any questions?

Mr. ROGERS of Florida. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Thomson?

Mr. THOMSON. Thank you, Mr. Chairman.

Mr. Secretary, you agreed to furnish the comparison of the milk ordinance and codes in the State of Maine with that of the Public Health Service.

Mr. NESTINGEN. I did.

Mr. THOMSON. Could you also supply us with the same information from the State of South Carolina?

Mr. HEMPHILL. They are better than the Federal Government, for your information.

Mr. NESTINGEN. We will furnish that, yes, sir.

(See page 67 for information requested.)

Mr. THOMSON. Now in the statistics you furnished for the hearings in 1960, the 86th Congress, your Department supplied the comparison of the Public Health Service milk ordinance and code with the sanitary regulations of the States of Pennsylvania, New York, New Jersey, and Massachusetts. Are you aware of any local ordinances or State regulations which are superior to those which have been promulgated by the Public Health Services?

Mr. NESTINGEN. I am not.

I would like to ask Mr. Faulkner, as the person immediately responsible, to comment on this question.

Mr. FAULKNER. Mr. Thomson, we believe that the Public Health Service milk ordinance and code provides all of the essentials required to protect the public health, and therefore we do not consider the ordinances of States that are different as being superior in terms of public health protection provided. There are some that contain more stringent requirements on a few items, but I might say, that on other items they are less stringent.

But we do not believe that any ordinance of a State or municipality of which we are aware provides more in terms of public health protection, or is more adequate in terms of public health protection.

Mr. THOMSON. You mentioned the situation at Baltimore, where the requirement was that all milk sold in the city be pasteurized within the city limits. Isn't that type of ordinance clearly unconstitutional under the *Dean Milk* case that was decided at Madison, Wis.?

Mr. FAULKNER. Not being a lawyer, I would defer to Mr. Ellenbogen.

Mr. ELLENBOGEN. Do you wish me to reply?

Mr. THOMSON. Yes.

Mr. ELLENBOGEN. The situation is that the ordinance excludes milk that is not pasteurized within the city; is that it?

Mr. FAULKNER. Yes; that is correct.

Mr. ELLENBOGEN. On that basis, excluding milk pasteurized beyond the city limits would seem to be invalid under the decision of the Supreme Court in the *Dean Milk* case that you mentioned.

Mr. THOMSON. It was pasteurization in *Dean?*

Mr. ELLENBOGEN. Yes, sir.

Mr. THOMSON. Mr. Secretary, would it be correct to say that one interest that your Department has in this type of legislation is to prevent what are designated as health standards to be perverted into economic barriers?

Mr. NESTINGEN. That certainly is very important to this bill, and we have a keen interest in that, yes, we do, and are opposed to that type of health legislation.

Mr. THOMSON. As far as the questions that the chairman was asking about the cooperation between the Federal and State Governments, aren't there wide areas at the present time in the health field and in the elimination of tuberculosis in dairy cattle, in the elimination of brucellosis in dairy cattle?

Mr. NESTINGEN. Our personnel are in touch with State officials on many programs. If you would like specific detail, we would certainly be happy to furnish it. But we work with many State and local officials throughout the country on a wide variety of programs. And the Department of Agriculture, as you know, cooperates with and assists the States in the eradication of brucellosis in dairy herds and of tuberculosis in all cattle.

Mr. THOMSON. And when that veterinarian comes to the farmers, he is a local veterinarian who makes the test, and the test is accepted by the Federal authorities, whether they be the Department of Agriculture or the Public Health Service?

Mr. NESTINGEN. That is right.

Mr. THOMSON. It is not an unusual or new procedure; is it?

Mr. NESTINGEN. No, it is not, not at all.

Mr. THOMSON. Thank you very much, Mr. Secretary.

The CHAIRMAN. Mr. Hemphill?

Mr. HEMPHILL. I believe Mr. Faulkner has said that the State of South Carolina enacted the first milk statute which is on the books; is that correct?

Mr. FAULKNER. Actually, it was the voluntary program that I was speaking of, Mr. Hemphill.

Mr. HEMPHILL. I might inform the gentleman that the reason for that was that our producers, which have the highest standards, I believe, in the Nation, requested that for the protection of the public.

Now, we are faced with the proposition in which—when you would not admit that our laws—I have in hand a statement which I am going to put in the record tomorrow, but this statement is part of it—

a recent inspection of out-of-State milk supplies by one of our South Carolina inspectors revealed that one of the States from which milk originated does not require dairy herds to be tested annually for tuberculosis and brucellosis. Yet this milk supply has a favorable U.S. Public Health Service rating.

I would like your comment.

Mr. FAULKNER. All right, sir. The Public Health Service Ordinance and Code—and the South Carolina regulations are practically identical with it—does not require annual testing for TB in areas that have been accredited under the U.S. Department of Agriculture modified accredited tuberculosis-free area plan. If the incidence of bovine tuberculosis—and this is a continuing testing program—exceeds two-tenths of 1 percent, then herds must be individually accredited as tuberculosis-free, or must be annually tested.

The ordinance then requires annual testing if the incidence in the area is more than two-tenths of 1 percent.

Mr. HEMPHILL. South Carolina requires annual testing?

Mr. FAULKNER. We have brought here today, Dr. Max Decker, our program veterinarian on animal diseases. He is present in the room, and I am sure he would be glad to discuss tuberculosis testing procedures if you like.

Mr. HEMPHILL. I don't particularly care to discuss it, I just want to point out to you that South Carolina does have these high requirements. And we don't want the Federal Government to come in and take charge and lower the requirements which we have felt necessary for our consumers. And that is one of the problems we see in this legislation, we see in it that you are using a sanitary appeal as a vehicle for either economic sanction or economic mandate.

Mr. NESTINGEN. Might I ask, Mr. Congressman, then, that we have Dr. Decker comment on the reason for the difference?

Mr. HEMPHILL. Yes.

STATEMENT OF MAX DECKER, D.V.M.

Dr. DECKER. Mr. Chairman, my name is Max Decker. I am staff veterinarian of the milk and food program of the Public Health Service.

I have, I believe, heard the question. I would comment to the concern of whether a standard is higher or not, depending upon the frequency of the test applied.

We need to be concerned with how the test is applied, and to what population of cattle it is applied, if bovine tuberculosis control is to be achieved.

The Public Health Service is concerned with the elimination of bovine TB. We feel that the best way to do that is to test all of the cattle, and to test all of the cattle at a reasonable but adequate level. We are concerned that annual testing of only "grade A" milk-producing herds may divert effort from the non-grade A herds, and the beef cattle herds, and by so doing result in more infection in the total cattle population.

Now, bovine TB is currently of relatively little public health significance. And the significance that does exist is that it is primarily an occupational disease, a disease of those who have contact with or work with cattle, rather than a disease hazard for the consumers of pasteurized milk from such cattle. And we think that in the interest of public health that we should be applying the testing procedure routinely to all cattle. And this is one of the reasons why the standard has not been set at a level more frequent than a minimum of every 6 years for herds located in a modified accredited tuberculosis-free area.

We are afraid that if testing was more frequent for "grade A" dairy herds it would divert the testing effort away from other cattle.

And thus it might jeopardize the current fine improvement that is being made after year in the control and elimination of bovine TB.

Mr. HEMPHILL. I gather from your statement, then, that you have sacrificed the higher standard for the economic feasibility.

Dr. DECKER. No, I didn't make that comment or have that feeling at all, I felt that we were applying a judgment as to which actually is the best standard for the protection of the public health. And I commented that since bovine tuberculosis is primarily an occupational disease, that we felt that the best control would be achieved by testing of all livestock at an adequate frequency, and not by doing an annual test on dairy cattle that would jeopardize the frequency of testing beef cattle.

Mr. HEMPHILL. Well, we had an incident some years ago in which the U.S. Public Health Service had approved milk that went into one of our military installations, and when we found out it was contaminated and not up to par, and that somewhere in the administration there had been gross, let's call it, carelessness, and it gave us a great deal of concern in South Carolina, because we have an obligation to the military in our State as well as the ordinary citizen who is a native.

And going back to what Mr. Dingell said about the enforcement in other areas, we haven't any proof that the enforcement would be characterized by the vigor we would expect, certainly if you were just going to set very minimal standards and say, these are the standards, and the State, on the other hand, has set for its intrastate purposes very high standards, then the consuming public who doesn't look at the difference as much as perhaps it could be buying the milk at a minimum standard, and buying milk which was not as sanitary as the people of South Carolina would desire through their own legislation. Isn't that true?

Dr. DECKER. Sir, as this relates to the question of annual testing for TB versus the USDA eradication program to which the Public Health Service subscribes, I don't think that we could at all agree.

Mr. HEMPHILL. What about brucellosis?

Dr. DECKER. Brucellosis testing, now, is by the present Public Health Service milk ordinance and code essentially testing twice each year. And I mean by this that in the areas that are following the program of the U.S. Department of Agriculture, the herds are being screened by the milk ring test applied at least twice each year.

Now, this is the common and routine practice for dairy cattle, I believe, throughout the country.

Essentially, then, there should not be an issue here; testing is at a frequency of at least twice each year.

Mr. HEMPHILL. Wouldn't this legislation lower the quality standards?

Dr. DECKER. No, it would not.

The Public Health Service milk ordinance and code requires that the herd is located in an area that meets the animal disease eradication plan and programs of the U.S. Department of Agriculture. We are in the process of proposing revisions to this as we wish to follow exactly the current program of the U.S. Department of Agriculture.

If a herd is located in a modified certified brucellosis area, under

the program conducted by the U.S. Department of Agriculture, it then is tested twice each year.

Mr. HEMPHILL. Thank you very much.

You said that the program is entirely voluntary at this time?

Mr. NESTINGEN. Yes.

Mr. HEMPHILL. Has the program been successful?

Mr. NESTINGEN. It certainly has met with success, yes. And I think that real credit should be given to those leading the effort and participating in it, whether it be in our Department or the State or the local units of government that are participating. Fourteen States have adopted the code as State law, 22 other States have enacted, in good part, the code in their own regulations, and the State of California has equivalent regulations. And 1,900 municipalities have adopted the recommended milk ordinance and code.

However, there are two things that might be said about it, the first of which is that this falls short of what the situation could be, because the 1,900 municipalities are a little less than half those that could be effectively participating, which is estimated at about 4,000, and several States are not using the code.

The second thing is we feel that a stronger enforcement action would arise from this type of legislation than is currently the case under the voluntary arrangement, and, therefore, that this would improve upon the situation throughout the country, admitting that the voluntary program certainly has been of benefit.

For example, your State took a lead in this respect when it first acted. And some States, on the other hand, haven't done that, others haven't gone as far.

Some municipalities haven't acted.

Mr. HEMPHILL. We want to continue to lead. We don't want to put in the bandwagon, to follow some Federal bureaucracy which doesn't do what we have been able to do on our own.

Mr. NESTINGEN. Some have not taken the lead that you have said, whether it be at local or State level, and we feel that the legislation would improve that circumstance very well, and milk is not a commodity upon which we should have economic barriers which are in the guise of health protection.

Mr. HEMPHILL. Let me go to another question which was proposed by a statement that I understood said that this would eliminate raw milk—the sale of raw milk. Is this designed to do that?

Mr. FAULKNER. No, sir. I was being asked for examples of areas where health regulations might be lower and not adequate. I believe Mr. Harris asked me this question.

I said that there were still a few communities within the United States whose ordinances permitted the sale of raw milk without pasteurization, and this we considered to be a deficiency as far as the ordinances were concerned in not providing adequate public health protection to the consumer.

Now, under this bill——

Mr. HEMPHILL. Every morning in my home—and I dare you to say that it is not as good as pasteurized, it not only tastes better, but I am sure it is as clean if not cleaner—I think you are just going too far, you are going down and telling the local man you are going to put in Federal bureaucracy on your head, you are going to eliminate the raw milk people, apparently, and take away from the States the

sovereignty they have had in this particular area of sanitation. And I think not only is it highly unnecessary, I think it is going to be harmful.

Mr. NESTINGEN. There is one point that should be made. When you say that this bill takes away the sovereignty the State has in this effect, the State need not participate under this bill if it does not want to.

Mr. HEMPHILL. You can say that, that the State doesn't participate, and if you put out some order or rule in the Federal Register and the newspapers get ahold of it, you are in a fix if you didn't. You know the adverse effect it would have on the producers in that particular State.

Mr. NESTINGEN. I would like to ask Mr. Ellenbogen on the mechanics of this.

Mr. ELLENBOGEN. Could I comment on that, sir?

First of all, Mr. Faulkner was speaking about the sale of raw milk to the ultimate consumer without pasteurization, which would not meet the grade A standard of the Public Health Service code. All that this bill would do in this respect would be to let your State, if it wishes, exclude milk which does not meet the code; that is, raw milk included for retail consumption without pasteurization. If, on the other hand, your State wants to receive raw milk for retail sale, this bill would not prevent it. But it would not foist it upon your State.

Mr. HEMPHILL. Thank you very much.

The CHAIRMAN. Thank you very much, Mr. Under Secretary, for your testimony, and also the testimony of those who have appeared along with you.

Mr. THOMSON. Mr. Chairman, one of the witnesses who was here from the State of Wisconsin, Mr. Milo Swanton, the executive secretary of the Wisconsin Council of Agriculture, came here to testify in support of the bills H.R. 50, H.R. 5928, and other identical bills.

The CHAIRMAN. I was going to call Mr. Swanton next.

Mr. THOMSON. And has been forced to leave because of some transportation requirement. And I would like to ask that his statement be accepted and appear in the record at this point.

The CHAIRMAN. Very well. I am sorry that we could not get to him before he left. I was under the impression he had until 6 o'clock.

His statement will be included in the record at this point.

(The statement referred to is as follows:)

STATEMENT OF MILO K. SWANTON, EXECUTIVE SECRETARY OF THE WISCONSIN COUNCIL OF AGRICULTURE

Mr. Chairman and members of the committee: I am Milo K. Swanton, a dairy farmer at Madison and executive secretary of the Wisconsin Council of Agriculture Cooperative, a federation of 91 farmer cooperatives in Wisconsin. The dairy section, which is a division of our Council of Agriculture, includes 39 major dairy marketing associations that are farmer owned and controlled. Both collective bargaining and dairy processing types are included. Together they process or bargain for 65 percent of our State's annual 18-billion pound production.

The area of regulation with which this proposed legislation deals has a significant effect on the dairy industry of Wisconsin. Hence our people, particularly our dairy farmers and their dairy marketing cooperatives, have had a deep interest in this kind of legislation for a long time. Our organization has been on record for the past 4 years, by resolutions in support of such measures.

Our interest in these bills is economic in nature. The nature of our economic interest in these bills that pertain to sanitation and public health relative to interstate movement of milk is quite similar to the interest of dairy people in many sections of this country. However, Wisconsin's interest may be broader due to the size of our industry and more varied because of the wide ramifications of our diverse dairy programs of production, marketing, and processing.

We recognize the basic importance of adequate supervision and regulation. We insist that the health and welfare of America's consumers must be protected by insuring sanitary qualities in milk. Back in 1957 in our State, we producers supported the enactment of a State law that required, after July 1, 1959, that all fluid milk in packaged form must meet the grade A regulations of the State or its municipalities. In connection with quality improvement in milk production and handling have been our programs to eradicate animal diseases communicable to man.

Our farmers and their dairy plants have teamed up with the State department of agriculture and with Public Health authorities in a concentrated effort to control tuberculosis in cattle. With the incidence of tuberculosis brought down to four one-hundredths of 1 percent, our State for some time has been accredited by the U.S. Department of Agriculture as a TB-free area. Likewise, the Federal Department has also recognized our State as an accredited brucellosis-free area inasmuch as the incidence of that disease in Wisconsin had dropped to much less than 2 percent herd infection.

We believe these facts show the willingness and the spirit of our people in producing clean, wholesome milk. Furthermore, they prove that health essentials are remarkably well cared for in a highly concentrated dairy producing region. They also show that the provisions of the recommended milk ordinance and code would be sufficient to control the production of wholesome and safe milk if utilized as indicated in the National Milk Sanitation Act now under consideration.

It is significant that Wisconsin has participated in the work of the national conference of interstate milk shipments. It supports the policy of reciprocity of inspection and accepts milk from certified plants in neighboring States.

Arguments have been advanced in previous years against this type of legislation to the effect that consumers have more confidence in milk supplies under local regulation. It should be pointed out that in the legislation before you, inspection and approval is still a local responsibility. The great volume of intrastate operations is not involved. But if such arguments are raised in connection with interstate business, the objections are phoney in that consumers normally are not aware of the level of inspection authority, unless the local economic interests of the dairy industry involved seek to propagandize them so as to wall out competition on the local market.

Everyone grants the need for adequate sanitary protection of milk supplies. The legislation before you recognizes this need in the basic standards of the U.S. Public Health standards, model ordinance and code. In fact, there is no substantial evidence to show that State or local regulations in excess of that code have demonstrated any significant superiority in milk supply quality from a public health point of view.

Thus it appears logical that excesses in regulation have been practiced for other reasons. The requirement that a lane must lead to a cowyard separated from the barn, and compelling all fluid milk producing farms to install pipeline milking facilities cannot be justified healthwise. The additional cost of such requirements both in time and labor must be reflected in higher milk prices to be borne by consumers.

Unreasonable and unnecessary requirements are restrictive and result in misallocation of resources within the dairy industry. Many years ago certain plants in northwestern Wisconsin were assured a market for cream shipments into the Ardmour district of Philadelphia. They went to the cost and trouble of meeting abnormally strict farm and plant sanitary requirements. In short, they made extensive investments on farms and in plants. In subsequent years their eastern outlet was lost. The point is that if the requirements had been reasonable, even though the market might have been lost, then these producers would not have been the victims of such maluse of capital outlay.

Prices to consumers, accelerated because of restrictions that cannot be justified on a sanitary basis, tend to restrict consumption. Such restriction of use can be a far more significant handicap to health than the alleged health dangers that such restrictions were supposed to correct.

From the standpoint of market efficiency, consumers pay a very high price when health regulations are used for the purpose of establishing local milk marketing monopolies. The higher prices that must be received by producers often tend to build up excess production, with the result that fluid milkshed surpluses mount and the resultant low surplus price, in effect, tends to cancel out the sought-for economic gain that was originally intended.

On many occasions Wisconsin plants have dispatched tank loads of milk, under health permit for a distant market, only to have it rejected upon arrival based on some technicality in regard to quality. The shipper then faced the problem of disposing as best he could at a fraction of the fluid price which would not cover the long haul cost or pay for the return long haul back to Wisconsin. Significantly in at least a few of these cases, the milk on arrival back at point of origin was examined and found to have suffered no bacterial deterioration, even after 5 days on the road.

Because of such situations many of our plants have chosen to forego shipments into markets where such problems have been encountered. The loss on a single shipment so handled can easily amount to $500. This our milk producers who are already receiving low prices cannot afford.

The methods often used in granting and handling out-of-State permits for shipping milk into some areas are unduly restrictive of interstate commerce. Health permits are often on a temporary basis. Sometimes permits cost $300 to $400.

We believe that such unnecessary restrictive processes involving interstate shipments of milk would be effectively dealt with under the provisions of the National Milk Sanitation Act as outlined in the bills before you. Your responsibility in the regulation and safe facilitating of interstate commerce will be discharged constructively in the passage of this type of legislation.

We of the Wisconsin Council of Agriculture Cooperative and the Dairy Marketing Associations affiliated in our dairy section, sincerely urge your favorable consideration and support in passing the proposed National Milk Sanitation Act.

The CHAIRMAN. Mr. Glenn Summers of Nashville, Tenn.

STATEMENT OF GLENN G. SUMMERS, SECRETARY-MANAGER OF NASHVILLE MILK PRODUCERS, INC., NASHVILLE, TENN.

Mr. SUMMERS. Mr. Chairman and gentlemen of the committee, I am not going to take the time to go through my entire statement, since it is being filed. I would just cover the five parts that are set out in there, plus one or two others.

Our association, composed of grade A producers in 30 middle Tennessee and 10 southern Kentucky counties, is opposed to H.R. 50.

Our position is, first of all, simply that it is needless legislation. Milk can and does move. Last August we got into a scrap with our handlers and 7 million pounds of milk came into the Nashville market.

It concerns itself with economic factors rather than sanitation.

It does not assure a better supply of milk.

It takes away the pride of accomplishment on the part of the local health folks.

It can be used to upset orderly marketing of milk in a market.

And it tends to destroy local supervision.

Now, I submit that our milk supply in this country is the best in the world. Any consumer can go into any grocery store in any town throughout this country and can buy a bottle of grade A milk and rest assured that that milk is safe and of high quality.

In no other place in the world can that be done. That achievement has been accomplished by local sanitarians working with local farmers and their local people.

I might add this other one thing:

That this 7 million pounds of milk that came into our market within an 11-day period caused a lot of our consumers to gripe about the quality of the milk. We had a good many calls ourselves.

We do not think that it is because of lack of sanitation or inspection at the point of origin; we think simply that fresh milk can be fresh milk only so long, and the additional time that it takes to move that milk from the Midwest simply reduces the life of that milk when the consumer gets it.

One other point:

In our own local ordinance, our ordinance is identical with the U.S. Public Health code except in two points. Our ordinance requires that cattle be tested annually for TB. Now, we are in a modified TB accredited area, and have been for many, many years. But simply our health department is taking the added precaution to see that those cattle are absolutely safe, the ones that are furnishing milk to the consumers of our community.

Secondly, our ordinance provides that the solids, nonfat, in milk be 8.5 percent, and that is higher than the U.S. Public Health ordinance and code.

That completes my statement, Mr. Chairman. I appreciate the opportunity to present this short statement to you.

The CHAIRMAN. Your entire statement may be included in the record along with your remarks, Mr. Summers.

(The statement referred to is as follows:)

STATEMENT OF GLENN G. SUMMERS, SECRETARY-MANAGER OF NASHVILLE MILK PRODUCERS, INC., NASHVILLE, TENN.

Mr. Chairman and members of the committee, I am Glenn G. Summers, secretary-manager of Nashville Milk Producers, Inc., Nashville, Tenn. Nashville Milk Producers, Inc., is an association of approximately 1,350 grade A dairy farmers who supply the Nashville fluid milk market. These farmers reside in 30 middle Tennessee and 10 southern Kentucky counties.

I am appearing in opposition to H.R. 50. Our objections to this bill are, in light of conditions in our area, (1) it simply is needless legislation, (2) it concerns itself more with economic factors rather than sanitary factors, (3) it does not assure a better quality of milk, (4) it can be used to upset orderly marketing of milk, and (5) it tends to destroy local supervision of milk supplies.

Milk does move freely from out-of-State markets into Tennessee. In August 1960, our association was involved in a price fight with local processors and they refused to buy local milk. As a result, almost 700,000 pounds of milk per day moved into our market with the approval of our local health department. Also, our own association has brought milk from the Midwest into the Nashville, Tenn., market, and we experience no difficulty from the health department. Furthermore, we ship milk out of Tennessee and again we have no trouble from health departments in the Southeastern States to which we have shipped.

This bill seems to be an effort to provide relief to dairy farmers located principally in the Midwest. I respectfully point out that dairy farmers not only in the Midwest, but in the entire country, need relief from a price squeeze. However, the facts are that the cost of milk at the point of origin, plus transportation and handling costs, is the factor that keeps milk from moving to distant markets. The price of milk in most markets is based on the cost of milk at Chicago or some midwestern point where supplies are available the year round, plus the cost of handling and transportation. The present price of class I milk in the Nashville, Tenn., market is $5.10 per hundred, 4 percent basis. In the July fluid milk and cream report, as published by the U.S. Department of Agriculture, Chicago milk on a 3.5 percent basis is quoted at $4.44 per hundredweight. When this price is converted to a 4.0 percent basis and the cost of handling and transportation is added on, no handler in our market can afford to purchase milk at

that price. It should be pointed out that our $5.10 price is a summer price; our last winter price was $5.45. This points out the close alinement of our price with the cost of milk from Chicago or the Midwest.

The present high standards of fluid milk in this country are the results of local health departments working with, not for, the U.S. Public Health Service. Our market has been federally inspected ever 2 years since 1951, with the ratings shown as follows:

[Percent]

Year	Raw milk producers	Pasteurization plants	Shed rating
1951	95.51	99.81	98.38
1953	95.37	93.73	94.28
1955	96.63	95.90	96.14
1957	95.70	97.50	96.95
1959	95.30	94.70	95.00

Furthermore, during the August 1960 period, above referred to, the approximately 7 million pounds of milk brought into our market, even though it had grade A approval from some other market, definitely was not up to the standard of our local milk. It is my opinion that this was not necessarily a fault of the health department where this milk originated, but was simply due to the milk being older and not having as long a shelf life after pasteurization in our market as local milk. We respectfully submit that H.R. 50 definitely will tend to lower the quality of milk in various markets. It tends to destroy the pride of accomplishment on the part of local health folks in seeing that their supply of milk is the best available.

This proposed legislation could very well be used by giant chain processors in fighting local dairy farmers who are continuously working to improve their own price structure. Furthermore, it offers the opportunity of surplus milk not a year round supply being used to totally demoralize a local market. Furthermore, cheap surplus milk that moves into a market on a temporary basis generally means that consumers in that market do not benefit from lower prices but the difference is picked up by the processors.

All of us in the dairy industry are proud of the quality of milk that is available in any market in the United States. Certainly, anyone can walk into any grocery store anywhere in the United States and be assured of getting a safe high quality bottle of milk. In no other country of the world can milk buyers have such confidence. We submit that this high quality has come as a result of local inspection and local authorities working with local farmers. We request the committee not to change a program that has accomplished so much in providing consumers with the best and safest milk supply in the world.

Mr. THOMSON. Is your State also in a modified area for brucellosis?

Mr. SUMMERS. Yes, sir.

Mr. THOMSON. And what is the requirement for butterfat in milk? You said your solids, nonfat, was 8.5, and the U.S. Public Health standard is 8.25?

Mr. SUMMERS. Well, perhaps—correction—I am not sure that U.S. Public Health Ordinance and Code actually spells out the solids, nonfat, content of milk. Ours does. In most military establishments, the contract calls for 8.25.

Mr. THOMSON. And that is what H.R. 50 calls for?

Mr. SUMMERS. Yes.

Mr. THOMSON. 8.25?

Mr. SUMMERS. Yes. And on fat, it is 3.5 percent in our ordinance.

Mr. THOMSON. Now, your statement says that this bill is an effort to provide relief to dairy farmers located in the Midwest. What do you mean by that statement?

Mr. SUMMERS. Well, it seems to me that it is an effort to force milk to come into a market when local buyers currently can refuse to take it. Under the provisions of this bill, they would not have a chance to refuse it if it met certain standards at the point of origin, those standards being approved by the U.S. Public Health Service.

Mr. THOMSON. Now, does your association ship any milk out of the State of Tennessee?

Mr. SUMMERS. Yes, sir.

Mr. THOMSON. I notice that Tennessee ships to eight additional States.

Mr. SUMMERS. Yes, sir. We ship regularly to the State of Kentucky—by "regularly," I mean every day—and we have in times past shipped to quite a few Southern States.

Mr. THOMSON. Alabama, Arkansas?

Mr. SUMMERS. I do not recall we have ever shipped to Alabama or Arkansas. It has been Florida, North Carolina, as well as Kentucky.

Mr. THOMSON. South Carolina, Virginia, and Georgia?

Mr. SUMMERS. I do not think we ever shipped to any of those. The three States that we have shipped to are Kentucky, Florida, and North Carolina.

Mr. THOMSON. Does your State still have chapter 74 of the laws of 1955?

Mr. SUMMERS. I am not familiar with just what that law is, sir.

Mr. THOMSON. Well, that is the law that says that you cannot sell milk in the State of Tennessee unless it is produced in a marketing area.

Mr. SUMMERS. No, sir; that law does not still exist.

Mr. THOMSON. Was that repealed by your legislature, or was it repealed by a court action?

Mr. SUMMERS. It has been repealed by several court actions.

Mr. THOMSON. Now, would not your producers like to be treated fairly in the export of their milk products and avoid arbitrary trade barriers, Mr. Summers?

Mr. SUMMERS. Well, being from the State of Tennessee, sir, we just do not like more Government regulations.

Mr. THOMSON. Well, you are not alone in that.

Mr. SUMMERS. I am glad of that, sir.

Mr. THOMSON. I sometimes think that theory is not apparent in the activities in this Congress.

Mr. SUMMERS. I agree with you, sir.

Mr. THOMSON. Do you think the State of Tennessee or the ordinances of Nashville are superior to those of the U.S. Public Health Service?

Mr. SUMMERS. Yes. I cited the two instances in which they are.

Mr. THOMSON. That is the annual test for TB?

Mr. SUMMERS. And what is in the milk, extra fat and extra solids, nonfat.

That is what the consumer buys, the nutrients that are in the milk. And our ordinance requires more than this.

Mr. THOMSON. But you say the Government contract purchases generally——

Mr. SUMMERS. The military contracts specifications usually set out 3.25 as a minimum in fat, and 8.25 as a minimum of solids, nonfat.

Mr. THOMSON. And outside of those two instances that you have listed, are those the only two in which you are superior to the U.S. Public Health standards?

Mr. SUMMERS. That is right.

Mr. THOMSON. I think that is all, Mr. Chairman.

The CHAIRMAN. Mr. Summers, thank you very much.

This will conclude the hearings this afternoon. The committee will adjourn until 10 o'clock in the morning.

(Whereupon, at 4:40 p.m., the committee recessed, to reconvene at 10 a.m., Tuesday, August 1, 1961.)

NATIONAL MILK SANITATION ACT

TUESDAY, AUGUST 1, 1961

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to recess, at 10:10 a.m., in room 1334, New House Office Building, Hon. Oren Harris (chairman of the committee) presiding.

The CHAIRMAN. The committee will come to order.

Mr. NELSEN. May I ask a question?

The CHAIRMAN. Yes.

Mr. NELSEN. Mr. Chairman, I have examined the list of witnesses who are to appear. Yesterday we heard from the Department of Health, Education, and Welfare and I note on the witness list that the Department of Agriculture is not scheduled to appear.

The point I wish to make is this, these marketing orders, and all of the related problems dealing with this bill are so complicated and so interrelated that I feel, due to the fact that Mr. Freeman did appear a year ago, we should have a statement from the Department of Agriculture before this hearing is completed on this legislation.

Thank you.

The CHAIRMAN. The committee will make every effort to obtain reports from all of the departments of Government concerned with this program, as we usually do, in all cases.

Our first witness this morning will be our colleague from South Carolina and member of this committee, the Honorable Robert W. Hemphill.

STATEMENT OF HON. ROBERT W. HEMPHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. HEMPHILL. Mr. Chairman and members of the committee, I appreciate your giving me time to appear before the committee and to present the views of the South Carolina Dairy Association for your consideration in connection with H.R. 50 and related legislation. I would like to include at the end of my statement a very fine presentation prepared by Mr. W. L. Abernathy, Jr., executive director of the South Carolina Dairy Association, a native of my county, and a warm personal friend. Mr. Abernathy is an expert in the field of dairy farming, and has dedicated his life and his interest to that advocation.

South Carolina has wide and varied dairy interests which are of great value and strength to the economy of South Carolina. Not only are they a source of great economic strength, but through promotion and industry, we have developed some of the finest herds in the

United States. Among those are some of the finest Guernsey herds in the world, and my native county is known as the Guernsey center of Dixie.

The South Carolina Dairy Association is composed of patriotic and dedicated dairy farmers who have lent their efforts to giving the best milk and the most sanitary milk. I am proud of the sanitation laws that are on the books of South Carolina because of the effort of these people to have the finest milk for our people. They have accomplished much, and the State owes them a debt of gratitude because our milk is good, and second to none.

I now present the statement of Mr. Abernathy for your consideration:

SOUTH CAROLINA DAIRY ASSOCIATION, INC., CHESTER, S.C.

The following is a short statement of our position with respect to H.R. 50:

1. Conditions under which milk is produced in the various sections necessarily must vary because of the influence of climate and other factors affecting the sanitary production of milk; i.e., housing, requirements in the cold versus temperate climates, general difference in size of herds peculiar to different sections of the country, difference in quality of labor.

2. Food habits are generally recognized to be rather stable and change very slowly. Children, particularly, are very sensitive to quality in milk. As an example, the minimum butterfat requirement in South Carolina is 3.8 percent and the requirement in a number of cities is 4 percent. Any radical change would adversely affect consumption.

3. It is impossible to imagine a bureaucratic, centralized, Government agency being sensitive to the localized problems which are fully understood only by local people.

4. It is a known scientific fact that fluid milk deteriorates with age. It must be assumed, therefore, that the further fluid milk is transported from source of supply to the consumer's doorstep, the greater the deterioration.

5. The bill proposes that regular employees of a designated State agency having supervision over milk sanitation, will be recognized as official Federal inspectors. Experience in South Carolina has shown that in a number of cases, milk supplies in certain areas, from without the State, have come from farms that are infected with Bangs disease and tuberculosis despite the fact that they are under State supervision.

South Carolina has no law administered either through the health department or the South Carolina Dairy Commission which will prohibit any milk being shipped into South Carolina, provided it meets the requirements imposed upon the milk producers in the State of South Carolina. Actually, when South Carolina was in short supply several years ago, large quantities of milk were imported from other sections of the country and no difficulty was met in this procedure.

6. The State of South Carolina is now supplying all of its fluid milk requirements. Its surplus supply goes into manufactured dairy products just as in other States.

7. The State of South Carolina has spent a lot of time and money and effort in developing a sound and substantial dairy industry to meet the consumers requirements for fluid milk and its fresh byproducts. The industry in this State sees no reason why the quality standards for milk products should be lowered to the level which is supposedly anticipated by the proponents of this bill. Sufficient proof of this statement is the present standards for sanitary production geared to South Carolina's needs as compared to the national milk ordinance and code.

8. The bill as proposed intends to use State employees of the agency, which is charged with regulating the sanitary production of milk, to inspect and rate those plants involved in interstate milk shipment, yet the individual State is not allowed under the measure to impose its own locally adapted sanitation regulations.

9. A recent inspection of an out-of-State milk supply by one of our inspectors revealed that one of the States from which the milk originated does not require dairy herds to be tested annually for tuberculosis and brucellosis, yet this milk

supply has a favorable U.S. Public Health Service rating. We believe that such variations in sanitary requirements between States might adversely affect the health of our people.

Thank you, Mr. Chairman, that is the end of my statement.

The CHAIRMAN. Thank you, Mr. Hemphill, for a fine statement. If there are no questions, we will now hear from our colleague from the State of New York, the Honorable Samuel S. Stratton.

We are glad to have you.

STATEMENT OF HON. SAMUEL S. STRATTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. STRATTON. Mr. Chairman and members, I am appearing this morning in opposition to H.R. 50, introduced by our colleague, Mr. Johnson of Wisconsin, the so-called national milk sanitation bill. This is a somewhat familiar piece of legislation, Mr. Chairman. I apologize for not having a specifically prepared statement, but my remarks will be very brief.

I testified against this bill last year and I am testifying against it this year. And I do so because in my district there are very large dairy areas, in fact, the 32d Congressional District of New York has, probably, some of the major and richest dairying country in New York State. And as I am sure you are familiar, Mr. Chairman, in spite of the fact that New York is often thought of as a great industrial State and, indeed, it is, it is my understanding that dairying, is, actually, the single largest industry in the entire State.

This bill was also opposed last year, and I am sure that it would be opposed this year, by the State agricultural department, although I do not know whether they have scheduled their appearance here. I know their position would be very similar to mine. I am sure their view is the same today as it was last year.

Mr. Chairman, I oppose this legislation for two reasons: One, because this bill would, in effect, break down and disrupt the existing sanitary standards that have been built up by local communities, States and cities in our areas to protect the health of their people with respect to the consumption of milk. These standards have been built up over the years.

In my area the milk provided flows largely into the New York City milk shed, and there is a very elaborate and careful system of health inspection that has been created by the city of New York for the protection of the people of the city of New York.

I think that no matter how well intentioned the objective of this bill might be, its practical effect would be to break down these standards, it seems to me, and to substitute something that would be unproved and undemonstrated for something that has demonstrated its ability to protect the health of the people of the largest city in the world.

It does seem to me that we cannot afford to tamper with the health of our citizens by substituting untried measures for those that have demonstrated their effectiveness.

Secondly, Mr. Chairman, I oppose the legislation because, in my judgment, this is really less a health measure than an economic measure. Those who are supporting this legislation, if my information is correct, are, perhaps, less interested in the health position than they

are in changing the economic flow of the commodity milk. And it is my belief, from information I have, that those who are supporting this legislation do so in the expectation that if it is adopted there will be a change in the flow of the commodity of milk, and, in a very specific sense as far as New York State is concerned, a greater opportunity for milk from the Midwestern States to move into New York State, particularly in those periods of time when there is a surplus of this commodity in the West.

As you know, Mr. Chairman, milk has been a commodity which has had its economic problems. We have worked out over the years a relatively satisfactory system for dealing with surplus milk. I can recall the day not too many years ago when we had milk strikes in New York State, before those milk orders went into effect at both the State and Federal level which were designed to deal with this surplus of milk, and to try to guarantee to the dairy farmer a reasonable return in spite of some of the seasonal fluctuations in the supply of his product.

Very basically H.R. 50 would upset these procedures that have been developed over the years, Mr. Chairman. I am certain that the net result, so far as the dairy farmers of New York that I have the honor to represent are concerned, would be that they would have a loss in income, and there would be instability in a situation that already has had too much instability. And I think the net effect would, certainly, not be one except of damage to economic procedures and arrangements that have been built up over the years.

I might make one other point, Mr. Chairman, and that is that I appear here this morning with ever more of a mandate from the people I have the honor to represent on this particular subject than was the case when I appeared here last year, though I think I spoke for them, as I believe I do now. And the reason for this is that the question of a milk sanitation bill featured very largely in the 1960 Presidential campaign in New York State. Our Republican friends charged in paid advertisements throughout New York State that if President Kennedy was elected the markets of New York State would be flooded overnight with western milk and that there was waiting around the corner somebody, as soon as the inauguration ceremony was over, who would begin pouring their stuff into our area and thereby disrupting the livelihood of the farmers in New York State. And Republican farm spokesmen and Republican leaders in New York State made this one of the major issues of their campaign.

I might say, Mr. Chairman, that this was somewhat odd, since, as a matter of fact, the Republican national platform contained a specific provision which supported a national milk sanitation bill. At any rate the farmers of New York State were strongly opposed to such legislation. And in my own campaign, I said while there has been a certain amount of ambiguity on the part of the national platforms on this legislation, I opposed it last year, and I intend if, reelected, to strongly oppose it this year. And so having been fortunate enough to get support at the polls, Mr. Chairman, I come here today to oppose this legislation with a renewed mandate and in line with the wishes of my people.

I am certain that the farmers of New York State are opposed to it. I am happy to be their spokesman, Mr. Chairman, and to oppose any

legislation that would be disruptive of this great dairy industry in our State.

I thank you.

The CHAIRMAN. Mr. Stratton, thank you very much for your testimony. Are there any questions of Mr. Stratton?

Mr. YOUNGER. Yes, I have some.

Mr. Stratton, in order to clear the record, so long as you brought politics into it, I would like to quote from the testimony that your colleague and mine, Lester Johnson, author of H.R. 50, gave to the committee yesterday, endorsing the principle of the national milk sanitation legislation, in which he stated as follows:

> In endorsing the principles of national milk sanitation, President Kennedy noted our Constitutional Convention was origially formed in order to promote interstate commerce and its free flow.

I understand the President made quite a speech out in Wisconsin during the campaign on behalf of this legislation. I am surprised to see you differ with the president of your party.

Mr. STRATTON. Mr. Chairman, I might say to the gentleman from California that when that specific charge was raised against the President, who was then a candidate, he sent a telegram into our area and made it quite clear that these charges against him were not based on fact, and that he had not supported this national milk sanitation legislation.

My point, however, Mr. Chairman, was that while there may have been some ambiguity on both sides of the political fence nationally with regard to this legislation, since the platform of our Republican friends, as I have said, spoke in favorable terms with regard to it, at least as far as the farmers of New York State were concerned, there was no question where they stood, and there is also no question where I stand. And I am down here trying to represent them and I mention this incident not so much to create an argument between our two great parties, as to indicate the sense in which this issue entered into the 1960 campaign in New York State and the way in which my own opposition to this bill was ratified by my constituents.

Mr. YOUNGER. How many dairy farms do you have in your district?

Mr. STRATTON. I have not made any specific census of them, but I would imagine that we have 10,000 or 20,000 in my district.

Mr. YOUNGER. It is quite a dairy farming district?

Mr. STRATTON. Yes, Otsego County, Montgomery County and Fulton County in New York State are all heavy dairy areas. I am not a farm boy myself. I can milk a cow if pressed. I have spent a lot of time trying to understand the dairy industry. I am not sure that I understand all aspects of it now, but, certainly, it is an important and fascinating industry.

Mr. YOUNGER. Thank you very much.

The CHAIRMAN. Mr. Byrnes, did you want to make a comment before you leave? We will be glad to hear you right now.

Mr. THOMSON. I have a question of Mr. Stratton.

The CHAIRMAN. Would you permit Mr. Byrnes to make a brief statement?

Mr. THOMSON. If Mr. Stratton will remain.

The CHAIRMAN. Yes. You may proceed, Mr. Byrnes.

STATEMENT OF HON. JOHN W. BYRNES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. BYRNES. I appreciate this very much. I do not want to interfere with any other witnesses. I would say that I would like to be recorded as being wholeheartedly in favor of the legislation, and ask permission to revise and extend my remarks in the record.

The CHAIRMAN. Very well. You may have that permission.

(The statement of Hon. John W. Byrnes follows:)

STATEMENT OF HON. JOHN W. BYRNES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. Chairman, as one of the sponsors of the national milk sanitation bill, I urge this committee to report it favorably to the House for action.

In view of the hearings held on this bill last year, and the statement I submitted then, I will not take a great deal of your time, but I do want to emphasize two things:

First, this bill, if enacted, will assure high sanitary standards for milk which moves in interstate commerce. Second, it will permit milk of high quality to move freely, unhampered by artificial sanitary barriers. The objective is a more flexible and more efficient national milk distribution system.

Wisconsin milk producers, many of whom I represent, have a stake in such a distribution system. They feel they have the right to compete, if they can meet the high sanitary standards provided in this bill, with producers everywhere, and that is all they ask. The result of that free competition, I sincerely believe will be protection for consumers against any possibility of local monopoly fostered by local import restrictions.

These objectives of the bill—high sanitary standards for one of our most important foods, free competition, and consumer benefits—are of special concern to this great committee. I know you will keep them in mind as you deliberate on this important measure.

Mr. KEITH. If Mr. Stratton is going to subject himself to some questioning, perhaps, we may want to have the same privilege for Mr. Byrnes.

The CHAIRMAN. I do not know whether Mr. Byrnes desires it.

Mr. BYRNES. I will be glad to submit to questions if it is the desire of the committee.

The CHAIRMAN. Thank you very much. We understand your situation. Mr. Thomson.

Mr. THOMSON. Thank you, Mr. Chairman. I was interested, Congressman Stratton, in your two points of opposition to this legislation. The first one was that you said that this type of legislation would break down the sanitary standards of States and municipalities. Would you elaborate for us just what those standards are that you consider less or greater than the public health standards and the milk ordinance and code of the Surgeon General?

Mr. STRATTON. Well, I do not think, Mr. Thomson, that it is a matter whether they are lesser or greater. The fact of the matter is that we do have in operation certain health procedures. For example, the city of New York has an efficient and highly effective system which is handling and has handled for many years this matter of milk inspection. Here you have an existing operation which has proved satisfactory.

It is attuned to the particular needs and requirements of the city of New York. I just do not think that somebody sitting here in Washington can prescribe health measures for the city of New York that are likely to be more effective and more beneficial than those pre-

scribed by the people of the city of New York themselves can who are familiar with their own situation.

Mr. THOMSON. Let us get down to specifics, Congressman. Will you name one area in which you think the ordinance in the city of New York is of greater protection to the consumer than is the milk ordinance and code of the Public Health Service?

Mr. STRATTON. What I am trying to say, and I may say to the gentleman from Wisconsin, is not that it is so much a matter of written laws, but that it is a matter of the procedures and mechanics by which they are actually carried out. You can put anything down on paper, but that does not mean that you are going to get the results you want.

I do not have the code of the city of New York in front of me, so that I could not compare it with H.R. 50, but the point of the matter is that in my judgment we have an operation which, in practice, has been successful.

We have people who are trained to do it.

I do not think you can reproduce that result simply by writing letters on a piece of paper and saying, "This is the code as of today" and think that as a result everything that would implement it would spring into being overnight.

Mr. THOMSON. Congressman, your State, and, presumably, the 10,000 dairy farmers in your district are already exporting milk to other States. You are exporting to Connecticut, Massachusetts, New Jersey, Pennsylvania, Rhode Island, and Vermont.

Mr. STRATTON. As a matter of fact, there is very little export from my area. There are certain fringe areas of New York State, along the borders of Connecticut, that do export into Connecticut, but almost entirely the milk in my section, and in the bulk of New York State, goes either into New York City or into the cities in upstate New York.

Mr. THOMSON. Can you tell us whether the city of New York follows the laws and regulations of the State of New York, or whether they have additional health requirements in the city of New York?

Mr. STRATTON. I believe they have additional health requirements. I cannot answer that positively, but that is my impression, yes.

Mr. THOMSON. I notice in the comparison between the laws of the State of New York on this subject, and the milk ordinance and code that one difference in the New York laws and the code and milk ordinance of the Public Health Service is that in New York the State or the local permit issuing officials are required to inspect milk processor plants initially and, at least, annually thereafter, whereas the Public Health Service Code requires an initial inspection and a further inspection, at least, every 6 months.

Would not you think the more frequent inspection was more desirable?

Mr. STRATTON. Well, as I say, I am not familiar with the details of the New York City inspection code. The point I made earlier is the one that I think is the relevant one, namely, that you have a functioning operation here. I think that this is something that has been successful, whether it is carried out on a yearly or a semi-annual basis, whichever it is. It is, certainly, successful because we have protected the health of the people of the city of New York so far as milk is concerned.

Mr. THOMSON. Well now, Congressman, I notice that the State of New York, also, imports milk from Connecticut, Massachusetts, New Jersey, Pennsylvania, and Vermont. Presumably those States from which you import meets the health standards of the city of New York, do they not?

Mr. STRATTON. I think that anybody who wants to sell milk in the city of New York—any producer—has got to meet the requirements of the health code of the city of New York.

Mr. THOMSON. If the Public Health Service Code is, in fact, superior to that of New York, would it not be desirable to have milk meet that higher standard?

Mr. STRATTON. As I say, I have no way of knowing that it is superior. I have not had a chance to put the two together. All I know is that we have something that works satisfactorily. I, certainly, would not accept your assumption that the code outlined here is superior. It may be. I am not aware of it, however.

Mr. THOMSON. Here is another requirement of the code. The Public Health Service milk ordinance and code is very specific relative to laboratory examination of milk and milk products, and it requires that at least four samples will be collected and examined during each 6-month period while the New York regulations do not specify that. Do you not think it more desirable to make frequent tests of the milk?

Mr. STRATTON. I am not familiar enough with the details of milk testing to know whether a particular test ought to be made at a particular interval or not. I am afraid that this is outside of my sphere of technical knowledge, but as I say, we have got something that works in New York City and I think that is the test and not what you write down on a piece of paper as being your theoretical requirement.

Once again, I think that the important thing is to have the code administered by people who are familiar with the local situation and not by somebody from Washington.

Mr. THOMSON. Have you read the bill which authorizes the importing State to make the test to determine whether it meets the standards. You would approve of that, would you not?

Mr. STRATTON. We have a local operation going on now and I would prefer to maintain that rather than to supplement it with something that is nationally controlled, but which you call local. Obviously, we are getting away from it.

I still subscribe to the old theory that if the local people can do the job best, then we ought to leave it there and not bring it down to Washington to be handled down here.

Mr. THOMSON. That is a novel philosophy to be expounded in this Congress, is it not?

Mr. STRATTON. I do not think it is particularly novel. It is something I have always subscribed to, and I think there are a lot of people of New York State, especially in the rural areas, who feel the same way I do on this.

Mr. THOMSON. Well, you say your second objection is that this is less a health regulation than it is an economic regulation. New York State passed a law that attempted to prohibit the sale of milk in the State of New York which had been brought in, in this instance, from the State of Vermont, unless the price paid to the producers outside the State was the same price it would be lawful to have a like transac-

tion in the State of New York. Would that type of economic barrier be abhorrent to you?

Mr. STRATTON. As I said, we have in New York State—and I am sure this situation exists elsewhere—but I am familiar with New York State and our problem—we have a problem of a surplus of milk. And in the past we have had, before these milk orders of the State, and, subsequently, the Federal order were set up, we had a situation where the farmer was getting virtually nothing for his milk. We had milk strikes. We had milk being poured out into the ditch which, to me, is something tremendously abhorrent. It was in order to eliminate this kind of thing and to try to stabilize the milk market in New York State that these regulations were put in and that the Federal order was subsequently put in. I, certainly, do not think that the farmers in New York State are to be criticized for wanting to try to stabilize the market so that they can have some reasonable hope of a decent income.

Frankly, even now that income seems to be declining and they are having trouble. And believe me, in spite of what you may have heard to the contrary, the farmers of New York are not buying Cadillacs. Most of them are lucky enough to make ends meet. And it is this kind of economic squeeze that has led to the type of protective legislation to which you refer.

Mr. THOMSON. Well, is it your opinion that this proposal, H.R. 50, has any effect whatever upon the milk marketing orders?

Mr. STRATTON. Well, it, certainly, will, because it will open up the amount of milk that can come into New York State; therefore, it will increase the amount of surplus that is likely to remain.

Mr. THOMSON. Didn't you oppose milk coming into New York State, but you favor the export of your surplus milk, is that your position?

Mr. STRATTON. No; I said that we have very little surplus that is exported. There are some farms in New York State that are just over the line from the State of Connecticut that export into Connecticut, but as a practical matter virtually all of the New York dairy farmers, particularly those, at least, in my area of central New York, do not export out of the State; they export into the New York City milkshed.

Mr. THOMSON. Connecticut joins New York?

Mr. STRATTON. That is true.

Mr. THOMSON. And you export to Connecticut?

Mr. STRATTON. Well, I just answered the question by saying that——

Mr. THOMSON. Is Massachusetts an adjoining State, also?

Mr. STRATTON. That is correct, yes.

Mr. THOMSON. You export to Massachusetts?

Mr. STRATTON. I am not aware of any substantial amount of export, no.

Mr. THOMSON. In the hearing of the 86th Congress, the testimony showed that.

Mr. STRATTON. There may be some from farms located near the border.

Mr. THOMSON. And New Jersey adjoins New York, and you export to New Jersey?

Mr. STRATTON. Only insofar as this is part of the metropolitan area of New York City.

Mr. THOMSON. And Pennsylvania adjoins New York?

Mr. STRATTON. Well, Pennsylvania is included, as Mr. Curtin is well aware in this overall order.

Mr. THOMSON. And you export——

Mr. STRATTON. But somewhat reluctantly.

Mr. THOMSON. How about Vermont?

Mr. STRATTON. I am not familiar with that.

Mr. THOMSON. You even export to Vermont?

Mr. STRATTON. As I say, the exporting in these areas, I think, is a relatively small percentage of the total production.

Mr. THOMSON. That is all. Thank you.

Mr. STRATTON. All of this demonstrates that the existing situation, certainly, is quite satisfactory.

Mr. THOMSON. You prefer the status quo to progress, is that your position?

Mr. STRATTON. Oh, no, I would say I am always in favor of real progress, but I do not want to take a step backward under the guise of progress.

Mr. THOMSON. Thank you.

The CHAIRMAN. Are there any further questions?

Mr. KEITH. I would like to compliment the witness on his testimony. And from the exchange that has taken place I would come to the conclusion that the regulations between the several States in the northeastern part of the country have worked out satisfactorily in the exchange of milk from Massachusetts to New York and vice versa. Thank you very much, sir.

Mr. STRATTON. I think that is very true. I appreciate the gentleman's comments that it is a very satisfactory situation and that is why I do not want to take a backward step under rather dubious supposition that this might be progress.

The CHAIRMAN. Thank you very much.

Mr. STRATTON. Thank you again.

The CHAIRMAN. We are very glad to have our colleague from Vermont here, Mr. Robert T. Stafford. We will be glad to hear you now.

STATEMENT OF HON. ROBERT T. STAFFORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VERMONT

Mr. STAFFORD. Mr. Chairman and members of the committee, I appreciate this chance to speak very briefly in opposition to H.R. 50, on behalf of the dairy producers of the State of Vermont.

The production of high-quality fluid milk is one of the important activities in Vermont, and an important segment of the economy of our State.

I shall not attempt, after listening to the questions directed to the previous witness, to pose here as an expert in problems affecting the milk industry, but while I have had the privilege of serving in the State of Vermont as part of the State government and as its Governor, I became particularly well acquainted with Elmer Towne who is the commissioner of agriculture of Vermont and has been for some years. Mr. Towne is going to apear as a witness before this committee. We in Vermont consider him to be an expert upon agricultural affairs in our State and region. He will have a statement in reference to this legislation.

I appreciate this chance to associate myself on the record with what he will say to the committee and to endorse the statements which he will make in reference to it.

Having heard the discussion with the previous witness relative to milk and the importation and exportation between the New England States, I might say that a substantial amount of Vermont fluid milk is exported to Massachusetts which, I believe, may account for the robust, good health enjoyed by the member from Massachusetts on this committee.

I thank the chairman for the opportunity to make this statement.

The CHAIRMAN. Thank you, Mr. Stafford. We are very glad to have your statement.

We now would like to call on Mr. Robert W. Kastenmeier, our colleague from the State of Wisconsin.

STATEMENT OF HON. ROBERT W. KASTENMEIER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. KASTENMEIER. Mr. Chairman, members of the committee, I appreciate this opportunity to appear before you to testify on this legislation. I want to thank you for your consideration in scheduling a hearing on my bill, H.R. 53, and the similar bills introduced by my colleagues from Wisconsin and other States.

Mr. Chairman, the bill we are considering today is designed to simplify, clarify, and streamline the interstate flow of milk. Today, as you know, there is a great maze of barriers to the flow of interstate milk. Local markets have set up camouflaged tariffs within the Nation which seek to keep milk from competitive entry into protected markets. In the form of strange and specially written milk sanitation standards for local markets, various areas of the country have given in to special interests who demand protection. Because there can be no tariffs within the United States, these special interests have resorted to the use of so-called special milk sanitation regulations to keep milk produced elsewhere in the country out of their markets.

The legislation we are considering seeks to pull away the veil of camouflage from these barriers to trade. It provides that any milk that meets the U.S. Public Health Code must be allowed into local markets. By substituting this uniform and high standard of sanitation, this legislation would unmask the "protectionists within" and would cleanse the channels of interstate commerce from the use of unfair protective camouflages.

Mr. Chairman, the United States Code is comprehensive, up to date, and usable. Many cities and States have already been using it as the health standard for their own people. Moreover, modern refrigeration and insulation techniques have made it possible to transport milk over long distances without losing any of its nutrition, taste, or wholesomeness. For these reasons, arbitrary local standards are neither necessary nor desirable to insure the safe shipment of milk. Neither are they necessary to insure high sanitation standards before shipment. Milk produced in Wisconsin meets the highest sanitation standards. Constant inspection before, during, and after transit to the processing plant assures continuous protection.

Although the question of sanitation is really not in doubt, local camouflaged barriers have a dual effect upon the Nation's economy. They obviously hurt the producers by setting up unfair barriers to competitive trade. The United States is rightly considered the largest free trading area in the world. By stringing nets of camouflaged trade barriers throughout the country, special regulations interfere with the free workings of the market and thereby destroy all of the benefits which flow from competition. Moreover, and extremely important to a great number of people, by keeping consumers from the low cost producing areas, these barriers to trade raise the price of milk in local markets.

As I am sure you can see, the use of special and complicated sanitation standards to preserve the privacy of monopoly markets affects us all as consumers, and many Wisconsin people as producers. The legislation we are considering today would seek to destroy these monopolies and yet preserve the very highest milk sanitation standards possible.

Mr. Chairman, I want to thank you for this opportunity to present my views on this legislation, and I would like to urge its favorable consideration.

The CHAIRMAN. Thank you very much for being here today, Mr. Kastenmeier.

We now would like to hear from Mr. Henry C. Schadeberg, our colleague who is also from the State of Wisconsin.

STATEMENT OF HON. HENRY C. SCHADEBERG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. SCHADEBERG. Mr. Chairman and members of this committee, I appreciate the opportunity to testify in support of H.R. 50, the national milk sanitation bill introduced by Congressman Lester Johnson. As consponsor of H.R. 1825, an identical bill, I urge that the free flow of high-quality milk from State to State be permitted.

This legislation would remove the unnecessary barriers imposed by State or local laws to the movement in interstate commerce of milk which meets the standards of the U.S. Public Health Service. Then Wisconsin dairies can ship their milk to markets in New York, Washington, Baltimore, Philadelphia—anywhere it is economically feasible to transport this top-quality milk. The consumers will benefit from the competitive prices which will result from the lifting of barriers in States where milk monopolies formerly existed.

In addition to the benefits resulting from the free flow of high-quality milk in interstate commerce, it is my contention that any discrimination in the shipment of a commodity from State to State (interpreted to mean one set of standards for one State and another for another State) should not be allowed. If the free enterprise system is to survive, we cannot allow "standards" to be set up and used to prevent the interstate shipment of commodities.

The CHAIRMAN. Thank you, Mr. Schadeberg. Our next witness is the Honorable Clem J. Zablocki. You may proceed, sir.

STATEMENT OF HON. CLEMENT J. ZABLOCKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. ZABLOCKI. Thank you, Mr. Chairman.

First, I would like to extend my appreciation to the committee for affording me the opportunity to express my views in support of the national milk sanitation legislation.

I have cosponsored this legislation because, while on its face value it appears strictly to deal with an agricultural problem, it is of considerable importance to the consumers of dairy products throughout our Nation.

The consumer is frequently being mistreated by current milk sanitation regulations which, under the guise of protecting the public health, operate to the detriment of the average urban consumer. Some of these current regulations lead to the Balkanization of our country's milk market—the very situation which the proposed National Milk Sanitation Act of 1961 is attempting to correct.

I would like to make it clear that I shall always support necessary and adequate health standards to protect the public. I cannot, however, lend my support to discriminatory and arbitrary health requirements which are promulgated for the express purpose of preventing the entry, into certain markets, of wholesome dairy products from other areas. Under such health regulations, some milk producers are able to establish monopolies in given localities—monopolies which inevitably work to the disadvantage of the consumer.

The proposed legislation which is being considered by your committee seeks to insure the free movement of milk, good healthful milk that meets the standards of the U.S. Public Health Service, in interstate commerce. It would not interfere with, or duplicate, local or State health standards applicable to dairy products and necessary to protect the public health. At the same time, however, it would afford the consumer the opportunity to purchase quality dairy products at the lowest possible price.

As a representative of an urban district, whose residents consume substantial quantities of dairy products, and which is located in "America's Dairyland," I cosponsored the National Milk Sanitation Act of 1961 because it embodies the principle of aiding the well-being of the consumer, as well as promulgating fair practices in the milk industry.

Mr. Chairman, because of these factors, I sincerely hope that the proposed legislation will receive favorable consideration from your committee.

Thank you, Mr. Chairman.

The CHAIRMAN. We thank you for giving a fine statement, Mr. Zablocki.

I believe Mr. Langen is our next witness. Will you proceed, Mr. Langen?

STATEMENT OF HON. ODIN LANGEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. LANGEN. Thank you, Mr. Chairman.

First, permit me to express my gratitude to the chairman and each of the members of the committee for the opportunity to present my views in support of H.R. 50, which bears great significance to the dairy industry not only in my State but throughout the Nation. I shall be very brief in my comments so as not to be repetitious with the many other formidable statements that have already been made.

As a former member of the Minnesota State Legislature, this legislation has been of interest to me for quite some time. Minnesota is one of the leading States of the Nation in the production of milk, and has been recognized over the years as a State that does produce the finest quality milk. During my period of service in the State legislature, action was taken by the legislature and supported by the Governor, in attempts to provide an expanded market for the supply of milk produced in Minnesota. All of these attempts were met with superficial barriers in many areas which would not permit the dairy farmers of Minnesota to equitably participate in many markets which should be available to them. Statistics have shown that Minnesota has the potential of producing the highest quality milk at a very low cost. Consumers throughout the Nation should be entitled to the savings that could be accomplished by making these advantages available to them.

It, therefore, seems only fair and just that the legislation should be given adequate consideration as to its possibilities in establishing uniform standards that would permit a competitive market to prevail throughout the Nation.

Again, may I thank the chairman and the members of the committee for their diligence in reconsideration of this legislation and hope that your judgment will dictate favorable consideration which, in my opinion, would serve the best interest of both dairy farmers and consumers.

The CHAIRMAN. We thank you for appearing here today, Mr. Langen.

The Chair would like to say that we have quite a number of witnesses here this morning to be heard. A number of them are from outside of the city of Washington. Our time is slipping up on us and we will not be able to meet this afternoon. There are other scheduled hearings that have been announced. I am not sure when we can get back to this subject. I make this statement for the information of the committee in order to try to get to as many witnesses as we can during this morning.

Our next witness is Dr. Joseph C. Olson, Jr., professor of dairy bacteriology, University of Minnesota. You may proceed, sir.

STATEMENT OF DR. JOSEPH C. OLSON, JR., PROFESSOR OF DAIRY BACTERIOLOGY, UNIVERSITY OF MINNESOTA

Dr. OLSON. Mr. Chairman and members of the committee, I have a prepared statement which I would like to have filed in the record of these hearings. And then I would like to summarize it briefly in the interest of conserving your time.

The CHAIRMAN. Your statement will be included in the record.

Dr. OLSON. Significant events have occurred in the development and application of milk sanitation standards in the interest of public health. Likewise, significant developments have taken place in the technology of milk production, processing, and distribution, in the application of milk and sanitation standards in the interest of public health. This has taken place over a good many years. And this has really led to the need for a uniform, nationwide system of milk control. And the need for this is evident, because it would permit the dairy industry and regulatory industries to take advantage of the progress that has been made. And this advantage is for the ultimate benefit of the consumer.

It is my firm conviction that the National Milk Sanitation Act would provide for the fulfillment of this need.

In essence, the National Milk Sanitation Act would prevent the exclusion of any grade A milk supplies from any market in the United States. I would like to emphasize this term "grade A," because the act in effect specifies that unrestricted distribution of milk applies only to milk which has been produced and processed in conformance with the current edition of the milk ordinance and code, recommendations of the Public Health Service. And the general acceptance of this milk ordinance and code throughout the country really establishes in the minds of most people that grade A milk is milk that conforms with this regulation or this ordinance. Consumers have a great confidence in milk bearing the grade A label. And such acceptance and confidence is amply justified, yet there are those who question the readiness of this country for a national uniform system of public health control of milk supplies based upon sanitation standards which are widely adopted, accepted, and effective.

And I think that we only need to recognize a few facts to fully appreciate that this country needs a uniform system of milk control and needs the provisions of this National Milk Sanitation Act.

I would like to point out just a few of these facts, as they become evident.

We have heard testimony relative to the chaotic situations that have developed in the past as city after city promulgated requirements, piled them one on top of the other, many of these with no relationship to health, many of them confusing. The important fact is that this lack of uniformity was recognized a long, long time ago. It was recognized not only by the American Public Health Association, it was recognized by the Public Health Service, by local enforcement agencies, it was recognized by industry. The result of this recognition was the development of the milk ordinance and code of the Public Health Service.

I think it is important to recognize that the National Milk Sanitation Act implies that the provisions of this ordinance are to be used to govern the sanitary control of milk supplies under the jurisdiction of this act. There is great justification for this.

In the preparation of successive editions of this ordinance the Public Health Service has effectively used the counsel and advice of an advisory board composed of competent dairy and food scientists, administrators and sanitarians from all regions of the United States, including areas that are represented at these hearings by persons

testifying in opposition to this bill. The results of an extensive research in chemistry and bacteriology of milk and milk products and processing of milk have served as bases for many of the requirements included in this ordinance. I would like to point out that much of this research has been supported by the taxpayers of this country through Federal and State research grants. And, likewise, extensive training of State and municipal local people, local enforcement people, and that the training of these people has been provided by the Public Health Service in an effort to enhance their effectiveness in milk sanitation programs.

We have heard that our present system of milk control in this country for the safety of our milk supply is due, principally, to the efforts of the local sanitarians, the local agencies, but we tend to forget these very significant roles the Public Health Service, that is, the U.S. Public Health Service has played in the training of these people. I think it is important to recognize this.

I think all of this indicates the soundness of the National Milk Sanitation Act in providing for the provisions of the milk ordinance and code. It is the best we have. It is a model that most anybody familiar with this type of work, this type of activity, recognizes. And it has been a great step toward uniformity.

Even in the dairy equipment manufacturing industry we have available a system for obtaining uniformity in requirements for sanitary designs of milk-handling equipment. This is a program which I am sure will be discussed in other testimony.

In spite of all of the progress that has been made in uniformity of sanitary milk control regulations, we have still ordinances that recognize no reciprocity or contain restrictive provisions that hinder and even prevent interstate shipment of milk. The justification at one time for local procurement of milk supplies was recognized, but the reason for excluding milk from a market based upon quality and public safety considerations are fundamentally untenable today. Today we have this situation—we have a dairy industry capable of providing and producing wholesome milk. This industry has the ability to process it safely and efficiently, and it can transport milk wherever needed without impairing the quality almost regardless of distance.

Coupled with these capabilities we have throughout this country the finest and the most capable force of public health regulatory personnel in the world to make certain that the handling of milk is done in the best interest of the public. And, furthermore, they have available an excellent Federal standard in the form of the Public Health Service milk ordinance and code to guide them in doing this. And in the light of the above then how can we justify provincial, restrictive milk control with all of its attending in equities and processes? I do not believe that we can justify this on any sound basis whatsoever.

Education and voluntary programs have served very well toward the establishment of uniformity in milk sanitation regulations, but such programs cannot completely be effective in this regard. A more effective mechanism is necessary. The National Milk Sanitation Act, I believe, will provide the mechanism for unimpeded distribution of high quality, safe milk supplies, grade A, if you please, throughout the United States. And this is long overdue. And I unqualifiably recommend the passage of this act.

Thank you, Mr. Chairman.

(The prepared statement of Dr. J. C. Olson, Jr., is as follows:)

STATEMENT OF DR. J. C. OLSON, JR., PROFESSOR OF DAIRY BACTERIOLOGY, UNIVERSITY OF MINNESOTA

Significant events have occurred in the development and application of milk sanitation standards in the interest of public health. Likewise significant developments have taken place in the technology of milk production, processing and distribution. These developments have led to the need for a uniform nationwide system of milk sanitation control which would permit the dairy industry to take advantage of the progress which has been made along these lines for the ultimate advantage of the consumer.

It is my firm conviction that the National Milk Sanitation Act would provide for the fulfillment of this need.

In essence the National Milk Sanitation Act would prevent the exclusion of any grade A milk supply from any market in the United States. The term "grade A" is emphasized, for the act specifies, in effect, that unrestricted distribution of milk applies only to milk which has been produced and processed in conformance with the current edition of the Milk Ordinance and Code, recommendations of the Public Health Service. These recommendations have received general acceptance and have been extensively adopted throughout the country. This has served to establish the term "grade A milk," in the minds of most, as milk which is of high quality, safe from a public health standpoint and which meets the requirements of the Milk Ordinance and Code. Consumers have great confidence in milk bearing the grade A label. Such acceptance and confidence is amply justified, yet there are those who question the readiness of this country for a national uniform system of public health control of milk supplies based upon sanitation standards which are widely adopted, accepted and effective.

There is reason then at this time to direct your attention to just a few significant developments that I believe establish without doubt our readiness, the desirability and the real need for the passage of the National Milk Sanitation Act.

Undoubtedly all would agree that the primary objective for the establishment of sanitary standards pertaining to the production, processing, and distribution of milk and milk products is to protect the public health. Milk improperly handled provides a ready medium for the transmission of certain types of diseases. This can result in disease outbreaks of epidemic proportions. An effective sanitary control program is essential to guard against such possibilities.

The inclusion of milk and milk products in the diet is highly important to the health of the individual. This is recognized in two currently recommended dietary patterns, one by the U.S. Department of Agriculture, and the other by the National Dairy Council. Anything that might happen to milk which would make it less desirable to consume, such as an undesirable flavor, unfavorable appearance, or a lack of confidence in its public health safety, would not be to the best interests of the public for this would tend to reduce consumption of milk.

Therefore, high standards of cleanliness within the industry which would minimize the hazard of disease transmission through milk, and the distribution of wholesome products which would enhance consumption of milk are in the best interests of milk consumers and the dairy industry.

The establishment of milk ordinances in the United States began at about the turn of the century in several eastern cities. One of the major objectives of the early ordinances was to control adulteration of milk by adding water. As knowledge about the role that milk may play in the spread of disease increased, regulations designed to improve the sanitary conditions surrounding its production and handling were strengthened. Unlike the situation which exists today, pasteurization was used but little; consequently, the early ordinances represented an attempt to provide the public with raw milk free from pathogens (disease producing micro-organisms).

The scope of milk regulations by municipalities and State governments expanded rapidly. Many principal features of early ordinances were copied by other municipalities and States, but generally, each new ordinance included special requirements applicable to the particular area involved. This resulted in the creation of a large number of laws and regulations governing the dairy industry and in requirements that differed from one jurisdiction to another. Certain clauses that appeared in ordinances were restrictive; they became effective trade barriers masquerading under the guise of public health safeguards. Thus, numerous standards of quality were established, some of which had little

or no relationship to quality and frequently were costly and confusing to the public, producers and processors as well.

The seriousness of the lack of uniformity and the need for providing assistance to the States in their milk control programs was recognized by the U.S. Public Health Service. This agency, in 1924, published the first edition of its model milk ordinance, covering items of milk sanitation on farms and in pasteurizing plants. States and municipalities were urged to adopt this ordinance so as to provide a uniform system of effective milk control. In 1927 a code to be used in the interpretation of the various provisions of the ordinance was published. Since 1924, the ordnance, now known as the milk ordinance and code, has been revised 12 times and has been adopted by many States and municipalities in recognition of the necessity for an orderly and uniform system of milk control applicable throughout the United States.

It is significant that the National Milk Sanitation Act implies that the provisions of this ordinance are to be used to govern the sanitary control of milk supplies under the jurisdiction of this act. There is great justification for this. Much effort has been expended in the development of and in keeping current this ordinance and a code for its interpretation. The Public Health Service has effectively used the counsel and advice of an advisory board composed of competent dairy and food scientists and sanitarians from all regions of the United States, including areas that are represented at these hearings by persons testifying in opposition to the National Milk Sanitation Act.

Therefore, the development of the milk ordinance and code by the Public Health Service with the help of its advisory board of professional people from industry, universities and State and municipal regulatory agencies, and supported by personnel training programs was the first major step toward nationwide uniformity in milk sanitation standards. Furthermore the results of extensive research in the chemistry and bacteriology of milk and in milk production and processing have served as bases for many of the requirements included in the ordinance. I would like to point out that much of this research has been supported by the taxpayers of this country through Federal and State research grants. Likewise extensive training of State and municipal milk sanitation personnel has been provided by the Public Service to enhance the effectiveness of milk sanitation programs based largely on the above ordinance.

Following this, the next event having great influence in establishing uniform standards and in facilitating interstate and intrastate milk shipment was the development of the National Conference on Interstate Milk Shipments.

In 1946, the Conference of State and Territorial Health Officers requested the U.S. Public Health Service to develop a plan for the certification of interstate milk supplies. This plan is outlined in a letter dated December 31, 1946, from the Surgeon General to all State milk control authorities. In 1949, the Association of State and Territorial Health Officers again requested the Public Health Service to assist the States with the problem. Similar demands were made by State health departments, local health officials and representatives of the dairy industry. In December 1949, representatives of several Midwestern States met in Indianapolis for the purpose of discussing the problem and of determining whether some plan could be set up to deal effectively and efficiently with the interstate milk problem. As a result, representatives of 11 Midwestern States met in Chicago, Ill., in February 1950. At this meeting, a committee was named to investigate the problem and arrange for a national conference.

This committee requested the Surgeon General of the U.S. Public Health Service to invite all States to have their representatives attend a national conference at St. Louis, Mo., June 1, 1950. Representatives of industry, State health departments, and State agricultural departments of 26 States attended and participated in the meeting. Certain basic principles and procedures were established to be used in developing and administering interstate milk control programs that would be uniform throughout the country and which would foster mutual understanding and confidence in sanitary requirements.

The report of the first conference was used to advantage by many States as a guide for organization and administration of their milk control programs. Its use has increased reciprocity between States and within States in matters of milk control. Subsequent conferences were held in 1951, 1952, 1953, 1955, 1957, 1959 and 1961 for purposes of evaluating, improving, and clarifying the program.

Briefly, the program of the National Conference on Interstate Milk Shipments predicates the recognition of uniform standards for milk production and processing by recommending the Public Health Service milk ordinance and code as the

basic regulation. It recommends a system of supervision involving full-time personnel of local health departments, State agricultural departments or State health departments. It further recommends a system of certification of milk supplies to the effect that a supply under consideration is as stated by the supervising authority. Milk receiving areas are urged to accept ratings made only by certified rating officials of either the U.S. Public Health Service or health departments or other departments having sole jurisdiction over milk supplies, provided that the State survey officials are certified by the U.S. Public Health Service.

In the interest of uniform laboratory methods, the conference recommends that laboratory procedures conform to those outlined in the current edition of "Standard Methods for the Examination of Dairy Products," published by the American Public Health Association.

The conference also recommends that the Public Health Service assist State authorities in carrying out their work involving the interstate milk shipment program. This involves several types of activity including assistance in training personnel, dissemination of pertinent recommendations and interpretations of regulations, and the publication of Sanitation Compliance Ratings of interstate milk shippers. Thus the interstate milk shipments program was another successful development toward nationwide uniformity of milk sanitation standards. There are others such as the 3-A sanitary standards program for dairy equipment which I am sure will be discussed in other testimonies at these hearings. This program has been extremely effective in assuring sanitary design of milk production and processing equipment. Such equipment when bearing the 3-A symbol finds ready acceptance by most sanitarians throughout the country.

In spite of the progress which has been made toward greater uniformity in milk control regulations, much remains undone. We still find many instances of markets limited only to those producers who come under the jurisdiction of a local milk control agency operating under an ordinance which provides for no recognition of reciprocal inspection and which in effect limits milk supplies to within an area of routine inspection. Furthermore, when markets are available, producers and processors alike are frequently confronted with a variety of stipulated specifications differing from market to market. Such conditions still provide major impediments to interstate and intrastate shipment of milk.

Milk supplies throughout much of the area of the United States are now adequately safeguarded through the enforcement of regulations in conformance with the Public Health Service milk ordinance. Time and experience have demonstrated the safety of such supplies. There is no reason to believe that the application of the provisions of this ordinance or provisions substantially equivalent thereto should not apply uniformly throughout the United States. There is no justification for exclusion from any market of milk which has been produced or processed in conformance with the provisions of this ordinance, especially so in view of the already wide acceptance of its provisions by milk control officials.

During the early phases of the development of the market milk industry, there undoubtedly was good reason to procure milk supplies from areas contiguous or very close to the area of consumption. Lack of development in dairy technology, in transportation, in refrigeration, and of equipment of sanitary design was such that milk, because of its perishable nature, had to be consumed soon after its production.

Today the situation is vastly different. Now it is possible to ship fluid milk, raw or pasteurized, a thousand miles or more and have it arrive at its destination with no loss in quality. This is possible for several reasons. Our knowledge of the bacteriology of milk and other milk products has increased greatly. We know the nature, the significance, and the methods of controlling the types of micro-organisms which are important in the deterioration of milk. Advances in sanitary practices have been such that there is no difficulty in producing wholesome milk with low bacterial counts and free from disease producing micro-organisms. Furthermore, these desirable characteristics are easily maintained during the processing of milk and during its distribution to the consumer. The development of mechanical refrigeration and now with the advent of refrigerated bulk tanks installed at the dairy farm makes it possible to cool milk rapidly and to maintain it at a temperature which inhibits bacterial growth for long periods of time. The stainless steel tanks mounted on trucks which transport milk over modern highways from farm to plant and from plant to plant are constructed in such manner so as to prevent milk from increasing in temperature more than 2 or 3 degrees during a period of 24 hours. Furthermore, our modern dairy

plants are larger, more diversified and better equipped than ever before. Personnel, management, and technical, are better trained.

All of these things—our increase in technical knowledge of production, processing and distribution of milk; our modern means of transportation; our advances in refrigeration; the availability of excellent milk handling equipment on the farm and in our plants; and the advances in methods of cleaning and sanitizing milk equipment—means that the area of distribution of milk from any location has been extended far beyond the area of its production. Furthermore, these developments have made this possible without any impairment in the quality of milk.

Today, therefore, we have this situation: we have the dairy industry of this country capable of producing wholesome milk; it has the ability to process it safely and efficiently; and it can transport milk wherever needed without impairment of quality and almost regardless of distance. Coupled with these capabilities we have throughout this country the finest and most capable force of public health regulatory personnel in the world to make certain that the handling of milk is done in the best interests of the public; furthermore, they have available an excellent set of standards, in the form of the PHS milk ordinance and code, to guide them. In light of this then how can we justify provincial restrictive milk control with all of its attending inequities and costliness? The answer is that we cannot justify this on any sound basis. Education and voluntary programs such as the interstate milk shipments program and others have served well toward the establishment of uniformity in milk sanitation regulations. However, such programs cannot completely be effective in this regard. A more effective mechanism is needed. The National Milk Sanitation Act will provide the mechanism for the accomplishment of unimpeded distribution of high quality safe milk supplies, grade A milk, throughout the United States. This is long overdue. I unqualifyingly recommend the passage of this act.

BIOGRAPHICAL SKETCH OF JOSEPH C. OLSON, JR.

Professor, dairy bacteriology, University of Minnesota. B.S., 1935; M.S., 1944; Ph. D. in bacteriology 1948, University of Minnesota. Age 47. Institutional member, research and development associates, Quartermaster Food and Container Institute for the Armed Forces. Chairman, Committee on Public Health, American Dairy Science Association. Consultant, U.S. Public Health Service, milk and food program, Robert A. Taft Sanitary Engineering Center. Technical consultant to Milk Advisory Committee, Minnesota Department of Agriculture. Technical adviser, Minneapolis and St. Paul Quality Control Committee. Recipient of outstanding achievement award, Minnesota Sanitarians Association, 1956. Technical editor, Journal of Milk and Food Technology. Military service, World War II, 1940–45, lieutenant colonel MSC; U.S. Army Reserve assignment, Office of Chief of Research and Development, Department of the Army. Professional societies: American Academy of Microbiology; Society of American Bacteriologists; American Dairy Science Association; International Association of Milk and Food Sanitarians.

The CHAIRMAN. Thank you very much. Does that conclude your statement?

Dr. OLSON. Yes, sir.

The CHAIRMAN. Are there any questions?

(No response.)

If not, we thank you for your testimony.

Dr. OLSON. Thank you.

The CHAIRMAN. Our next witness is Dr. John Andrews, chief, sanitation section, sanitary engineering division, State Board of Health of North Carolina, and a representative of the Conference of State Sanitary Engineers.

We will be glad to hear you now.

STATEMENT OF DR. JOHN ANDREWS, CHIEF, SANITATION SECTION, SANITARY ENGINEERING DIVISION; REPRESENTATIVE OF THE CONFERENCE OF STATE SANITARY ENGINEERS, STATE BOARD OF HEALTH, STATE OF NORTH CAROLINA

Dr. ANDREWS. Mr. Chairman and members of the committee, in order to conserve the time of the committee, sir, and since I am representing the Conference of State Sanitary Engineers, which organization testified at the hearings last year, before this committee, I would like simply to file my complete statement for the committee's record and note that this statement includes a revised statement of the position of the executive board of the conference which considered the bills introduced into the 87th Congress earlier this year, and a statement of that position is attached to my remarks.

I would, if I may, mention very quickly two or three points that our conference believes in.

One, we think that action by the Congress in adopting this bill would recognize clearly that sanitary control of milk is a public health matter, primarily the responsibility of State and local governments, except where interstate commerce is involved.

Two, we believe that this act would prevent State or local governments from misusing their health and sanitation regulations to obstruct the free movement in interstate commerce of milk of high sanitary quality.

Three, we feel that this act would limit the degree of Federal control to the minimum required to prevent obstruction of interstate commerce and while at the same time protecting the rights of States and municipalities to exercise sanitary control over their intrastate milk supplies.

Four, we feel that this act would provide for an integrated and economical program that would utilize the already existing system of State and local health departments, subject to U.S. Public Health Service checks, and which would not superimpose far-reaching, overpowering direct Federal inspection over this existing system.

Five, it would give recognition by the Congress to milk sanitation policies, procedures and programs of both the U.S. Public Health Service and the State health departments, which have proven effective in reducing milkborne disease in the United States to a minimum, and which are already being applied to the sanitary control of some interstate milk shipments through the voluntary certification program.

And, finally, sixth, we think that this act would improve the sanitary quality of milk being shipped interstate by an indication from the Congress that interstate milk shipments should comply, to a degree of at least 90 percent, with the provisions of the Federal milk sanitation code.

And so, gentlemen, the Conference of State Sanitary Engineers favors the passage of this act. We appreciate the opportunity of being heard.

(The prepared statement of Dr. John Andrews is as follows:)

STATEMENT OF JOHN ANDREWS, CHIEF, SANITATION SECTION, SANITARY ENGINEERING DIVISION, STATE BOARD OF HEALTH, AND REPRESENTATIVE OF THE CONFERENCE OF STATE SANITARY ENGINEERS, STATE OF NORTH CAROLINA

Mr. Chairman and members of the committee, I am John Andrews, chief of the Sanitation Section of the Sanitary Engineering Division of the North Carolina State Board of Health. I am an associate member of the Conference of State Sanitary Engineers from North Carolina. I am here today officially representing that conference at the request of Mr. Dwight Metzler of Kansas who is chairman of that conference. The Conference of State Sanitary Engineers is composed of the chief engineers of the State health departments who are responsible for programs and activities that may affect the health and well-being of the people of this Nation, and certain of their sanitary engineering assistants who are associate members of the conference.

This conference maintains a keen interest in the programs and activities of the U.S. Public Health Service, and there are close working relationships between Public Health Service and State health departments in the program areas for which the State sanitary engineers are responsible. In a great many instances, the State programs depend upon the Public Health Service for assistance in evaluation of programs, for certification of program elements involving interstate matters, for research, for training of personnel, for expert consultative services, and in some cases for direct services.

In the case of milk sanitation, these working relationships have been exceptionally close and in many instances have continued over a period of many, many years. The first edition of the USPHS milk ordinance appeared in 1924 as the result of cooperative work by the Alabama State Health Department and the Public Health Service. It was in 1924, also, that the North Carolina State Board of Health adopted the Public Health Service recommended milk ordinance as the basis for its milk sanitation program which has been conducted, over the years, in cooperation with local health departments throughout the State.

At its 1958 meeting, the Conference of State Sanitary Engineers considered several bills, concerning interstate milk shipment, that had been introduced into the Congress over the past several years, many of which appeared to abridge the rights of States. As a result of study of these bills and the problems associated with the interstate movement of high quality milk, the conference adopted a resolution stating that Federal milk sanitation legislation should recognize that sanitary control of fluid milk and milk products is a public health matter that is primarily the responsibility of State and local health agencies, and that Federal legislation directed at the trade barrier problem should provide for the use of existing State and local health agency programs along the lines already incorporated in the existing voluntary State-PHS cooperative program for certification of interstate milk shippers.

The views of the conference were transmitted to the Association of State and Territorial Health Officers. After further consideration, the position was taken by both of these organizations that health regulations should not be used in such manner as to restrict the movement of milk of high sanitary quality, and that some form of Federal legislation is needed to prevent the use of health regulations as economic barriers to the free movement of milk of high quality.

During the 86th Congress, Congressman Johnson (Wisconsin) and others introduced bills (H.R. 3840 et al.) in the House, and Senator Humphrey (Minnesota) and others introduced S. 988 in the Senate, all known as the National Milk Sanitation Act of 1959, which embodied the principles set forth by the Association of State and Territorial Health Officers and the Conference of Sanitary Engineers, and which placed the responsibility for administration of the act with the Surgeon General of the Public Health Service. The executive board of the Conference of State Sanitary Engineers adopted a statement of position on February 3, 1959, endorsing the National Milk Sanitation Act, and the conference also provided testimony at both House and Senate hearings favoring the enactment of the act. However, this proposed legislation was not acted upon by the 86th Congress.

In the present (87th) Congress, similar legislation has been introduced (H.R. 50 et al., by Johnson and others and S. 212, by Humphrey and others). This proposed legislation includes all of the essential provisions of the act recommended for enactment in the 86th Congress and endorsed by this conference. The executive board of the Conference of State Sanitary Engineers, on March 16,

1961, reaffirmed its position that the sanitary control of fluid milk and milk products is a public health matter and that health regulations should not be used as trade barriers, and strongly recommended the enactment of the National Milk Sanitation Act as proposed in H.R. 50 et al. and S. 212. I submit herewith a copy of the complete "Statement of Position of Executive Board, Conference of State Sanitary Engineers, Relative to Federal Milk Sanitation Legislation," dated March 16, 1961.

Mr. Chairman, if I may be permitted to do so, I should like to make remarks based upon my own experience in milk sanitation, first as a staff sanitary engineer and later—since 1951—as chief of the sanitation section of the sanitary engineering division of the North Carolina State Board of Health, which has carried on a milk sanitation program based upon the recommended USPHS milk ordinance, continuously for a period of 36 years.

In studying the proposed National Milk Sanitation Act, members of our staff and I have been impressed by the fact that many of the procedures provided for in the act are identical to those that we are already doing—in some cases we have done them for more than 30 years—for the protection of the health of the citizens of our State.

Section 803 authorized the Surgeon General to promulgate a Federal Milk Sanitation Code. This means that the sanitation provisions of the recommended USPHS milk ordinance, which has been our technical standard since 1924 and which is the basis for the regulations of 35 other States, will become the Federal standard. The USPHS milk ordinance and code is widely accepted by industry and educational institutions, as well as by professional public health workers, as the standard in milk control. It has been proven to be adequate to protect the public health and practical in application.

Section 804 authorizes the Surgeon General to promulgate methods for making compliance ratings. Since 1938, we have been using the published USPHS recommended milk sanitation rating procedure to evaluate the effectiveness of the milk sanitation programs of our local health departments. It has proven to be a valuable administrative tool. Through its use we have improved the quality of our milk supplies, and have achieved better results for each tax dollar spent on milk sanitation. Actually, the use of this rating procedure, in its early developmental stages, was begun in our State in 1926.

Section 807 authorizes the Surgeon General to issue lists of certified interstate milk plants. Similar lists have been issued by the USPHS, on a voluntary basis, for several years. The latest list, issued as of July 1, 1961, includes the name of 36 North Carolina milk plants.

Section 801 states that the sanitary control of fluid milk and certain milk products is necessary to protect the public health. The record will show that fluid milk and milk products were responsible for numerous outbreaks of milkborne disease from the turn of the century through the 1930's. The record will also show that, after many years of effort by Federal, State, and local public health workers, with the support and understanding of progressive members of the industry, educational institutions, the veterinary profession, and others, the toll of milkborne disease has now been reduced almost to the vanishing point. To state the matter plainly: in the past, many people were made sick by milk produced or handled under insanitary conditions; at present, very few people are made sick by milk which is now produced under modern conditions under strict supervision by local and State health agencies; the conclusion is inescapable that public health agencies are due much of the credit for this achievement, and therefore have conclusively demonstrated their capacity for protecting the public health and administering a law such as that proposed by H.R. 50, "National Milk Sanitation Act."

Section 808 provides that no milk or milk product from another State shall be excluded, because of failure to comply with sanitation standards, from sale in a State if it complies with the Federal Milk Sanitation Code.

In North Carolina, the USPHS milk sanitation rating method referred to in section 804 is used to facilitate intercounty shipments of milk. Milk plants which apply for a permit to sell in another county are granted a permit if current milk ratings are 90 percent or above. Thus, our State board of health milk rating surveys are the basis for acceptance of milk from other county health jurisdictions, and industry is spared the expense and travail of overlapping and duplicating inspections by each county health jurisdiction in which it markets its milk and milk products. Also, this system minimizes the chances that individual jurisdictions might attempt to establish some special local requirements that out-of-county milk supplies would find it difficult, or expensive, to satisfy.

Projecting this system from an intercounty to an interstate basis, we feel that our milk supplies which have qualified for certification under the voluntary State-PHS program for interstate milk shippers, and which have attained ratings of 90 percent or more, could be accepted by other States as having met high sanitation standards necessary to protect the public health. If other jurisdictions should adopt special requirements—for example, that there may not be even a solid, self-closing door in the wall separating the milkhouse from a modern milking parlor; or, as another example, interpret their requirement for sterilization of milking utensils as allowing only the one given method where other methods are also satisfactory—we would find it most difficult to believe that such special requirements were adopted to protect the public health. Actually, such special requirements of the type mentioned are used as economic trade barriers, or "Chinese walls." If economic control is found to be necessary in order to foster a segment of the dairy industry in a particular area, such controls should be designed and worded as economic controls and not camouflaged as being health requirements.

Section 810 authorizes the Public Health Service to make certain independent inspections and checks if necessary. We feel that this authority is necessary to the effective administration of the act, and we have no objections to such checks in view of the traditional good working relationships existing between the State health departments and the U.S. Public Health Service. Our State milk sanitarians are now periodically checked and standardized by the USPHS under the voluntary interstate milk shipper program. Over the years, we have received the highest type of technical advice and assistance from the Public Health Service, and its policies and working procedures represent models of effective Federal-State agency relations.

Section 811 provides that the USPHS shall conduct research, studies and investigations concerned with the sanitary quality of milk. These are necessary in order that adequate public-health safeguards and standards may be developed for the new processes and practices which are always arising in the progressive milk industry. Most States do not have the resources to undertake needed research and look to the Public Health Service to conduct studies and investigations of problems and developments on which information is needed for proper control programs.

Section 812 provides for continuing USPHS activity in training, technical assistance and cooperation, and section 814 authorizes an appropriation to the USPHS in order to carry out the provisions of the act. Both of these sections are important. In this connection, I would like to emphasize the importance of providing sufficient funds to enable the service to carry on an effective program.

In conclusion, we would recommend that the Congress pass the National Milk Sanitation Act. Such action would:

1. Recognize clearly that sanitary control of milk is a public health matter, primarily the responsibility of State and local governments, except where interstate commerce is involved.

2. Prevent State or local governments from misusing their health and sanitation regulations to obstruct the free movement in interstate commerce of milk of high sanitary quality.

3. Limit the degree of Federal control to the minimum required to prevent obstruction of interstate commerce, while at the same time protecting the rights of States and municipalities to exercise sanitary control over their intrastate milk supplies.

4. Provide for an integrated and economical program that would utilize the already existing systems of State and local health departments, subject to U.S. Public Health Service checks, and which would not superimpose far-reaching, overpowering, direct Federal inspection over this existing system.

5. Give recognition by the Congress to milk sanitation policies, procedures and programs of both the U.S. Public Health Service and the State health departments, which have proven effective in reducing milkborne disease in the United States to a minimum, and which are already being applied to the sanitary control of some interstate milk shipments through the voluntary certification program.

6. Improve the sanitary quality of milk being shipped interstate by an indication from the Congress that interstate milk shipments should comply, to a degree of at least 90 percent, with the provisions of the Federal Milk Sanitation Code.

CONFERENCE OF STATE SANITARY ENGINEERS, MARCH 16, 1961

STATEMENT OF POSITION OF EXECUTIVE BOARD, CONFERENCE OF STATE SANITARY ENGINEERS, RELATIVE TO FEDERAL MILK SANITATION LEGISLATION

The Conference of State Sanitary Engineers, at its 1958 meeting, considered several bills concerning interstate milk shipments that had been introduced into the Congress over the past several years, many of which appeared to abridge the rights of States. As a result of study of these bills, and the problems associated with the interstate movement of high quality milk, the conference adopted a resolution stating that Federal milk sanitation legislation should recognize that sanitary control of fluid milk and milk products is a public health matter which is primarily the responsibility of State and local health agencies, and that Federal legislation directed at the trade barrier problem should provide for the use of existing State and local health agency programs along the lines already incorporated in the existing voluntary State-PHS cooperative program for certification of interstate milk shippers.

The views of the conference were transmitted to the Association of State and Territorial Health Officers. After further consideration, the position was taken by both of these organizations that health regulations should not be used in such manner as to restrict the movement of milk of high sanitary quality, and that some form of Federal legislation is needed to prevent the use of health regulations as economic barriers to the free movement of high quality milk.

During the 86th Congress, Congressman Johnson (Wisconsin) and others introduced bills (H.R. 3840 et al.) in the House, and Senator Humphrey (Minnesota) and others introduced S. 988 in the Senate, all known as the National Milk Sanitation Act of 1959, which embodied the principles set forth by the Association of State and Territorial Health Officers and the Conference of State Sanitary Engineers, and which placed the responsibility for administration of the act with the Surgeon General of the Public Health Service. The executive board of the Conference of State Sanitary Engineers adopted a statement of position on February 3, 1959, endorsing the National Milk Sanitation Act, and the conference also provided testimony at both House and Senate hearings favoring the enactment of the act. However, this proposed legislation was not acted upon by the 86th Congress.

In the present (87th) Congress, similar legislation has been introduced (H.R. 50 et al., by Johnson and others, and S. 212, by Humphrey and others). This proposed legislation includes all of the essential provisions of the act recommended for enactment in the 86th Congress and endorsed by this conference. The Executive Board of the Conference of State Sanitary Engineers reaffirms its position that the sanitary control of fluid milk and milk products is a public health matter and that health regulations should not be used as trade barriers, and, therefore, strongly recommends the enactment of the National Milk Sanitation Act as proposed in H.R. 50 et al. and S. 212.

Mr. STAGGERS (presiding). Thank you, Mr. Andrews. You are in favor of the legislation?

Dr. ANDREWS. That is correct.

Mr. STAGGERS. As it is drafted now?

Dr. ANDREWS. Yes, sir.

Mr. STAGGERS. In this measure?

Dr. ANDREWS. Yes.

Mr. STAGGERS. Are there any questions from any member of the committee?

Mr. Hemphill?

Mr. HEMPHILL. Mr. Andrews, in North Carolina, have not the producers been instrumental in seeking health regulations and in observing them?

Dr. ANDREWS. How do you mean that, Mr. Hemphill?

Mr. HEMPHILL. Have not the producers started the sanitation process, the legislation and the ideas for sanitary milk—did it not come from the producers originally?

Dr. ANDREWS. I do not think this is specifically correct. I know that in North Carolina, in about 1925, our State Board of Health adopted, as its recommended milk sanitation program, the first edition of the Public Health Service ordinance which was gotten out in about 1924. Our board has previously been interested in milk sanitation, because we had had a number of milkborne diseases affecting hundreds of people who were made sick by unsanitary milk. Our local health department passed into the milk sanitation work prior to this.

I would say that the dairy producers and the dairy farms, and the educational institutions in the State are all very much interested in good, high-quality grade A milk and in sanitary methods. We have a very fine working relationship and a spirit of wanting to get things accomplished and to do things in the right way.

Mr. HEMPHILL. So the milk producers have been instrumental in backing the program?

Dr. ANDREWS. They have been an important factor in the program, yes, sir.

Mr. HEMPHILL. I have here a letter directed to our committee from the North Carolina Milk Producers Federation which is, of course, a private enterprise, as distinguished from a bureaucracy, and it says here:

> North Carolina milk production has reached a supply-meets-the-demand situation; therefore any movement of milk into North Carolina would be in a way of surplus which in turn would cause a reduction in producer price.

Is that true?

Dr. ANDREWS. I do not think I am qualified to speak on that point, Mr. Hemphill. I am simply here representing the Conference of State Sanitary Engineers which organization has gone on record in favor of this measure. This is an economic matter you refer to. We have an interest and concern in it. It is my personal opinion that this act does not involve the economic aspects, except to the extent that it would prevent the use of the health regulations to solve a problem which is not that of public health and sanitation. It would prevent the misuse of health regulations for economic reasons.

Mr. HEMPHILL. That is taking place in North Carolina today.

Dr. ANDREWS. I think not, sir.

Mr. HEMPHILL. Then you are, apparently, looking for a skeleton in somebody's closet outside of your own bailiwick?

Dr. ANDREWS. I am not here representing North Carolina. I am not here representing the State. I am here representing the Conference of Sanitary Engineers, a national organization—the chief engineers of the State health departments.

Mr. HEMPHILL. You have some respect for the good job that North Carolina, apparently, has done?

Dr. ANDREWS. Yes, sir, I do.

Mr. HEMPHILL. You have some respect for the fact that these people in private enterprise have done some good work?

Dr. ANDREWS. I certainly do.

Mr. HEMPHILL. And you do not want bureaucracy to set down on top of them, which this bill proposes to do. I will not go into any of the technical phases of this. I will read this statement from the letter which says:

> Gentlemen, we think here in the Southeastern States we have the best milk produced under the best sanitation conditions of any State in the country.

How about that—is that true?

Dr. ANDREWS. Naturally, all of us have a great deal of pride in our own accomplishments and achievements and in our own homes and cities and States. I think, frankly, North Carolina has an excellent record.

Mr. HEMPHILL. Do you know of any better?

Dr. ANDREWS. An excellent milk supply. I think there are many milk suppliers in the country which are equally equivalent—equal or about the same. I am not in a position to say. I have not attempted to make comparisons as to which was better than which. In our view a good program is represented by 90 percent compliance with the requirements of the public health milk ordinance and code.

Mr. HEMPHILL. Perhaps, I misinterpreted the jurisdiction of your organization of sanitary engineers. Would you say that North Carolina milk, from a sanitary standpoint, is as good as any in the Nation that you know of?

Dr. ANDREWS. I think so, yes.

Mr. HEMPHILL. Then, apparently, that is true, on a State level, as this letter indicates, this has been accomplished—the sanitation has been accomplished on a State level, not only by the government of North Carolina, but, perhaps, the various subdivisions and the municipalities—with the full cooperation, according to your previous statement and the assistance of the milk producers themselves who are still private enterprises?

Dr. ANDREWS. I think that statement is generally true. This milk sanitation work typically is a matter of having a local health department, local sanitary engineers, and laboratories on the job working with the individual farmers and the like in that area.

From our standpoint individual local health department programs can be indifferent or bad, as personalities might change—people might be replaced by other people—and we are interested in maintaining and encouraging a good level of performance which we do through milk sanitation work.

I should not be making those remarks because I am here representing the conference of State sanitary engineers, rather than North Carolina.

Mr. HEMPHILL. You can transpose the difficulties from the State level to the Federal level—at any level you would have difficulties—but I cannot see where putting the Federal bureaucracy on top of this thing will do anything that North Carolina has not done already except to establish regulations and controls and interference and everything else that these people, apparently, do not want. Of course, from an economical standpoint, while you people may not feel that, I think that there is some responsibility here in the Nation to private enterprise, whether represented by milk production or otherwise, to give them an opportunity to clean their own house, which they have done in North Carolina, if it needed cleaning, and to protect the people, because that is a vital part of the economy of North Carolina as it is of my part of the country. When you try to put bureaucracy on top of it then you burden private enterprise, you tamper with its effectiveness in the economy of the section of the State and that part of the Nation. That is what you are trying to do here. And to say that you separate it, if you want to, is all right, but the truth of the matter

is that this legislation is a vehicle for economic suppression and sanction of the life of the people who have done an excellent sanitation job, such as North Carolina, Wisconsin, my own State, and others. That is what disturbs me about this. They say:

Our reason for coming here is not that North Carolina has not done a job—it is just that somebody has used—

and they do not say who—

somebody has used sanitary legislation, or the administration of it for economic purposes—

but I say that North Carolina has not done that, your own State—I know it has not done it.

Dr. ANDREWS. That is right.

Mr. HEMPHILL. Because we ship into the State of North Carolina—my own district ships milk there to one of the customers up there. We give them good milk. We also ship milk from North Carolina into South Carolina.

But by this we just create a Federal bureaucracy if that is not necessary, insofar as your people and my people are concerned. That is what disturbs me about this.

Dr. ANDREWS. I might say, if I may, sir, that I do not read into this bill a Federal bureaucracy. I read into the bill simply recognition and use of things, the procedures, the surveys, the inspections by the Public Health Service men, by our own men, as they are now doing. Most of those things are already being done now. Some of the procedures in the act we have actually been carrying out in our State for more than 30 years. I honestly, personally do not read into this bill the creation of a Federal bureaucracy. It seems to me it is increased recognition of the very fine and excellent place and help that we and other States health departments have over the years gotten from the Public Health Service. I must say, and I believe that this is in the written report, that our view of the relationship between the Public Health Service and the Federal agencies and the State health departments or the State agencies, our feeling is that this relationship, according to the policies and procedures that the Service has followed, is really a model in relation between Federal and State agencies.

Mr. HEMPHILL. Thank you.

Mr. COLLIER. I have one question, Mr. Andrews. And I direct it to the closing sentence in your statement: "Health regulations should not be misused." I could not agree more. However, is it not true that trade barriers can be established through licensing and permit systems which is the particular responsibility or prerogative of the local political subdivision, or whether it be by local ordinance or by State act?

Dr. ANDREWS. Various trade barriers can be created by legislation or actions which are not primarily related to public health and the inspection of milk, yes. I am not sure that I understood your question fully.

Mr. COLLIER. That is the answer I anticipated.

Dr. ANDREWS. One of the intents of this bill is to prevent the misuse of health and sanitary requirements as trade barriers, though that if trade barriers should be necessary let them stand on their own feet—let us recognize what the actual situation is rather than twist health

and sanitary requirements, using them and misusing them as trade barriers.

Mr. COLLIER. But without being specific, are you aware of instances where the system of permits or licensing in the milk business is being used as a trade barrier?

Dr. ANDREWS. I am not aware offhand. I have made no special attempts to look into this. I just do not know—I do not have the information.

Mr. COLLIER. Conceivably, then, if this legislation were adopted, and assuming that it were to be adopted—assuming that certain existing laws are for the purpose of establishing trade barriers rather than to establish standards of sanitation, could this not be a type of licensing and permit system that would achieve the same purpose that, perhaps, the present standards are now achieving—could it not be that?

Dr. ANDREWS. I do not mean to be facetious or make light but your question was rather long and involved and I am not sure that I can quite put it together and make a specific answer.

Mr. COLLIER. Let me simplify it by simply saying that the enactment of this legislation would not remove the trade barriers, if there was a desire and a design to establish than through some other means?

Dr. ANDREWS. I think that is perfectly a true statement, yes.

Mr. COLLIER. That is all I have, Mr. Chairman. Thank you, sir.

The CHAIRMAN. Any further questions?

Mr. Thomson?

Mr. THOMSON. Mr. Andrews, in 1925 the State of North Carolina adopted the Public Health Service recommended code and ordinance; is that correct?

Dr. ANDREWS. The organization adopted it as their standard which they would recommend for adoption and enforcement by our local municipalities and towns; yes, sir. The milk sanitation question was a matter they felt in which it would be well to apply and use national uniform standards, rather than have each city write its own ordinance.

Mr. THOMSON. So the leadership in the sanitary field came from the Public Health Service?

Dr. ANDREWS. Yes; very definitely.

Mr. THOMSON. Since that time, since 1924, 11 States have adopted the Public Health Service ordinance, and 24 States have used it as the basis for their existing code in that field; is that correct?

Dr. ANDREWS. I believe those are the figures that were given yesterday at the hearing; yes, sir.

Mr. THOMSON. What you are saying here today is that when the States and municipalities adopted that standard, which is recognized by more than one-half of the States, that the product should not be impeded in interstate commerce for health reasons or for reasons that are asserted as public health reasons?

Dr. ANDREWS. Milk is, in fact, of a high sanitary quality and is a safe product for human consumption; yes.

Mr. THOMSON. That is all. Thank you.

The CHAIRMAN. Is there anything further?

(No response.)

The CHAIRMAN. We thank you very much, Mr. Andrews.

Dr. ANDREWS. Thank you.

The CHAIRMAN. Your entire statement will be inserted in the record.

I think it would be advisable for us to try to get to those witnesses who are from out of the city of Washington. Mr. Reed, you are here all of the time, are you not?

Mr. REED. Yes, sir.

The CHAIRMAN. Mr. Marshall, you are here all the time?

Mr. MARSHALL. Yes, sir.

The CHAIRMAN. Mr. Eckles—you are from Fond du Lac, Wis.?

Mr. ECKLES. Yes, sir.

The CHAIRMAN. We will hear you now.

STATEMENT OF WILLIAM ECKLES, PURE MILK PRODUCTS COOPERATIVE, FOND du LAC, WIS.

Mr. ECKLES. Mr. Chairman and members of the committee, my name is William C. Eckles. I am general manager of Pure Milk Products Cooperative. I live at 175 Hoyt Street, Fond du Lac, Wis. I have a prepared statement. I will move through it very hurriedly, and in the interests of brevity I will skip some of it, if that is agreeable, and will file the whole statement, hitting only the high points in this discussion.

About one-half of the total production of the milk of our members is of grade A quality, meeting the various health regulations issued by municipalities or health jurisdictions into which that milk moves directly from the farm.

We are strongly in favor of House Resolution 50 and similar resolutions introduced by other Representatives from the State of Wisconsin and other States, introduced by Congressmen from those States relating to the same subject.

We believe that the bills would contribute to the free flow of high-quality milk. We recognize the rights and responsibilities of individual municipalities to protect the health of their citizens. However, we believe such rights should be limited to regulations on health protection and not to set up trade barriers to the economy.

I am strongly of the opinion that the public health aspect of this thing and the economic interstate aspects are very closely dovetailed, so that it may be impossible to separate them—you are dealing with a subject that involves the most basic food of the American citizen, and high quality is not to be sneered at, but frills and fancy refinements that were built around held jurisdictions and municipalities a barrier to free movement and free commerce and milk is unheard of and should be prevented and stopped at the earliest possible stage. And we believe that this legislation with possibly some very minor changes do the job.

Mr. THOMSON. I do not think that the witness means that it is unheard of to have these barriers built up around so-called health ordinances. I think you mean it is unthinkable and unlawful.

Mr. ECKLES. I mean that it is something we should not have in this day and age of good communications, transportation, and movement of people and recognition of quality standards. And as you say, and I concur, it should be unheard of.

There are many eastern and southern markets that apparently assume that midwest dairy farmers and congressional representatives

want to seek other milk markets in other areas of the country. The problem this legislation would correct is not limited to areas as far apart as the Midwest and the East, but the evils of the barriers to free commerce in milk between adjoining cities would be corrected. There are cities that will not accept the inspection of another city a few miles away. It has just been within the last few years that in Wisconsin you had a regulation passed that required a municipality that had a Public Health Service-rated milk supply that required other municipalities to accept that milk supply.

The licensing provision mentioned here earlier is another question. Rating is the important one. The Public Health Service has done an excellent job of setting up a minimum that does everything that is needed to protect the public health. In our opinion, it will do a service and be an economic contribution to better commerce and more reasonably priced milk to the citizenry of the country if the minimum standards of the Public Health Service are followed.

The Public Health Service issues a quarterly on a voluntary basis, giving a list of plants that have met 90 percent or better of the minimum standards of the Public Health Service. That is available for public distribution. That permits municipalities to contact those supplies if they need them and to secure supplies from these rated agencies as issued by the Department of Health, Education, and Welfare. It is known as the Interstate Milk Shippers' Rating List for a quarterly period. It is issued, as I say, each quarter.

We known from personal experience that many farmers have under existing conditions to submit to various inspections from various jurisdictions in order to have outlets for their milk, and to move from one of those to another, or to have the opportunity to do so, is often very expensive. To cite an example, the city board of health of the city of Chicago, Ill., requires a particular type of water fountain or drinking cup to be installed in the barn stanchions on the part of farmers shipping into their market. And if you do not have them, if you have the standard quality of water cups for a cow to drink out of you do not get on the Chicago market, without making this change that will cost the farmer anywhere from $12 to $20 per stanchion. And most dairy farms in that part of the country have 20 to 60 stanchions. That is moving into Milwaukee to Chicago, two towns that are recognized as being very modern, very progressive, but they have these standards that, in our opinion, are unreasonable.

We do not believe that this bill means Federal control over all fluid markets, but it means that various municipalities in public health agencies within the Nation may not limit the supplies of acceptable high-quality milk available to the citizens residing within their jurisdictions by establishing a multiplicity of conflicting qualifications which may in no way be related to the protection of the health of consumers. It is a measure to prevent inexcusable barriers to the movement of milk in interstate commerce. It should protect consumers from excessive milk prices which result from the granting of monopoly rights to certain individuals to distribute milk in their markets.

Our producers supply grade A milk from 90 grade A farmers, all with expensive bulk tanks. One of them called me on Saturday and said that, "As of Monday morning we are not going to be permitted to deliver bottled milk across the State line into

Michigan at Meriette-Menominee because a rating by the Board of Health of Michigan on the farms of our members indicates that a few of them do not meet the standards of Michigan for the farm production of milk," and would not let that distributor sell milk into the State of Michigan. They were very normal requirements, so far as facilities were concerned, but something that the State of Michigan had the authority under their existing and so-called grade A regulations to prohibit free high-quality U.S. Public Health Service rated milk movement across into that State.

Gentlemen, that is a barrier to interstate commerce and free trade and it is an economic situation that this committee can start correcting by passing out H.R. 50 and similar bills to correct this situation. And we urgently request the committee to take prompt action on the matter and believe it will contribute to higher quality milk supplies generally for the Nation and a more economical milk supply to the consumers of America and will not cost the dairy farmer a cent. It might even improve the competitive position between the dairy farmers.

I have spent since June 19 some time off and on in a Federal milk hearing on milk pricing in New York. I was there yesterday and that is the reason I did not get here in time to be heard yesterday. The interrelationship of milk pricing and milk quality regulation is so closely intertwined that you have a very, very complicated situation, one that is very important and I think this committee should look into and try to correct forthwith.

That concludes my statement. If you have some questions I will be happy to answer them. The statement I have prepared states in better form than what I have stated in my summary. We are serious in our conviction.

(The prepared statement of William C. Eckles is as follows:)

STATEMENT OF PURE MILK PRODUCTS COOPERATIVE, SUBMITTED BY WILLIAM C. ECKLES, FOND DU LAC, WIS.

At the outset, let me state to the committee that this organization of midwest dairy farmers strongly favors the enactment of H.R. 50, the national milk sanitation bill of 1961.

Pure Milk Products Cooperative is a bargaining and service association, representing approximately 15,000 dairy-farmer members with farms located throughout Wisconsin and in parts of Illinois and Michigan. About a third of these members are fluid or grade A shippers. Their milk is qualified under various ordinances and grade A fluid milk regulations. This milk moves regularly to consumers in Wisconsin, Illinois, Indiana, Michigan, and Minnesota. At times, supplies have been sent from those Wisconsin plants in the form of raw milk to nearly all major consumption areas east of the Rocky Mountains. Such shipments have served as short-season supplements to the regular supplies of these distant markets.

Pure Milk Products Cooperative strongly favors uniform inspection and uniform standards for fluid milk and the free flow of high quality grade A milk between all municipalities and public health jurisdictions of the Nations. We recognize the rights and responsibilities of individual municipalities to protect the health of their citizens. However, we believe such rights should be limted to regulatons on health protection. Regulations should not be expanded or upgraded to restrict market milk entry for the economic advantages of a particular group of local processors, producers, health department, or milk inspectors. In fact, we believe that such restriction is in direct opposition to the interests of consumers in such areas, because it limits supplies and aids favored local interests in their efforts toward monopolistic enhancement of milk prices.

We believe that the provisions of the U.S. Public Health Service recommended milk ordinance and code have been carefully developed and improved over the years, and that they are sufficiently rigid to afford positive protection of the public health of consumers. We believe that H.R. 50 and other companion bills as introduced by Hon. Lester Johnson and our other able Congressmen would serve to correct many inequities which now exist in the free movement of pure, wholesome, and safe fluid milk. There is a clear-cut need for such legislation which is well supported by facts that are common knowledge throughout the area of our producers. Duplication of inspection, conflicting regulations, and a multiplicity of fees and costs are common on the farms of and in the plants through which the milk of our members is marketed. As an example, the cities of Chicago and Milwaukee are markets or cities that require visits and checks of farms by their particular forces of inspectors. They have conflicting "frills" that are of substantial expense and extreme annoyance to persons wanting or needing to change from one grade A market to another.

There are many eastern and southern markets that apparently assume that midwest dairy farmers and congressional representatives want to seek other milk markets in other areas of the country. The problems this legislation would correct is not limited to areas as far apart as the Midwest and the East, but the evils of the barriers to free commerce in milk between adjoining cities would be corrected. Cities such as Kansas City, Mo., and Kansas City, Kans., separated by a center street divider, have different regulations. Suburban area inspection is not good across the street inside Chicago's city limits. Conditions such as these, in our opinion, are major trade barriers and are a problem this committee should give immediate and prompt attention to correcting.

Some farmers and dairy plants must submit to several different inspections. Some regulations are in direct conflict with each other, making it impossible to qualify for different health ordinances. Obviously, such conflicting requirements cannot be necessary to protect public health. In addition, some of these requirements, as applied to dairy equipment, serve to increase production costs. In our opinion, these conflicting regulations seldom have a remote relationship to public health protection.

Steps have already been taken to correct such situations which existed in our own State. We have supported and have already obtained adoption of State legislation which goes a long way toward permitting the free movement of milk between markets in Wisconsin when it meets standards which are comparable to those provided in H.R. 50. We believe similar steps are even more important where such conflicting regulations become direct barriers to the movement of milk in interstate commerce.

We agree with the principle that sanitary control of fluid milk to protect the public health is primarily the responsibility of State and local governments, but no State or local government has the right to obstruct free movement of high-quality milk in interstate commerce.

We believe that milk produced and handled under conditions that meet the minimum recommended requirements of the U.S. Public Health Service recommended ordinance and code, should be acceptable to any market in the Nation. No municipality, State, or other public health agency should be permitted to establish an ordinance or regulation which would prevent the distribution and use of such milk.

In order for the U.S. Public Health Service to certify the safe quality of a milk supply eligible for access into any municipality, we believe that the agency must maintain a rating service. For such ratings to mean anything, we recognize that a realistic code must be provided, together with an appraisal and evaluation of State plans which may be approved, suspended, or revoked in accordance with their adequacy for protection of the health of consumers of dairy products regulated thereunder. We also recognize the need for a training program to provide that personnel may maintain uniformity of interpretation and of requirements to make milk eligible for such movement.

We would emphasize that this bill does not mean Federal control over all fluid milk marketed in the Nation. It does mean that the various municipalities and public health agencies within the Nation may not limit the supplies of acceptable high-quality milk available to citizens residing within their jurisdiction by establishing a multiplicity of conflicting qualifications which may be in no way related to the protection of health of consumers. However, it is our understanding that there is nothing in this bill to prevent such municipalities from permitting the entry into their markets of milk which may not come up to such stand-

ards. This bill is not presented to protect the health of consumers. It is a measure to prevent inexcusable barriers to the movement of milk in interstate commerce. It should protect consumers from excessive milk prices which result from the granting of monopoly rights to certain individuals to distribute milk in their markets. It should also protect producers against arbitrary and unnecessary obstructions to the movement of their pure and wholesome milk in interstate commerce.

Much progress has been made in this direction in many markets. Numerous health agencies have cooperated toward the objectives of this bill and have accepted reciprocal inspection. For such inspectors and markets, this legislation is not needed. However, other health agencies show rabid and complete resistance to such action. Often such restrictions can be broken only by court action. It is because of such regulatory agencies that the bill now under consideration must be adopted.

We have been amazed at the action taken by certain milk sanitarians and supervisory agencies, and by certain municipalities upon the recommendation of their milk sanitation personnel, to maintain certain jobs and the finances for their support, even though such action is reflected in unnecessarily high and monopolistically controlled milk regulations and prices. These actions have sometimes been broken by court tests, though long, expensive, and difficult.

However, the high cost of court action and the small size of many markets make it impractical and uneconomic to challenge many such municipalities. Thus, the provision whereby discrimination against interstate movement of high-quality milk is specifically prohibited, is absolutely necessary. We must have specific statutes defining the legality of milk ordinances, rather than to rely upon the expensive route of court action for such definitions in each and every case in which a municipality seeks to establish its own restrictive ordinance.

Such standards may not solve the problem of an occasional municapility which refuses to accept the national law without specific court test. However, we believe most municipalities will submit to the will of the majority as outlined by national statutes. Therefore, we believe this bill will eliminate the need for most of those court tests.

Our one criticism of the bill now under consideration is that it may not go far enough in providing redress against the action of a municipality or health agency which insists on defying the law, as proposed in this bill, by taking action to maintain local barriers against out-of-area milk. It might be well to provide that the municipality or health jurisdiction be held liable for the full cost of any expenses incurred, in defense against actions arising out of enforcement of ordinances found by the courts to be in violation of this act.

In this act, we believe Congress has an opportunity to benefit both consumers and producers in the areas where such assistance is of the greatest need, without the disadvantages or the costs of a major Government program. This law will prevent unfair and monopolistic overcharges against consumers, which are made possible by restrictions against entry of an available and dependable, safe, high-quality milk supply. It will also make possible the sale of more milk by those producers now operating under the greatest price handicap, by giving them the possibility of alternative outlets for their high-quality grade A milk.

The increases in numbers of rated supplies that are available are evidence of the reasonableness of the need for enactment of H.R. 50. These sanitary compliance ratings of interstate milk shippers are issued and revised regularly. New equipment, improved transportation facilities, and processing equipment improvements have made hundreds of municipal and health district ordinances obsolete and unrealistic.

We urgently request this committee and Congress to take prompt action to adopt the legislation proposed in H.R. 50. We believe this act will do much to promote an abundant supply of high-quality grade A milk at reasonable prices on a national basis. It will discourage greater dairy surpluses which result because available supplies are barred by restrictions established to give higher cost local supplies preference and protection in the local market.

In conclusion, we wish to express our appreciation to the committee for the privilege of presenting this statement.

The CHAIRMAN. Any questions? Mr. Younger?

Mr. YOUNGER. Just one question. Do you think the fact that there was a tax on margarine is a retarding influence on interstate commerce?

Mr. ECKLES. I think that the tax on oleomargarine in Wisconsin should be retained for the protection of the consumer. And not only that, there should be additional regulations that would not let the public be mislead into thinking that they are buying a product that is as wholesome and pure as is butter. I think the tax is reasonable.

Mr. YOUNGER. Why then do you object to the State of Michigan putting in some regulation about milk from your State?

Mr. ECKLES. One of them deals with taxation and the other deals with frills.

Mr. YOUNGER. It would be all right if they put a tax on milk?

Mr. ECKLES. They do.

Mr. YOUNGER. That would be all right with you?

Mr. ECKLES. They do. They require these distributors to have licenses that cost money. How much I do not know.

Mr. YOUNGER. It would be all right to put a tax on milk by the State of Michigan, saying that all milk coming in from Wisconsin should pay 3 or 5 cents tax per hundredweight—that would be satisfactory?

Mr. ECKLES. I think that if they have justification for the thing it would be reasonable.

Mr. YOUNGER. You would be satisfied with that?

Mr. ECKLES. I do not think I would be satisfied. I do not think that is the whole issue.

Mr. YOUNGER. Thank you. That is all.

The CHAIRMAN. Are there any further questions?

Mr. Nelsen?

Mr. NELSEN. Relative to the so-called marketing order agreements, that these requirements get into the health regulations and the standards that are set up—for instance, testimony that in some areas they say that a window must be X number of feet high from the floor and in others it is that the window should not be there at all—these are all quoted as health standards to protect the monopoly within the area, but the marketing agreements would not be seriously interfered with in any way by provisions of the pending legislation, would they?

Mr. ECKLES. The marketing agreements usually define the marketing area and define a producer as a person who is qualified to deliver milk within that area or that geographic region which makes them fairly closely related.

Mr. NELSEN. The next step then would be to get some health standards established that people outside of the area would not be in a position to meet and to create a monopoly within the area—I think that is the point you wish to make in your statement?

Mr. ECKLES. The whole principle of special equipment to requirefarmers to meet that expense of change in order to transfer from one area to the other is the one we are primarily interested in seeing corrected, but the movement of supplies from one area to the other is, also, a complicated one.

I think, gentlemen, that the movement of milk and the handling of it—and this is in addition to my statement—could well come before this investigation that is going to come about on foods and packaging of foods, and so forth, somewhere along the line here in this Congress, as I understand it.

The CHAIRMAN. Thank you very much, Mr. Eckles, for your testimony.

Our next witness is Mr. Paul R. Jackson, executive officer, Milk Inspection Association of the Oranges and Maplewood, representing the New Jersey Health Officers Association.

Mr. JACKSON. I will summarize my statement.

The CHAIRMAN. Your statement in full will be included in the record.

Mr. JACKSON. Thank you, sir.

The CHAIRMAN. Please proceed.

STATEMENT OF PAUL R. JACKSON, EXECUTIVE OFFICER, MILK INSPECTION ASSOCIATION OF THE ORANGES AND MAPLEWOOD, THE NEW JERSEY HEALTH OFFICERS ASSOCIATION

Mr. JACKSON. Mr. Chairman and members of the committee, I think it is important here today that I, at least, be allowed to state the position of regulatory agencies, at least, in one of our States of this great country.

I represent some 576 municipalities in the State of New Jersey.

I think the desirability of uniformity of sanitary control of fluid milk and the need for this uniformity goes without question. I think the manner in which this bill attempts to do it is questionable.

I would like to point out that there seems to be an assumption on the part of some of the people here today that these regulations that we speak about which are drawn up by local municipalities—I just hear it quoted—are phony regulations. It is hard to believe—I have been in this work for some 15 years now—that all of these regulations could be termed "phony regulations."

We heard our last witness talking about water fountains. I think that if Chicago, or whatever city it was, insisted on this, that these are basic where there is an attempt to upgrade all farms to particular levels. I think if water fountains were included in the regulation they had good reason to be included. Perhaps the water was coming from polluted supplies.

Under the provisions of this section, the Surgeon General is empowered to promulgate an amended Federal milk sanitation code in such manner as he may conclude to be necessary to protect public health. This is an unwarranted delegation of authority. Its constitutionality is questioned in that it is a grant of a right to an individual to conclude the manner in which the public health of citizens of the several States shall be protected.

This is the primary responsibility of the States, not an individual, even though he be a Federal official. In short, it permits a single individual to legislate the standards of quality and wholesomeness of a good product in derogation of the right of a State and local agency to conclude such a matter affecting public health.

Furthermore, the idealistic approach in this section contains a basic fallacy. Regardless of how uniform and all-inclusive a standard may be, it is oftentimes difficult to apply a particular standard to a particular situation; what may be acceptable in one case may not be acceptable in another.

The concept and interpretation of standards and milk control programs are unlike in various parts of the country. The control agency emphasis will be varied, thus necessitating additional costs to the

farmer, the dealer, and inspection agency, depending on how closely local programs parallel the norm. Producers, milk companies, and regulatory agencies would be confused and find themselves under pressures not yet realized.

Federal standards as spoken of in this section would have to be all-inclusive, geared to handle a magnitude of situations. Consideration would have to be given to area economics and area method differences. Standards by necessity would be downgraded to include the below average. Therefore, the general public health would be less secure and progress would be impeded.

Section 806(a) abrogates home rule of local agencies and the supervision of milk supplies and protection of public health.

Home rule is the right of municipalities to regulate and govern themselves in all matters except those reserved to the State government by State law. Qualified local regulatory agencies who are best able to handle local problems and who, in most instances, have done much to upgrade sources of supply, would be subservient to State and Federal control. Local jurisdiction would be violated by limiting and prohibiting adequate public health administration.

In conclusion, the following is respectfully submitted for your consideration. The essence of the fact is its establishment of a Federal milk sanitation code as the same may be amended from time to time and interpreted by the Surgeon General or those he may deputize from milk exporting States as the sole criteria upon which wholesomeness of milk shall be established and flow freely in interstate commerce.

In effect, this act is a delegation of the legislative power of the Congress to a single individual and his appointees from States which might have pecuniary interest in the unhindered flow of milk in interstate commerce.

Further, it would grant to the same individual and his appointees a power generally vested in the judiciary to conclude what constitutes a violation of the act of sufficient magnitude to warrant prosecution. A grant of such powers is patently violative of our constitutional concepts and the sovereign power of our States protected under the Constitution of the United States.

The act would unwarrantedly establish a standard for conformity which does not properly protect public health and allows for conclusions based upon personal opinon rather than fact under a Federal program enforceable primarily by governing officials of States exporting milk.

Such changes in the law that jeopardize public health, supersede State and local authority and subordinate local and State agencies are unreasonable, unnecessary, and motivated by other than public health interests.

It is respectfully suggested that every effort is made to continue encouragement of voluntary State and local action in the direction of uniformity and to continue strengthening the present cooperative State public health service program for certification of interstate milk shippers.

Mr. Chairman, that concludes my statement.

(The prepared statement of Paul R. Jackson follows:)

STATEMENT OF PAUL R. JACKSON, EXECUTIVE OFFICER, MILK INSPECTION ASSOCIATION OF THE ORANGES AND MAPLEWOOD REPRESENTING THE NEW JERSEY HEALTH OFFICERS ASSOCIATION, CITY HALL, ORANGE, N.J.

Mr. Chairman and members of the committee, my name is Paul Jackson. I am the executive officer of the Milk Inspection Association of the Oranges and Maplewood, N.J. I appear here before your committee as the representative of the New Jersey Health Officers Association whose membership represents 576 municipalities in the State of New Jersey.

Much and varied criticism has been raised concerning H.R. 50. Accordingly, in anticipation of this hearing, a study of the proposed legislation was undertaken and a statement in opposition to H.R. 50 was drafted.

The following comments concerning H.R. 50 are respectfully submitted for your edification and consideration. They reflect the opinion of the New Jersey Health Officers Association.

Section 801—Desirability of uniformity

The desirability of sanitary control of fluid milk and the need for uniformity of standards to be followed in the production of milk and the administration of such standards is unquestioned. The manner in which this bill and others would attempt to attain these goals is questioned.

In passing, it is pointed out that control of the wholesomeness of milk had its genesis at local level. It was only as population and transportation increased that the same milk became subject to standards of quality by more than one municipal or State government. This is not to justify, but only explain the background development of the facts.

Section 803—Unwarranted delegation of authority—Lower standards

Under the provisions of this section, the Surgeon General is empowered to promulgate and amend a Federal milk sanitation code in such manner as he may conclude to be necessary to protect public health. This is an unwarranted delegation of authority. It's constitutionality is questioned in that it is a grant of a right to an individual to conclude the manner in which the public health of citizens of the several States shall be protected. This is the primary responsibility of the States, not an individual, even though he be a Federal official. In short, it permits a single individual to legislate the standards of quality and wholesomeness of a food product in derogation of the right of a State and local agency to conclude such a matter affecting public health.

Furthermore, the idealistic approach in this section contains a basic fallacy. Regardless of how uniform and all-inclusive a standard may be, it is oftentimes difficult to apply a particular standard to a particular situation; what may be acceptable in one case may not be acceptable in another.

The concept and interpretatiton of standards and milk control programs are unlike in various parts of the country. The control agency emphasis will be varied, thus necessitating additional costs to the farmer, the dealer, and inspection agency, depending on how closely local programs parallel the norm. Producers, milk companies, and regulatory agencies would be confused and find themselves under pressures not yet realized.

Federal standards as spoken of in this section would have to be all-inclusive, geared to handle a magnitude of situations. Consideration would have to be given to area economics and area method differences. Standards by necessity would be downgraded to include the below average. Therefore, the general public health would be less secure and progress would be impeded.

Section 805—Pecuniary interests

The manner in which it is proposed to administer this act is through designation of State employees for this purpose.

In this connection, it is pointed out that economic or other pressures may be expected to affect conclusions of such State personnel, as to conformity with proposed standards within those States which must export milk.

It has the effect of permitting a health official of a State of origin of milk to certify that said milk was produced in compliance with the provisions of the proposed Federal Milk Sanitation Code, thereby obliging the health official of the State where such milk is to be delivered to accept that milk.

Section 806(a)—Abrogates home rule

This section abrogates home rule of local agencies in the supervision of milk supplies and protection of public health.

Home rule is the right of municipalities to regulate and govern themselves in all matters except those reserved to the State government by State law. Qualified local regulatory agencies who are best able to handle local problems and who, in most instances have done much to upgrade sources of supply, would become subservient to State and Federal control. Local jurisdiction would be violated by limiting and prohibiting adequate public health administration.

Section 807(a) (b)

Under the provisions of this section either the Surgeon General, or some State official deputized by him, is impowered to conclude what constitutes a threat to public health of such significance as to warrant prosecution under the act.

Such wisdom might properly be left to the judiciary where it normally resides.

Section 808(a)—Infringes on States rights

This section transfers public health regulation and administration of interstate milk supplies from State and local agencies to State and Federal agencies; nullifies State statutes which presently require the establishment and maintenance of "recognized public health activities" and "minimum standards of performance" by local boards of health. There is no question that the majority of people in these United States would vigorously protest the removal or relaxation of the protection now guaranteed them and their families through official local and State supervision of our milk supplies. Controlling milk is a problem that necessitates regulations and the responsibility for the enforcement of regulations for the control of milk quality is more efficiently and economically handled by local and State agencies. If this all-important milk supervision is centralized in a Federal agency, it is questionable whether or not the higher standards which often prevail at the local level can be maintained.

Section 814

It is questionable whether enough moneys would be authorized to enable the Surgeon General to carry out his functions sufficiently. Probably more money than would be available would have to be appropriated, if it were to match the aggregate of the local boards of health appropriation to assure us of the same degree of supervision and control.

A Federal or State agency would find itself only able to conduct "one shot" or "token" enforcement.

In conclusion, the following is respectfully submitted for your consideration. The essence of the act is its establishment of a Federal Milk Sanitation Code as the same may be amended from time to time and interpreted by the Surgeon General or those he may deputize from milk-exporting States as the sole criteria upon which wholesomeness of milk shall be established and flow freely in interstate commerce. In effect, this act is a delegation of the legislative power of the Congress to a single individual and his appointees from States which might have pecuniary interest in the unhindered flow of milk in interstate commerce.

Further, it would grant to the same individual and his appointees a power generally vested in the judiciary to conclude what constitutes a violation of the act of sufficient magnitude to warrant prosecution. A grant of such powers is patently violative of our constitutional concepts and the sovereign power of our States protected under the Constitution of the United States.

The act would unwarrantedly establish a standard for conformity which does not properly protect public health and allows for conclusions based upon personal opinion rather than fact under a Federal program enforceable primarily by governing officials of States exporting milk.

Such changes in the law that jeopardize public health, supersede State and local authority and subordinate local and State agencies are unreasonable, unnecessary, and motivated by other than public health interest.

It is respectfully suggested that every effort is made to continue encouragement of voluntary State and local action in the direction of uniformity and to continue strengthening the present cooperative State public health service program for certification of interstate milk shippers.

The CHAIRMAN. We thank you very much for your statement, Mr. Jackson.

Mr. Thomson.

Mr. THOMSON. I would like to inquire as to the number of local dairy or municipalities that you represent as its executive officer?

Mr. JACKSON. Well, the communities you are speaking about—the Oranges and Maplewood—represent some 200,000 people. A part of the milk comes from, perhaps, 2,500 dairy farms. Part of that milk flows into our market.

Mr. THOMSON. How many dairies handle the milk that goes to those 200,000 people?

Mr. JACKSON. Specifically how many dairies?

Mr. THOMSON. Yes. Represented in the Oranges, and Maplewood Association?

Mr. JACKSON. I would say a part of the milk from the 2,500 dairies.

Mr. THOMSON. From the 2,500 dairies?

Mr. JACKSON. A part of the milk, yes.

Mr. THOMSON. Are you familiar with the standards that have been adopted in the State of New Jersey?

Mr. JACKSON. I am, sir. I helped write them.

Mr. THOMSON. And are you familiar with the voluntary programs for New Jersey-produced grade A milk?

Mr. JACKSON. I am, sir.

Mr. THOMSON. That is a voluntary program?

Mr. JACKSON. Yes, sir.

Mr. THOMSON. How many of the dairies are participating in that voluntary grade A program?

Mr. JACKSON. Offhand, I would not know, sir.

Mr. THOMSON. Would it be correct, reading from the report of this committee in the 86th Congress, to say:

> It is reported, however, that only seven or eight dairies in the entire State of New Jersey participate in this particular program?

Mr. JACKSON. What is your point, sir?

Mr. THOMSON. My question is: Is that correct?

Mr. JACKSON. I would not know—you are reading it—I would not know, sir.

Mr. THOMSON. Do you know how many dairies do participate in that program?

Mr. JACKSON. Very few—you stated very few.

Mr. THOMSON. I would like to have your answer.

Mr. JACKSON. I have not the report in front of me.

Mr. THOMSON. Do you have any knowledge on this subject?

Mr. JACKSON. No, I do not.

Mr. THOMSON. How many dairies in your State follow the standards set forth by the State of New Jersey?

Mr. JACKSON. How many dairies follow it?

Mr. THOMSON. Yes.

Mr. JACKSON. All of them.

Mr. THOMSON. All of them?

Mr. JACKSON. All of those that come in.

Mr. THOMSON. Well now, what about the frequency of inspection of milk—that is the frequency of inspection of milk—is that a matter of concern in sanitation?

Mr. JACKSON. Frequency is always a matter of concern.

Our association—as the executive officer of it—realized this back in 1914 and we are attempting to eliminate duplications. And we are further along now than ever before.

Mr. THOMSON. How frequently do you make those inspections in Oranges and Maplewood?

Mr. JACKSON. There is no definite date written.

Mr. THOMSON. Is there any requirement as to the number of inspections that are made in the year?

Mr. JACKSON. Absolutely not—you cannot say, this is the basis—you set down something—you might say that you have to cover a dairy once a year and you might find that you are going back to that dairy five or six times a year, depending upon the nature of the situation.

Mr. THOMSON. It would be a bad problem if you went back five or six times a year?

Mr. JACKSON. I do not believe so. There are some dairy farmers that need to be gone back to five or six times a year, because of lack of control from other agencies which should be doing the work and are not doing the work.

Mr. THOMSON. So the New Jersey regulation has no requirement as to the minimum number of times that a dairy must be inspected?

Mr. JACKSON. The New Jersey regulations do. I thought that you were talking about my particular municipality.

Mr. THOMSON. Is this incorrect then when it says, and I quote:

> The New Jersey milk regulations do not specify the frequency that producer dairies and milk processing plants shall be inspected?

Mr. JACKSON. I would say in whole this is, probably, correct, but they do follow a basic pattern of inspection.

Mr. THOMSON. Is the frequency pattern that of the Public Health Service code?

Mr. JACKSON. It is, probably, more so—it is, probably more than is required as a minimum. This was my very point, that these public health things, in the code, these are only set up as a guide, and municipalities and States draw from this as a guide. This is not an ordinance as such which has been adopted.

There have been basic principles drawn from the code which have been interpreted and written down. And you would not—even no State codes and local codes, after they have gotten through these 11 States that you say who have adopted it that——

Mr. THOMSON. Thirty-six.

Mr. JACKSON. Well, 36 that you say have adopted it—that sounds like they have taken it word for word and adopted it—this is not true—they have set up a guide by which they have taken out of this certain sections and incorporated their own interpretations and philosophies into it.

Mr. THOMSON. Mr. Jackson, would you specify the areas in which the code that you follow—the regulations that you follow—give a greater protection to the public health than those provided by the code of the Public Health Service?

Mr. JACKSON. Certainly. In our State I can think of two of the most important. There is no place recommended where they are asking for 50° cooling of evening milk.

There is no place in there in that code that they recommend that.

And then milk from brucellosis-free herds. There is not a standard, an acceptable pattern across the Nation.

This is exactly what I am saying. You are going to have to go across this country and find a minimum. They are going to find

some little farm out in Texas—I guess the representative from Texas is not here. They are going to find that he does not meet this up here. He does not meet this market in Wisconsin with his little farm. So he has to be upgraded which is a cost to him. We have to go over the country and downgrade the standards. This is the downgrading that I am talking about.

Mr. THOMSON. I am just trying to find out from you what standards you impose that are of greater protection.

Mr. JACKSON. We insist in our State that no milk come into the State except from a brucellosis-free herd. This is not so in any other State we know of.

If the public knew today that milk was flowing interstate under U.S. Public Health Service control—if they knew it was going into interstate, without being free from brucellosis, with the possibility of undulant fever——

Mr. THOMSON. Is it your position that the Public Health Service does not require it from brucellosis-free herds?

Mr. JACKSON. Milk is flowing every day over our State lines that could have conceivably come from brucellosis-infected animals.

Mr. THOMSON. That is not the question I asked you, but whether the Public Health Service requires milk to meet the code of the Public Health Service.

Mr. JACKSON. It is written down.

Mr. THOMSON. To be from brucellosis-free herds?

Mr. JACKSON. What is written down and what is the practice and what is the policy of doing are two different things.

Mr. THOMSON. I am asking you if it is a policy of the Public Health Service to have milk from brucellosis-free herds?

Mr. JACKSON. They would hope to have it.

Mr. THOMSON. Is not that their requirement?

Mr. JACKSON. They would hope to have it, so far as I can go along with your statement.

Mr. THOMSON. I am asking you, is that not their requirement?

Mr. JACKSON. You are trying to get me to go along with your interpretation.

Mr. THOMSON. I am not trying to interpret it—I am not asking you to, but is it or is it not?

Mr. JACKSON. No, they do not.

Mr. THOMSON. They do not require that it be brucellosis-free milk?

Mr. JACKSON. No.

Mr. THOMSON. Well now, are not some of the standards of the New Jersey Health Code less than the Public Health Service, for instance, as to bacterial count in pasteurized cream, for instance?

Mr. JACKSON. What is the count?

Mr. THOMSON. The count, according to this, is that in New Jersey the bacterial count standard for pasteurized cream is 100,000, whereas the Public Health Service ordinance and code specifies not more than 60,000.

Mr. JACKSON. What is the difference, the 40,000 in your opinion?

Mr. THOMSON. I think that the difference is to protect the public against——

Mr. JACKSON. Do you think that there is a difference between 60,000 and 100,000?

Mr. THOMSON. You were making the point that 50,000 was better than 100,000.

Mr. JACKSON. I am not speaking of bacterial count—if you knew anything about the bacterial count at all, there is relatively no difference. You are not talking about $60,000 and $100,000. We are talking about bacteria here which are harmless bacteria, to begin with, which do not mean anything. If you can get milk that is 100,000 count, it will be as good as milk at 60,000.

We are concerned about whether the milk which will flow over these borders is certified by our Department of Agriculture. They are the public relation guides for the dairy farmers. I can hardly see where the Department of Agriculture is not going to certify the States, their supplies as being able to move.

Mr. THOMSON. Mr. Jackson, I will confess I have probably quite a lot to learn in the field of bacterial count. I notice your own ordinance in New Jersey on that very subject which you say is not important.

Mr. JACKSON. I did not say it was not important.

Mr. THOMSON. You say they are harmless bacteria. Under this program it states that the bacterial count of raw milk before pasteurizing is to be not more than 50,000. That is what you say. And after pasteurization the count is required to be not more than 10,000 per——

Mr. JACKSON. What are you talking about—what are you reading from?

Mr. THOMSON. I will read the whole paragraph again.

It refers to the New Jersey Health Department regulations.

The New Jersey State Department of Agriculture has promulgated a voluntary program.

Mr. JACKSON. You are speaking of grade A. And only how many—was it 7, is it of the dairy farmers involved?

Mr. THOMSON. Would you let me read it to you?

Mr. JACKSON. Yes.

Mr. THOMSON. You are the expert. This milk-grading program is elective and a special inspection fee is charged to those plants who participate. Under this program the bacterial count of raw milk before pasteurization is required to be not more than 50,000 per millistere. After pasteurization the count is required to be not more than 10,000 per millistere. It is reported, however, that only seven or eight dairies in the entire State of New Jersey participate in this particular program. From the standpoint of public health protection there is no justification for setting bacterial counts at these limits.

It is not scientifically accepted by dairy scientists and public health authorities that milk containing 10,000 bacteria per millistere is more safe than milk containing 30,000 per millistere.

That is the program in your own State?

Mr. JACKSON. You just answered it—you are just saying that it is grade A——

Mr. THOMSON. That you people are following?

Mr. JACKSON. This milk you are speaking of is such an infinitesimal——

Mr. THOMSON. Grade A milk——

Mr. JACKSON. Grade A is no longer—we do not even call it grade A. There is no such animal in our State other than what you are saying

which could not supply the gentlemen in this room for 1 year. This is how much you are talking about there.

Our standards for milk per se that comes in in volume, and it is 98 percent of our volume, is comparable and better as to the standards, and is a more realistic picture than this. This is why none is in that. It is not realistic. This is a Department of Agriculture job, an attempt to sell a particular item.

Mr. THOMSON. That is all.

The CHAIRMAN. Mr. Jackson, thank you very much. The Chair would like to inquire if there is anyone here who would like to file his statement? You may come by and file your statements, gentlemen.

If any of you want to file your statements, you may do so now.

STATEMENT OF PAUL W. PURDOM, REPRESENTING AMERICAN PUBLIC HEALTH ASSOCIATION

Mr. PURDOM. My name is Paul W. Purdom. I have a prepared statement on behalf of the American Public Health Association that I would like to have included in the record.

The CHAIRMAN. I notice that you are director of the Division of Environmental Health, Community Health Services of the Philadelphia Department of Public Health.

Mr. PURDOM. That is a former title. The present title is director of environmental health.

The CHAIRMAN. Very well, you may have your statement included in the record.

I would like to know for my information whether you are in support or opposed to this legislation?

Mr. PURDOM. The American Public Health Association is in favor of H.R. 50.

The CHAIRMAN. Very well. I regret the situation that prevents us from hearing your testimony, but you can see what our situation is now.

Mr. PURDOM. If you would like for me to return at a later date, I will be happy to do so.

The CHAIRMAN. Thank you very much.

(The prepared statement of The American Public Health Association, submitted by Paul W. Purdom follows:)

STATEMENT OF THE AMERICAN PUBLIC HEALTH ASSOCIATION PRESENTED BY PAUL W. PURDOM, PROFESSIONAL ENGINEER

Mr. Chairman, my name is Mr. Paul W. Purdom. I live at 319 East Durham Street, Philadelphia, Pa. I am a professional engineer, licensed to practice in Pennsylvania and Georgia, and formerly in Tennessee. I am director of the Division of Environmental Health, Community Health Services, of the Philadelphia Department of Public Health. I appear before you today as chairman of the Engineering and Sanitation section of the American Public Health Association and a member of the association's governing council. I wish to make a brief statement for the American Public Health Association in favor of the proposed National Milk Sanitation Act, H.R. 50, under consideration by the Committee on Interstate and Foreign Commerce.

It is both a privilege and pleasure to appear before your committee, Mr. Chairman.

The APHA is the professional home of public health workers in all disciplines from private practice, industry, educational institutions, voluntary organizations, and all levels of governmental activity—State, local, and Federal. It has over 13,000 members, with an additional 20,000 members in State and affiliated societies. Our primary interest is in the preservation and promotion of health.

Our members have long recognized that the safety of milk supplies is essential to a community's health. We have followed with interest the various proposals before Congress relating to milk legislation. After extensive review and careful consideration, our organization has developed with respect to milk legislation a well publicized position. (American Journal of Public Health, vol. 51, No. 1, January 1961, pp. 116–117, and ibid., vol. 50, No. 2, February 1960, pp. 220–221.) Copies of these resolutions and the editorial are attached to and made a part of this statement.

Briefly, our position is:

1. The safety of a milk supply is a public health responsibility, and the authority for assuring a high quality milk supply should be vested in that agency which is legally responsible for protecting the public's health.

2. We favor the elimination of the unwarranted use of sanitation regulations as trade barriers to the free flow of high-quality milk. However, any legislation adopted to facilitate the interstate shipment of milk should provide for adequate health protection.

We have reviewed the proposed National Milk Sanitation Act, H.R. 50. This bill would accomplish our objectives, as it provides for sound public health requirements and effective administrative procedures without abridging the rights of States and localities.

The health protection we seek is provided in this bill by the use of standards of acceptance established by the Surgeon General of the Public Health Service, a certification program based on 90 percent compliance with these standards, and provisions for the rejection of substandard milk by the health authorities in the receiving areas.

I have had personal experience for over 20 years with the use of the milk standards recommended by the Public Health Service. Based on my experience in the administration of milk programs in several areas of the United States, I know that the achievement of a 90 percent compliance rating is feasible, and I have confidence that a milk supply with a 90 percent rating is safe. As long ago as the 1940's, I was directly involved in the development of a system of reciprocal milk inspection between communities in east Tennessee, where the Public Health Service standards and survey technique were used to establish mutual confidence. I have found such reciprocal systems to foster administrative efficiency by saving money while protecting health.

In conclusion and on behalf of the APHA, I urge favorable consideration by this committee of H.R. 50.

Thank you, Mr. Chairman, for this opportunity to appear before your committee.

[Attachment No. 1]

AUTHORITY FOR SANITARY CONTROL OF MILK[1]

Whereas protecting the healthful and sanitary quality of milk is an essential and basic public health responsibility; and

Whereas public health agencies have the technical skill and professional ability and interest required to carry out these functions successfully; and

Whereas consideration is being given in various States and local areas to adoption of legislation assigning this important function to agencies whose primary function has been fostering the agricultural economy and favorable marketing conditions for agricultural products; and

Whereas milk and food sanitation should be carried out by agencies whose primary objective is to supervise, encourage, and require healthful and sanitary practices: Therefore, be it

Resolved, That the American Public Health Association recommends that at all levels of government, statutory provisions place in health agencies responsibility for the healthful quality and sanitary control of milk.

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[1] APHA resolution adopted by the governing council, No. 2, 1960. Published in the American Journal of Public Health, vol. 51, No. 1, January 1961.

[Attachment No. 2]

FEDERAL MILK SANITATION LEGISLATION [2]

Whereas the Conress has been considering various legislative proposals aimed at preventing unwarranted use of sanitation regulations as trade barriers; and

Whereas the "National Milk Sanitation Act," considered by the 86th Congress, would accomplish that objective; and

Whereas said act would also provide for sound public health requirements and effective administrative procedures without abridging the rights of States and localities: Now, therefore, be it

Resolved, That the American Public Health Association favors enactment of legislation embodying the principles of the National Milk Sanitation Act which was considered by the 86th Conress of the United States.

[Attachment No. 3]

IS MILK A PUBLIC HEALTH CONCERN? [3]

"Agricultural officials accept the fact that formulation of dairy standards and dairy inspection activities are definitely related to public health." This statement by the commissioner of agriculture of one of our important agricultural States, who is also chairman of the executive committee of the National Association of Departments of Agriculture, is from a recent issue of the Dairy Industry Newsletter. By itself, the statement would seem to support health departments that have been under pressure in jurisdictions where departments of agriculture wish to assume responsibility for the sanitary production of milk and milk products. This appearance, however, is altered by the further statement, "They feel that these activities are so closely bound up in the marketing processes that one agency should handle both health and sanitation and marketing activities, and that this agency should be the department of agriculture." Furthermore, a change of this kind is urged at the Federal as well as the State level.

No public health worker should consider this viewpoint as a personal idiosyncrasy. At present, responsibility for the public health supervision of milk production at the State level rests with departments of agriculture in 22 States, and is shared with health departments in four others. Legislation to transfer responsibility to departments of agriculture is pending or was recently rejected in Florida, Iowa, Michigan, and Missouri. In several instances, this change would have been made at the local as well as at the State level.

Why should this situation alarm public health administrators? Why should a transfer of responsibility from one department of government to another be considered capable of producing far-reaching adverse effects on the public health? The major reason for the existence of departments of agriculture is to promote the economic well-being of the agriculturist. Administrative experience has shown that a major responsibility will overshadow and subordinate a minor one. Were departments of agriculture to be given responsibility for the public health supervision of dairy production, it is reasonable to assume that the economic focus would subordinate the health interest. Health departments, on the other hand, exist solely to protect and to foster the public health. That disease transmitted through dairy products has been largely eliminated is an achievement to which public health workers can point with pride. The consequent assurance of the safety of our milk supplies has played a large part in the increase of milk consumption in the United States. Over the past 50 years per capita consumption of milk increased by 20 percent.

There are other weighty reasons why responsibility for the sanitary protection of milk and other dairy products should remain with health departments or should be transferred to them. They have developed field and laboratory facilities for the purpose, and they have trained personnel that are now on the job carrying out field supervision and the necessary work of laboratory control. In addition to the trained personnel and adequate equipment at the State level, local public health administration supervises dairy production in town and city creamery, ice cream plant, and pasteurizing establishment—not to increase the profits of the producer but to protect the health of the consumer.

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[2] APHA resolution adopted by the governing council, No. 2, 1960. Published in the American Journal of Public Health, vol. 51, No. 1, January 1961.

[3] Editorial published in the American Journal of Public Health, vol. 50, No. 2, February 1960.

Furthermore, health departments have been alert to the need for uniformity in the sanitary production of milk and its products. Since 1927, the U.S. Public Health Service has sponsored the use of the milk ordinance and code. This code now serves as the basis for the production of milk in 36 States and 1,900 jurisdictions, and has also served as the standard for certifying interstate shippers of milk. More than 700 milk plants drawing their supplies from 100,000 farms have been certified as meeting the code requirements. This makes it possible for health departments to approve milk produced in other areas thus obviating the delay and expense which field inspection would entail.

State legislation transferring from health departments the responsibility for the sanitary production of milk and its products will undoubtedly be proposed. Yet, its "formulation of dairy standards and dairy inspection activities is definitely related to public health," then it is essential to see that this responsibility is placed in an agency whose prime interest is public health. Federal legislation now being considered in H.R. 3840, National Milk Sanitation Act, is of interest. This bill would call upon the Surgeon General of the Public Health Service to establish a system for the approval of the sanitary quality of milk and milk products for interstate shipment. The act would also establish a voluntary certification program similar to the one now conducted by the Service, and would prohibit the barring, on sanitary or public health grounds, of milk from a certified source by a State other than that in which the milk was produced. This proposed legislation is based on recommendations by the Association of State and Territorial Health Officers. The American Public Health Association has not yet adopted a position regarding H.R. 3840. However, this bill and any other legislation affecting public health responsibilities in milk production deserve serious attention.

Public health staff at all levels will be well advised to keep alert for any effort to weaken health department responsibilities in the sanitary supervision of milk production. At the same time, all health departments must be alert to opportunities that will make it possible to provide greater protection against disease transmission through dairy products, to ways of rendering more efficient the administration of public health supervision, and to guard against the imposition of economic barriers under the guise of public health.

The CHAIRMAN. You may proceed.

STATEMENT OF REUBEN L. JOHNSON, ASSOCIATE DIRECTOR, DIVISION OF LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

Mr. JOHNSON. My name is Reuben L. Johnson. I am associate director of the Division of Legislative Services of the National Farmers Union. I have a two-page statement that I would like to respectfully request your permission to insert in the record as if read to the committee.

The CHAIRMAN. Very well. It will be included in the record.

Mr. JOHNSON. Thank you very much.

(The prepared statement of the National Farmers Union follows:)

STATEMENT OF NATIONAL FARMERS UNION PRESENTED BY REUBEN L. JOHNSON, ASSOCIATE DIRECTOR, DIVISION OF LEGISLATIVE SERVICES

Delegates to the convention of National Farmers Union meeting in Washington in March of this year adopted a resolution in support of legislation to establish "nationwide parity, quality, and sanitation standards for milk."

Farmers Union supports H.R. 50 and similar bills to make possible national standards for milk.

We believe that the great advances which continue to be made in increasing the mobility of milk and in developing new methods of processing and distributing fluid milk and fluid milk products constitute some very compelling reasons for adoption of this bill.

Antiquated regulations regarding the processing and handling of milk are hampering the adoption in general practice of many advancements in packaging, shipping, and handling of milk. Likewise, restrictions are a roadblock in the

way of general acceptance of new milk products, such as concentrated whole milk and reconstituted milk, which hold some real promise for the future.

Dairy marketing specialists have indicated there could be an increase of 15 to 20 percent in per capital milk consumption over the next 10 years and a decrease of 4 to 5 cents per quart in distribution margins if these new developments, which have already proven themselves workable, were put into general use.

We wish to make these general observations regarding the bill.

1. We do not propose that sanitation standards be relaxed, nor do we believe that sanitation standards would be weakened by adoption of the legislation. The U.S. Public Health Service standards for milk sanitation are widely recognized and are already the basis for regulations in many areas. Use of these standards would tend to upgrade the quality of sanitation control in some areas. Nothing would be endangered by this legislation, except regulations which have no relationship to sanitation and which are really only trade barriers in the disguise of sanitation rules.

2. Sanitary regulations used as trade barriers are of no benefit to consumers, little, if any apparent benefit to producers, and mainly of benefit to processors and distributors, in that the monopoly which these regulations confer upon the commercial dairy industry enables them to widen their marketing margins at the expense of both producers and consumers.

3. Dairy farmers in the areas where these unnecessary restrictions prevail are subject to some unnecessary costs which, at least in part, offset the effect which the market restriction may have on farm prices. Pyramiding of inspection services and the requirement to purchase unusual and unnecessary equipment or facilities, which have no real relationship to sanitation, all add to the farm operator's cost.

4. Adoption of the bill would help assure that certification of wholesome milk would depend upon the intrinsic purity of the milk, not upon geography.

5. Those dairy interests who have made a practice of using sanitary regulations to achieve economic bargaining power would be better advised to drop such tactics and to join with other dairymen in working for a proper solution of dairy income problems. This legislation should be considered on its merits as a sanitation proposal. Dairy price and stabilization measures, likewise, ought to be considered on their own merits. No one ought to look to sanitation control as any sort of answer to the dairy price and income problem. That must depend upon dairy price stabilization measures or upon regionalizing or nationalizing the Federal milk market orders, which is a subject not under consideration by this subcommittee today.

6. We would recommend that section 811 of the bill, which authorizes the Surgeon General to conduct research, studies, and investigations concerning the sanitary quality of milk, should further instruct the Surgeon General to report periodically to the appropriate committees of the Congress on the results of such research and of changes in milk sanitation regulations which may be indicated.

I want to express, Mr. Chairman, our appreciation to you for holding this hearing, and for the privilege that we have of testifying before the committee.

The CHAIRMAN. You may proceed.

STATEMENT OF KEN GEYER, CONNECTICUT MILK PRODUCERS ASSOCIATION, HARTFORD, CONN.

Mr. GEYER. Mr. Chairman, would it be possible to mail a statement in to be filed with the committee?

I am Ken Geyer, representing several cooperative organizations.

The CHAIRMAN. Yes, that may be done.

Mr. GEYER. That is, in the Northeast. We would like to file a statement. We will mail it to the committee.

The CHAIRMAN. Are you Mr. Geyer?

Mr. GEYER. That is correct.

The CHAIRMAN. Of the Connecticut Milk Producers Association?

Mr. GEYER. I am also going to speak on behalf of the United Farmers of New England, the Northern Farmer Cooperative of

Vermont, the New England Milk Producers Association, and the Maryland-Virginia Milk Producers Association. I am speaking in opposition to H.R. 50. Thank you.

The CHAIRMAN. You may proceed.

STATEMENT OF ELMER E. TOWNE, COMMISSIONER OF AGRICULTURE, VERMONT

Mr. TOWNE. I am Elmer E. Towne, commissioner of agriculture of the State of Vermont, representing the Northeastern Association of State Departments of Agriculture and it is a statement in opposition to H.R. 50, if you please.

The CHAIRMAN. All right, Mr. Towne, we will be glad to have your statement for the record.

(The statement of Elmer E. Towne, commissioner of agriculture, follows:)

STATEMENT OF ELMER E. TOWNE, COMMISSIONER OF AGRICULTURE OF THE STATE OF VERMONT AND SECRETARY-TREASURER OF THE NORTHEASTERN ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE

Thank you, Mr. Chairman and members of the committee, for your kindness in permitting me to appear before you on behalf of the Northeastern Association of State Departments of Agriculture. Our association includes the 11 Northeastern States.

My name is Elmer E. Towne. My address is Towne-Ayre Farm, R.F.D. No. 3, Montpelier, Vt. I am a dairy farmer and have owned and operated a medium sized dairy farm for the past 30-odd years; in recent years, in partnership with my son, Roderick Towne, who is now the most active partner and operates the business.

For the past 6 years I have been commissioner of agriculture of the State of Vermont. My business address is the Vermont Department of Agriculture, Montpelier, Vt.

I am here today at the direction of the Honorable Joseph N. Gill, commissioner of agriculture of the State of Connecticut who is currently president of the Northeastern Association of State Departments of Agriculture. Unfortunately, Commissioner Gill is unable to represent our association here today due to other pressing duties.

Our association is opposed to the principles and procedures specified in H.R. 50 and the various bills now before the House and Senate of the Congress under the general title of the National Milk Sanitation Act. In recent years, various policy statements have been adopted by unanimous vote by our association on this subject.

Specifically, at a duly called meeting of our association at Easton, Md., May 25, 1959, the following resolution was passed by unanimous vote:

"Whereas the enactment of Senate bill No. 988 or House of Representatives bill No. 3840 known as the National Milk Sanitation Act would result in further concentration of authority in the Federal Government and a diminution of power of the several States, which is contrary to the policy of the National Association of Departments of Agriculture: Now, therefore, be it

"*Resolved*, That the Northeastern Association of State Departments of Agriculture duly assembled at Easton, Md., on May 25, 1959, goes on record as being unalterably opposed to the enactment of such or similar legislation."

The State Commissioners of Agriculture present and voting at this meeting were:

Joseph N. Gill, Connecticut
W. L. Henning, Pennsylvania
Don Wickham, New York
Perley I. Fitts, New Hampshire
E. L. Newdick, Maine
Gordon M. Cairns, Maryland
Phillip Alampi, New Jersey
Elmer E. Towne, Vermont
John L. Rego, Rhode Island

At a duly called meeting of the association at Booth Bay Harbor, Maine, August 1 and 2, 1960, the following resolution was adopted by unanimous vote:

"RESOLUTION CONCERNING THE PROPOSED NATIONAL MILK SANITATION ACT

"Whereas the State and Federal Departments of Agriculture, due to special knowledge, skill, and close contact with the local industry, are best able to efficiently and at low cost, protect the public interest; and

"Whereas S. 988 and companion bills in the House of Representatives is an attempt to extend Federal control in areas which can be more adequately handled by State agencies close to and conversant with local conditions; and

"Whereas the addition of Federal regulations of dairy sanitation to the present State and municipal boards of health and departments of agriculture would result in conflicting, inefficient, high cost, ineffective, and expensive method of dairy sanitation control: Now, therefore, be it

"*Resolved by the Northeastern Association of State Departments of Agriculture assembled in convention at Boothbay Harbor, Maine, July 31–August 2, 1960*, That we oppose the principal of S. 988 and companion bills in the House of Representatives: Be it further

"*Resolved*, That if future control legislation is enacted by the Congress that the entire authority and responsibility for establishing standards for maintaining dairy sanitation should be administered by the Federal and State departments of agriculture."

Those present and voting at this meeting were:

Commissioner Joseph N. Gill, Connecticut
Commissioner E. L. Newdick, Maine
Commissioner Charles H. McNamara, Massachusetts
Dean of Agric. Dr. Gordon M. Cairns, Maryland
Commissioner Perley I. Fitts, New Hampshire
Commissioner Philip Alampi, New Jersey
Commissioner Don J. Wickham, New York
Commissioner W. L. Henning, Pennsylvania
Director John L. Rego, Rhode Island
Commissioner Elmer E. Towne, Vermont

By reference, I would like to include in this statement the statement of the Honorable Phillip Alampi, secretary of the department of agriculture of the State of New Jersey and former president of our association, which appears on pages 88 through 100 of the record of the hearings before this committee on April 26, 27, and 28, 1960.

I understand that the Honorable Don Wickham, commissioner of agriculture of the State of New York, has sent to this committee a statement on the National Milk Sanitation Act, which I believe you have in your hands at this time.

At this hearing and previous hearings on this subject before this committee, representatives of most of the farm organizations in the northeastern area have presented statements in opposition to the principal of Federal control of milk sanitation. In the 11 States composing the Northeastern Association, we have over a long period of years, developed milk sanitation control programs for the most part entirely or partially in the hands of the State departments of agriculture, which have met our specific needs, have protected the consuming public adequately, efficiently and at low cost, and which have benefited the economics of the entire area. This is not and has not been a perfect program, but it is constantly being improved and modified to meet the rapidly changing conditions in our area. Our standards are constantly being improved and more especially our methods of securing compliance with our standards are being improved.

We would like to make it clear that our association does not support State or local regulations that are designed to be trade barriers in interstate trade or which result in a monopoly by local interests.

There is a very widespread, high-volume traffic across State lines of high quality fluid milk in this northeastern area. This commerce is increasing and the Northeastern Association of Dairy Divisions of the State Departments of Agriculture, a suborganization of our northeastern association, is making very substantial progress in securing uniformity of standards, uniformity of methods of securing compliance with these standards, and in securing mutual recognition of the sanitation programs of our various States.

We believe that our present program, the program which we have developed of State control in this northeastern area, has resulted in the highest qual-

ity of milk at the lowest consumer price of any comparable area in this country. We fail to see how the Federal Government through action by the Surgeon General could appreciably improve our program or reduce prices to consumers in our area.

While none of us advocate or support milk price wars, our records show that this very high-quality northeastern milk has been sold in large volume to consumers in Boston, other markets in Massachusetts, in Connecticut, and in some parts of New York City for less than 20 cents per quart, cash and carry retail. The quality of this milk is generally higher than that currently stated in the national milk ordinance and code issued by the Federal Public Health Service. Reference is made to the price comparisons in the fluid milk and cream report for June 1961, published by the Crop Reporting Board of USDA.

Our northeastern standards emphasize some quality standards that are entirely absent or are at a lower level in the national code. Specifically, in New England, we require that milk contain not more than 10 colonies standard plate count of bacillus coli per cubic centimeter. Farm bulk tank milk must be cooled to below 40° F. at the farm. We require a standard plate count both raw and pasteurized monthly on each farmer's milk. The tests are to be performed in an approved laboratory and the results reported to control officials routinely. High counts result in a warning. Checks are run in 10 days which, if still over the standard, result in excluding the dairy from the market until the condition is corrected. Many of our States grade milk for flavor and carry out corrective procedures for poor flavored milk. Conversely the national code emphasizes equipment and facilities, in some cases at a higher level than is common in our area. Our northeastern concept in general is that improved methods and frequent routine quality checks of the product better serve the public interest than extreme emphasis on facilities and equipment.

While this may be a matter of opinion, it is our opinion that our many long years of experience in this field and the results we have obtained in protecting the public health at low cost, justifies our area in the particular standards and methods of enforcement now in use.

The following table while perhaps a year or two out of date, gives a general idea of the standards in effect in our northeastern area. We suggest a comparison with the present national code. We believe enforcement procedures are more important than the actual standards.

Tabulation of provisions of State laws establishing sanitary milk production and quality standards in Northeastern States

State	Bacterial count (thousands)		Milk-cooling temperature at farm		Composition of whole milk	
	Milk for pasteurization (maximum)	Pasteurized milk (maximum)	Degrees (centigrade)	Fahrenheit (bulk)	Milkfat (percent)	Total milk solids (percent)
Maine	200	25	50	45	3.25	11.75
New Hampshire	25	25	[1] 50	----------	3.35	11.85
Vermont	100	20	50	40	3.50	11.75
Massachusetts	200	10	50	----------	3.35	12.00
Rhode Island	200	50	60	----------	3.25	11.50
Connecticut	300	30	55	45	3.25	11.75
	[2] 50	[2] 10				
New York	200	30	60	----------	3.00	11.50
New Jersey	150	30	[1] 50	----------	3.00	11.50
Pennsylvania	200	30	60	----------	3.25	12.00
Delaware	[3]	30	60	----------	3.50	----------
Maryland	200	30	60	----------	3.50	12.00
U.S. ordinance and code	400	30	50	----------	3.25	11.50

[1] All.
[2] Grade A.
[3] No standard.

I have an active interest in and have been a participant in several conferences on the voluntary agreement on interstate milk shipments, based on the national ordinance and code. I support this voluntary idea. From necessity we are dealing with what is possible and not what the Northeast would consider ideal. The net result of this voluntary program is that export States have the opportunity to have their milk supplies rated and the rating published. Im-

porting States have the opportunity to examine these published ratings and select from them desirable sources of supply as best meets their needs in their particular area. I believe this voluntary program will continue to expand and that it is all that is necessary at the national level for the best interest of the public and the dairy industry in this field.

We hear much about artificial trade barriers due to dairy sanitation regulations and regrettably a very few of a minor nature still exist. Adequate Federal and State law now exists to protect the public interest in this field. I see no reason to believe that enactment of the Milk Sanitation Act would result in less court action or would substantially increase the amount of milk in interstate trade. The cost of transporting this heavy, perishable, low-value product limits the distance it can be moved.

The dairy industry in this country is very large and is carried on in all parts of the country under a wide variety of conditions. We must, in the public interest, meet the needs of various economic groups, of various racial origins, under widely varying market conditions, in all kinds of climate. This cannot be done by one blanket program covering the entire country.

We subscribe to the principle that the Federal Government should do only those things which the States are incapable of doing for themselves.

The record for the Northeast indicates the public is satisfied that we are capable and have carried on milk sanitation at the State level adequately and at low cost. We can see no advantage for anyone by introducing Federal Government regulations in this field in our area.

If the Congress decides to enact Federal control of dairy sanitation, we respectfully urge that the present legislation be amended in such a way as to accomplish the following results:

1. The U.S. Department of Agriculture should have the responsibility and authority for establishing dairy sanitation standards and the required enforcement. The Department of Agriculture has the close contact with all branches of the industry, the responsibility for livestock disease control, the testing and recommendations concerning pesticides, and expert knowledge of the economics involved. This knowledge, skill, and experience would enable them to best serve the public interest efficiently, at low cost.

2. A Federal dairy sanitation program, if enacted, should cover all dairy products. In my opinion, there is no longer any place for a double standard in the dairy industry. Milk for manufacturing should also be of high quality. The small percentage of low-grade butter and cheese on the market now, in addition to being a minor health hazard, is detrimental to the consumer interests and disastrous pricewise to the dairy industry.

3. Each State should have the right to impose additional standards above the Federal minimum for fluid milk sold inside their State as long as these standards are actual quality standards which actually and factually improve the quality of milk and are not gimmicks in restraint of interstate trade.

In summary, the Association of State Departments of Agriculture of the 11 Northeastern States, after careful consideration over the past 3 years, is opposed to H.R. 50. I have stated some of the reasons on which this decision is based. If the Congress should impose national dairy sanitation standards, the present proposed legislation should, we believe, be changed as indicated in this statement.

We respectfully request you to give our opinions and recommendations whatever consideration they may be worth. We thank you very much for your patience and your kindness in permitting us to present this statement.

The CHAIRMAN. You may proceed.

STATEMENT OF OTIE M. REED, EXECUTIVE DIRECTOR, NATIONAL CREAMERIES ASSOCIATION

Mr. REED. My name is Otie M. Reed and I am with the National Creameries Association, I am its executive director. I have a statement here which I would like to file for the record. I hope it will be possible to discuss certain issues that have arisen outside of my testimony and if you would like, I would like permission, also, to file a supplementary statement in addition to this one.

The CHAIRMAN. We are going to have some more hearings later on.

Mr. REED. You are going to have more hearings?

The CHAIRMAN. Yes.

Mr. REED. Then I will appear in person.

The CHAIRMAN. We have plans for further hearings. The commissioner of the department of agriculture of the State of New York, and the secretary of agriculture would like to be heard. There are some others who would like to be heard.

Mr. REED. I would like to appear at that time. In addition, I will file this statement now.

The CHAIRMAN. It may be included in the record.

(The statement of Otie M. Reed follows:)

STATEMENT OF OTIE M. REED, EXECUTIVE DIRECTOR, NATIONAL CREAMERIES ASSOCIATION

Mr. Chairman and members of the committee, we wish to thank you for the opportunity to appear before you today and to give you our reasons for supporting H.R. 50, introduced by Hon. Lester Johnson, and companion bills.

My name is Otie M. Reed, and I am the executive director of National Creameries Association, with offices at 1107 19th Street, NW., Washington, D.C.

National Creameries Association is composed of several hundred dairy plants located in the States of Wisconsin, Minnesota, Iowa, Nebraska, Kansas, North Dakota, South Dakota, and Oregon. Practically all of our members are locally owned and operated cooperative associations of dairy farmers. Our membership is engaged in the manufacture of dairy products, butter, cheese, and nonfat dry milk. In recent years we have been witnessing a growing development of production and processing facilities within our membership of grade A milk for distribution as fluid milk and fluid milk products in city markets, and at this time some 30 of our members operate grade A milk plants.

National Creameries Association has long been interested in legislation of the type now before this committee. Other witnesses, no doubt more competent than I, have given you detailed descriptions of this bill, so I will not burden the record by further description.

We think the enactment of this legislation will eliminate the use of local and State sanitation regulations as economic restrictions rather than as regulations designed solely to protect the public health.

For the information of the committee, I am setting forth below some examples of the manner in which sanitation regulations are used to create barriers to the movement of high quality fluid milk and fluid milk products in interstate commerce.

There are many features of State and local milk sanitation ordinances and in their administration which very definitely operate to restrict the movement of quality milk between many areas and many municipalities in the United States. Such restrictions take many guises as follows:

(*a*) Mileage restrictions. It is not uncommon for local sanitation ordinances to carry provisions which limit the area from which or in which the local inspectors will inspect the milk supply for the local areas or municipalities.

(*b*) It is quite common for local ordinances to require that milk be pasteurized within the local community involved or within a short distance thereof.

(*c*) It is quite common for inspectors to refuse to inspect milk from other than local sources when they deem the milk supply from the local supply area to be sufficient to meet the requirements of the local population. Now, while it might be said that this is a sensible activity, since there is no use inspecting something that is not needed, this very fact eliminates or tends to eliminate competition between the local milk supplies and quality milk from more distant sources, and to foster local monopoly of the fluid milk supply.

(*d*) Some States and cities refuse to inspect plants and farms, as noted above, which very definitely limits the interstate movement of quality milk, unless, in their view, the milk is needed. Such a policy goes beyond protection of the public health and introduces a criterion pointed more to economic factors than to sanitation and purity factors. For example, the State of New York will not inspect plants or give them permits to ship milk into markets in the State

unless the commissioner of agriculture and markets finds that the additional milk supply is needed. I think the gentlemen of the committee will agree with me that this is not a regulation that has any bearing whatsoever on the public health and the protection thereof. It is a regulation designed to limit the number of plants that supply milk for the New York market. For example, in publication 250 of the National Academy of Sciences, National Research Council, we find on page 25 the following statement:

"The milk supply of Rochester, N.Y., was affected by a special form of regulation not administered by the health department. A provision of the milk control law of New York State required that, before approving a new source of milk supply, the local health officer must ascertain from the commissioner of agriculture and markets that the additional supply was needed for that market, and that its approval will not deprive another market of a supply more conveniently situated with respect to it. Except for certain intervals during and directly following World War II, it has been the policy of the commissioner not to authorize the approval of additional farms to supply milk for Rochester market.

"Likewise, the State milk control law authorized the commissioner of agriculture and markets to deny an application for a milk dealer's license or the extension of it on the grounds that the admission of an additional dealer or plant would tend to cause destructive competition. The commissioner had exercised this authority to the extent that very few milk plants or milk distribution enterprises had been established in the Rochester market for several years.

"According to information supplied by the Rochester Health Bureau, not one new producer or milk plant had been approved for the Rochester market in the last 2 years. The only manner by which a new producer or dealer could enter the Rochester fluid milk market was to buy or take over an established farm or milk business. Thus, the Health Department of Rochester could admit to the market only the milk of producers already approved for sale in Rochester by the commissioner of agriculture and markets, and the health department could not accept additional milk irrespective of its good, sanitary quality."

But there can be no denying that regulations of the type just quoted do not have public health significance, but do have great significance in restricting the movement of milk of pure quality in interstate commerce and in tending to the development of a monopoly of supply sources for the benefit of established producers and plants.

(*e*) Discouragement of new and more efficient production, processing, and marketing practices. It is a sad fact, but nevertheless a fact, that there has been hardly a single innovation or new technique developed in the processing and marketing of milk in recent years that has not been originally stultified and made much more difficult of accomplishment by State and local sanitation regulations. We have only to refer, for example, to the battle between paper and glass milk containers. While this battle is largely finished from the sanitation point of view, nevertheless the fact remains that the introduction of a single-service paper container was inhibited and bitterly fought by some sanitation authorities. In the city of Chicago, for example, a long and bitter court case was fought because the Chicago Department of Health did not think its ordinance permitted the sale of milk to consumers in single-service containers, although the State sanitation law quite specifically permitted the distribution of milk in paper containers.

(*f*) Fees. In many instances State and local health authorities, particularly local health authorities, establish fees to pay for the cost of inspection. Of course, there can be no particular objection to requiring producers and distributors to pay some of the costs of sanitation inspection services, although it would be my personal view that in regard to a matter so closely associated with the health of the public, such costs should be borne by the general tax funds of the local community involved.

Be that as it may, in some instances sanitation officials, or the ordinances under which they work, levy a fee per unit of all milk entering the plant. Thus a large plant which may wish to sell only a small volume of milk in some local or small market, may have to pay a fee on all milk entering the plant even though such milk is sold almost in its entirety in other areas. Such fees, so levied, may be so prohibitive as to bar milk from other sources quite effectively.

These are some of the restrictive features of current sanitation ordinances now existing on a widespread basis in this country. We think beyond any shadow of a doubt that all too many features of these ordinances constitute burdensome restrictions on the interstate commerce in fluid milk and should be removed by the passage of the bill which I am discussing.

It might be of interest to the committee to note that there has been a substantial amount of litigation regarding restrictive sanitation regulations.

In connection with this phase of the matter, I am attaching hereto an appendix A a copy of a paper entitled "Recent Court Decisions Affecting Trade Barriers and Sanitary Regulations in the Dairy Industry," presented at the 11th annual meeting of the Dairy Products Improvement Institute, Inc., Hotel Governor Clinton, New York City, on February 13, 1958, by Mr. Harry Polikoff, attorney at law, New York City and Washington, D.C.

Mr. Polikoff is one of the widely recognized and highly capable attorneys specializing in the problems of milk marketing in this country. He has made a careful review of court cases involving sanitation regulations which act as trade barriers and has set forth at the end of his paper a partial list of court cases which have been adjudicated which concern sanitation regulations.

I wish to refer you gentlemen to this paper, appendix A of my statement, so that you will see the extent of the litigation concerning this matter which has been compiled by Mr. Polikoff. This shows that, on the basis of the partial compilation by Mr. Polikoff, the volume of litigation is large and it seems to me thus quite definitely strengthens our contentions that in all too many instances State and municipal sanitation ordinances act as very real barriers to the movement of good quality milk in interstate commerce.

I am also setting forth as appendix B hereof a listing of court cases initiated by the Dean Milk Co., Franklin Park, Ill., furnished me in 1958 for use in a hearing before a subcommittee of this committee on somewhat similar legislation. While the Dean Milk Co. distributes the greater portion of the milk it receives from producers in Chicago, Ill., which milk is produced and processed under the sanitation laws of the State of Illinois and the city of Chicago, and which is priced under the Federal milk order for Chicago, it found itself continually hampered in its drive to expand its business by various and sundry State and municipal sanitation regulations in markets outside Chicago. The Dean Milk Co. initiated a number of lawsuits against such restrictive sanitation regulations, at least one of which is a famous court case which was finally decided by the U.S. Supreme Court in 1951.

Inasmuch as the Dean Milk Co. has spearheaded, so to speak, a legal fight against restrictive trade barriers in State and municipal sanitation regulations for milk moving in interstate commerce, we earnestly direct your attention to the listing of several of the court cases involved as set forth in appendix B.

Although I am unable to give you a reference or information from my own knowledge, it seems highly reasonable to believe that perhaps by far the greater portion of the restrictions on interstate commerce, caused by restrictive and arbitrary provisions in State and local ordinances, do not result in the institution of a court case.

All too often when a company, be it cooperative or corporate, is refused a permit to sell milk in a market, rather than go to court and thus institute lengthy and very expensive litigation, the matter is dropped by the seller and nothing is done to eliminate the arbitrary restriction involved.

Among my own membership there have been instances where a producers' cooperative association seeking a market from a neighboring State has been refused a permit to enter such market, not because of any problems of the public health or the quality of the milk supplied which meets the State requirements for grade A milk, but because the sanitation official in the local market refused to inspect the milk on the grounds that the milk was not needed.

I would point out to the committee that they are probably much more cognizant of the fact than I that the conduct of litigation paying court expenses, and for the time and effort of capable attorneys, is very expensive. As you all know, perhaps much better than I, the cost of carrying a single case to the U.S. Supreme Court may well run into thousands of dollars. Thus it is no wonder that the court cases are not an adequate criterion of the degree to which interstate commerce in milk is restricted by State and local sanitation ordinances but that as a matter of fact the degree of restrictions on the interstate movement of milk no doubt is very much greater than that disclosed by the partial list of court cases touched upon herein.

There are many compelling reasons why restrictive sanitation regulations should not be permitted to be used as barriers to the movement of milk of high sanitary quality in interstate commerce.

A great deal of work in improving dairy processing practices has been accomplished, and increases in the size of plants and the volume handled have con-

tributed to a relatively lower cost of preparation of the milk for consumption by our population.

These improvements, which are also taking place very rapidly at the farm level, with better breeding practices, better feeding practices, more efficient housing and cow-handling practices, bulk cooling tanks, and the like, are all to the good. They assure our population that there is progress in the dairy industry—that farmers and processors are not standing still, but are pushing aggressively ahead to improve production and processing practices.

It would seem axiomatic that milk and milk products should be produced in those areas where it can be produced and processed most efficiently. It is one of the very well recognized concepts of economic science that products should be produced in those areas and in those places which have a comparative advantage in production and marketing, whether by virtue of climatic conditions, or adaptability of the soil and the users of the soil to the production of a commodity, and the like. In this way, the population of a country is assured of the best utilization of its resources, and a higher level of material income from such labor and resources as it may possess.

With the advance of scientific practices and machinery of one kind or another, it is possible to distort the principle of comparative advantage, and to produce commodities in areas which theretofore would not be able to produce them naturally in sufficient volume at reasonable cost. For example, there seems little reason to doubt that it would be entirely possible to produce even tropical fruits in our far northern States—heating techniques and the like exist to permit this. But it would be quite silly to produce oranges under hothouse conditions in Wisconsin, for example, when they can be produced under natural conditions in Florida, California and other semitropical areas of the United States at much lower cost in labor and equipment.

In the production, processing, and marketing of milk, however, as we have pointed out in detail heretofore, we find that all too frequently barriers are placed in the way and stop or markedly inhibit the movement of milk from areas of low-cost production to areas of high-cost production.

These barriers not only operate to distort and render ineffective the principle of comparative advantage—they lead to local monopolization of milk markets under the guise of regulating the sanitation practices that must be followed in order for fluid milk and fluid milk products to be sold in the markets involved. This leads in turn to heavier production in areas which are high-cost areas, and raise the cost of fluid milk and fluid milk products to consumers. This in turn means that the per capita consumption of fluid milk and fluid milk products is lower than it would be if it were not for these barriers, and in turn this means that the dairy industry will have a much harder time fighting its way out of the current imbalance between supply and demand than would be the case if these barriers were to be removed.

It is the removal of barriers to the free flow of good quality milk from area to area that we ask the Congress to accomplish through the passage of H.R. 50.

In closing, I wish to emphasize one point. While there are witnesses, some in the field of public health at the State or local level, who oppose this bill, the major organizations in this field have endorsed it. Such organizations as the Association of State and Territorial Health Officers, the American Public Health Association, and others who have appeared here or have filed statements, are deeply interested in this field—they are experts in it—their official duties are involved in it. It seems to us, therefore, that the opinions of such organizations with membership throughout the Nation, should bear great weight with this committee.

Also, the U.S. Public Health Service, which has done so much in promoting and protecting the public health and is vastly experienced, supports this proposed legislation. We can be sure, therefore, that the bill will, if enacted, foster the public health and welfare.

I wish to thank the committee for its courtesy to me and to my organization in the presentation of this statement.

APPENDIX A

RECENT COURT DECISIONS AFFECTING TRADE BARRIERS AND SANITARY REGULATIONS IN THE DAIRY INDUSTRY

By Harry Polikoff, attorney at law, New York, N.Y., and Washington, D.C., presented at 11th annual meeting, Dairy Products Improvement Institute, Inc., Hotel Governor Clinton, New York City, February 13, 1958

In the short time allotted to a talk such as this, it obviously was not intended that I should attempt to cover all problems involving trade barriers and sanitary regulations in the dairy industry. Therefore, my discussion will be confined to some recent court decisions, and some relatively newer aspects of these problems.

First let me clarify the phrase "trade barriers and sanitary regulations." These are two different things, and I consider a trade barrier a regulation in which the exclusion purpose or effect is paramount, and the sanitary purpose or effect insignificant. Technological advances in processing and distribution have been so great and rapid that too many regulations, adopted in a generation when they served a valid health purpose, are today trade barriers merely because they have not kept pace with our dynamic industry.

To illustrate, a health board resolution of 1925 in the city of Washington, Pa., required milk to be pasteurized and "bottled"; but because the resolution remained unchanged after paper container become commonplace, a court (1) had to decide a quarter of a century later that a paper package is a bottle. However, courts will not always "change" every provision of a law which is applied to new technology. For example, in 1947, I myself drafted a bill enacted in Pennsylvania which required that a milk dealer pay $5 annually for a weighing and measuring permit at every "place" where milk is weighed or measured. Goodness knows, I had no crystal ball with which to foresee the day of bulk milk holding tanks on farms. When the milk control commission recently required milk dealers to pay a separate $5 fee for a permit at every bulk tank farm, this application of the law was sustained (2).

The upward surge of population has changed our industry from one of local nature to one of regional nature. Suburbia has become exurbia (3), and exurbia is becoming interurbia (4). Yet political boundaries and subdivisions created over a century ago continue in effect. The dairy industry welcomes public supervision of milk and milk products. However, one of the greatest problems confronting it is duplication of inspection; or, to be more accurate, multiple inspection; and slight differences in regulations or enforcement methods—with no significant contribution differences in regulations or enforcement methods, with no significant contribution to purity—often makes the difference between compliance or noncompliance. The result of such trade barriers is increased cost of production and distribution, and, in the last analysis, the consumer must pay for it.

The last few years have seen much judicial activity in this field. So let us turn our attention in this meeting to what has happened in the courts in recent years to minimize the trade barriers resulting from adherence to political entities on the one hand, and the new technology of our industry on the other.

Any discussion of recent cases must commence with *Dean Milk Company* v. *City of Madision* (5), in which the Supreme Court of the United States in 1951 found that Madison's requirement that milk be pasteurized within 5 miles of the city limits was invalid as to shipments in interstate commerce, because two reasonable alternatives were available to the city: (1) inspection could be made by Madison's inspectors, and the reasonable cost charged against the shipping producers or processors; or (2) Madison could adopt the equivalent of the USPHS model ordinance, permitting receipt of milk produced under provisions equivalent to the local ordinance, provided that the local health officer is satisfied that such provisions are properly enforced which USPHS could be used to verify.

One thing was critical in the *Dean* case: Although the court noted that in some particulars the Madison ordinance was more rigorous than that of Chicago, and although the Medison health authorities scheduled inspection of farms and plans once every 30 days, the health commissioner of the defendant city himself testified that Madison's consumers would have been as adequately safeguarded by accepting inspection reports of other cities and causing them to be verified by spot checks. In view of this concession, the point at issue was deemed not to involve the Madison health commissioner's 30-day inspection requirement or any other possible superiority of the Madison ordinance, but only the 5-mile limit as applied to interstate commerce.

After the *Madison* case, two State cases soon came up in the Northeast, both involving only intrastate commerce; and these cases did not concern definite mileage limits for inspection, but rather a refusal to inspect based on the additional expense involved.

The case in New Hampshire (6) concerned a board of health policy of the city of Concord to inspect all farms, but it refused to inspect the farms of a plant which had been inspected and approved by the State and two nearby New Hampshire cities. Since the board was not authorized to place the expense of inspection on the permit holder, the court, in effect, compelled the board to issue the permit on the basis of reciprocity. The *Pennsylvania* case (7) involved an ordinance of the city of Johnstown which required inspection of farms. After a refusal to inspect the applicant's 800 farms on the ground of expense, the court required a permit to issue because three alternatives were available to the city: (1) the city could accept as satisfactory the approvals given applicant's milk by the USPHS, by Pennsylvania, by the city of Pittsburgh, and certain smaller municipalities; or (2) the city could conduct inspections by spot checking which would not be unduly expensive; or (3) the city could impose the added expense of inspection on applicant, but only in the event that it imposed a similar requirement on all plants supplying the city. Once again the court gave reciprocity the stamp of its approval.

Since none of these cases turned on any claim that one sanitary regulation or enforcement method was superior to another, this brings us to the crucial question of what has happened in the courts when the defending health authority insisted that its own requirements were superior and essential.

A case was brought in a West Virginia Federal court by a Pennsylvania company seeking to sell milk in a West Virginia county. Regulations of West Virginia were modeled after the USPHS ordinance, including the requirement that milk from plants beyond the limits of routine inspection of the State may not be sold unless produced under equivalent conditions, and unless the health officer satisfies himself that such provisions are being properly enforced.

Plaintiff's plant and milk supplies had the approvals of the city of Uniontown, the Pennsylvania Department of Health, and the city of Pittsburgh. Both parties agreed that D. W. Taylor, an agent of the USPHS, should report on whether the enforcement methods of these agencies were equivalent to West Virginia. He reported to the court twice that they were not; but the defendant county health officer himself testified that the "only important" difference was that under Pennsylvania and Pittsburgh regulations routine inspection of farms and the collection and testing of samples were entrusted to inspectors in the employ of private industry.

The district court then examined into evidence of the field and laboratory tests made by public officials checking the work of industry employees, and found as a fact therefrom, that the result was equivalent to West Virginia methods and directed a permit to be issued (8). However, the Court of Appeals (9), reversed the district court. The Court of Appeals based its decision on two differences between the regulations themselves: (1) West Virginia required the health officer to inspect all dairy farms and plants at least once in 6 months, whereas the evidence disclosed the Pennsylvania farms were inspected the extent of only about 10 percent, four times a year; (2) such inspection was made by employees of industry who were authorized to do so by public officials, instead of by the officials themselves. The Court of Appeals did not discuss the evidence, and found that on the basis of these two differences and the USPHS report of nonequivalence the county health officer acted within his discretion. The validity or reasonableness of the West Virginia requirements was not under attack.

Now we come to an interesting Federal Oklahoma (10) case, also involving the subject of reciprocity, and in which certain requirements were attacked. Oklahoma might be far away, but Federal decisions have a way of affecting all of

us, much like the pebble tossed into the lake which sends its circles outward. A company in Wichita Falls, Tex., applied for a permit to sell milk in Lawton, Okla. Wichita Falls had an ordinance based on USPHS.

The Lawton City health officer refused the permit on the ground that the two ordinances were not equivalent, based on two particular differences: (1) the Lawton Code required that milk for pasteurization be cooled immediately to a temperature of 50 degrees within 30 minutes after milking; whereas the Wichita Falls Code, although also reciting immediate cooling to 50 degrees, was interpreted to mean within 2 hours instead of 30 minutes; (2) the Lawton Code required a tuberculin test every 12 months, whereas the Wichita Falls Code provided for following the accredited tubercular-free area plan.

The court took testimony, which stressed that in both communities the codes allowed up to 200,000 bacteria count, then found the difference in cooling requirements to be a "distinction without a difference" so far as public health was concerned. The court also took testimony that the accredited area plan in controlling tuberculosis was as effective as yearly testing, and that in any event the issue of tuberculosis control in dairy cattle was for the protection of dairy herds rather than consumers of pasteurized milk. Therefore, the court found that the USPHS Code in effect in Wichita Falls, Tex., is "reasonably adequate to protect the public generally as well as locally"; it held invalid the two stricter provisions of the Lawton Code as against the interstate shipments, and required the issuance of a permit (11).

In the West Virginia case which I previously discussed, the only question was whether the health officer reasonably determined the issue of reciprocity based on equivalency; but in this Oklahoma case, the stricter requirements were themselves under direct attack as being merely of a technical nature, with no reasonable health significance.

In a recent case (12) of multiple requirements which excited much controversy (13), an action was brought by Tennessee and Mississippi farmers to contest the validity of a 1955 enactment by the State of Alabama requiring that out-of-State producers have semiannual permits issued by the State department of agriculture and industries, certifying the equivalence of their sanitary conditions. This was in addition to permits issued to all producers by the State and county boards of health under a separate law enacted only a few months previously. The Alabama court sustained this extra requirement imposed upon out-of-State producers; and I think that this is a doubtful decision. Distinctions between milk produced within a State and milk produced outside were stricken down in New Jersey not so long ago (14).

In a recent case (15) involving reciprocity in the field of manufactured products, a court invalidated the long-standing ordinance of the city of Baltimore which prevented the sale of ice cream in that city unless the manufacturing plant was located within the city limits. In a decision which paid tribute to Dr. Huntington Williams, Dr. Walter D. Tiedeman, and our own Dr. Dahlberg, the court held that the legitimate health interest of the city of Baltimore could be protected by accepting as satisfactory the approval given to applicant's Philadelphia plant by the Philadelphia Department of Public Health as an agent for USPHS, with additional spot checks, and also actual inspection by Baltimore officials at plaintiff's expense, if necessary (16).

The whole subject of duplication of inspection raises the question of the extent to which inspection by private industry can play a part in legal considerations. As we know, there are many jurisdictions in which the health authorities rely to a great extent upon the quality control program of plant operators. Several courts (17) have noted that daily inspection by public officials is an administrative impossibility, and that the procedures adhered to in periods between official inspections are of major significance. This being so, let us inquire into the extent that the judiciary has recently recognized our industry's own inspection programs.

In the New Hampshire case, previously referred to (18), the supreme court of that State referred to "the tests employed by the plaintiff itself, which are more rigid than those required by the defendants"; and it stated that, although such voluntary programs are not binding upon the Board of Health, "they are nevertheless vital circumstances which the trial court properly considered" together with other facts, in deciding in favor of the plaintiff company.

In another case (19), where several milk companies succeeded in setting aside certain regulations of the New Jersey Department of Health, the following testimony of the Commissioner himself was quoted in the opinion of the superior

court of New Jersey: "We know that some of these plants have a very high reputation for quality product and we know that they would not accept any new producer who didn't meet their minimum standard, which might even be higher than ours."

In the West Virginia Federal case (20), the lower court squarely found that the then system of the city of Pittsburgh, largely relying upon inspections made by industry (subject to laboratory analyses and field inspections by the city staff) was equivalent to West Virginia's program of official inspection. Although reversed on appeal, this should not be construed as adversely reflecting upon industry inspection; it only holds that when a health officer, supported by a USPHS report, finds that enforcement under another ordinance is not equivalent to his own, such finding will not be reversed.

In the Baltimore ice cream case (21), the court noted that the Philadelphia plant involved complied with "all governmental standards, State and local, of the jurisdiction in which it does business. It also complies with the Sealtest standards for the operation of the National Dairy Products organization of which it is a part, and with its own standards, which in no case are lower than the governmental standards and in many cases are more severe." Later the court noted "the development in safety processes of the manufacturers themselves." Thus, at least four courts, within the last few years, have attached significance to the milk sanitation programs of private industry. This should give encouragement to those engaged in such programs, and to the work of this institute.

In the time allotted for this talk, it is impossible to cover many other recent cases of interest. Refusals to inspect based on adequacy of supply have not been countenanced (22). Mileage limits on plant location or inspection have also been nullified (23) so often that, in my opinion, those remaining should be repealed. Failure to do so, like the failure of some health authorities to be realistic (24) in other respects, can only give impetus to national legislation (25) designed to change traditional concepts of local control.

Ordinances discriminating against milk vending machines, either on the alleged sanitation grounds (26) or by excessive inspection fees (27), have been stricken down in the courts of New York and New Jersey (28).

The type of container in which milk or milk products can be sold has also been a recent topic of judicial discussion. In New York the law restricting the size of evaporated skimmed milk containers to 10 pounds or over was set aside as unconstitutional because the court (29) deemed it "incredible that as of this date shoppers do not know what is meant" by a can properly labeled "condensed skimmed milk." In this field of milk containers a Federal decision (30) of only 13 years ago upheld a Denver ordinance prohibiting gallon jugs; but this may prove inconclusive with evidence of improved methods for handling such containers.

No reference to newer technology and milk containers would be complete without mention of regulations requiring "dating" of such containers, most of which have outlived their usefulness and should now be considered a trade barrier. "Dating" indeed stops the sale of pure milk when a "reasonable alternative" is available (31). But I have discussed "dating" elsewhere (32), and Dr. Dahlberg will soon discuss it at length as no one else can.

Of course, I have not even touched on trade barriers arising from certain price regulations and other economic measures, this being quite another subject.

In conclusion, let it be clear that the dairly industry of the United States welcomes public supervision. Milk is the most necessary single human food, and the public confidence in this product is enhanced by its confidence in our industry and in the public officials who supervise it. The four touchstones of efficient public supervision are: (1) reasonableness of requirements; (2) reasonableness of method of enforcing such requirements; (3) avoidance of unnecessary multiplicity of inspection; and (4) an industry program which makes a daily routine of compliance with requirements. The trend of judicial decision indicates inquisitiveness by the courts as to all four of these aspects. Furthermore, the public itself is more sophisticated than a generation ago and more aware of the advanced technology of our industry. Judicial attitudes and public attitudes are now such that public officials can and should feel free to concentrate their important efforts on factors with substantial health significance. That they are in fact doing so more and more even increases the high public esteem in which they are already held, and permits the dairy industry to concentrate successfully on its real function of marketing milk, ice cream and other dairy products in the purest form.

REFERENCES

(1) *Otto Milk Co.* v. *Washington*, 363 Pa. 243 (1949). To the opposite effect, see *Fieldcrest Dairies, Inc.* v. *Chicago*, 122 Fed. (2) 132 (1949).

(2) *Milk Control Commission* v. *Lykens Dairy*, 181 Pa. Super 142, 124 Atl. (2) 441 (1956).

(3) "The Exurbanites" (Lippincott, 1955), A. C. Spectorsky.

(4) "Interurbia, the Changing Face of America," J. Walter Thompson Co.; American Milk Review, January 1958.

(5) 340 U.S. 349.

(6) *Hood & Sons, Inc.* v. *Boucher*, et al., 101 Atl. (2) 466 (1953).

(7) *Otto Milk Co.* v. *Rose*, et al., 375 Pa. 18, 99 Atlantic (2) 467 (1953).

(8) *Dairy Products Co. of Uniontown* v. *Kennedy*, U.S. District Court (N. Dist. of W. Va.) Civil Action No. 555–W (1954); see note below.

(9) *Sleeth (successor to Kennedy)* v. *Dairy Products Co. of Uniontown*, 228 Fed. (2) 165 (1955); review denied by U.S. Supreme Court, 351 U.S. 966 (1956).

(10) *Chapman Dairy* v. *City of Lawton*, Okla., U.S. District Court (W. Dist. of Okla.) Civil Action No. 7177 (1957).

(11) This case (see above note) is now on appeal.

(12) *James, et al.* v. *A. W. Todd*, commissioner, decided by the Supreme Court of Alabama (3 Div. 769) Aug. 22, 1957.

(13) Dairy Record, June 27, 1956; January 30, 1957, etc.

(14) *Welsh Farms, Inc., et al.* v. *Bergsma*, 16 N.J. Super 295, 84 Atl. (2) 631 (1951); *Borden Farms Products* v. *Borough of Somerville N.J.*, 36 N.J. Super 104 (1955).

(15) *Supplee-Wills-Jones Milk Co.* v. *Williams, et al.*, Circuit Court of Baltimore City, Docket A–55, Case No. 35523 (1956).

(16) In a recent Pennsylvania case, an Ohio manufacturer selling ice cream in Pennsylvania, was required to obtain a permit under the Pennsylvania Milk Sanitation Act of 1935. This act defines ice cream as a "milk product," thereby requiring State approval of both plant and milk supplies. However, the case involved no attack on the requirement and no question of reciprocity was raised. *McAllister's Dairy Farms, Inc.* v. *Henning*, Court of Common Pleas (Dauphin County, Pa.) Equity Docket No. 2254 (1957).

Also in the field of manufactured dairy products, a case is pending in Louisiana, attacking its 1956 statute and regulations imposing fluid milk grading on powdered milk in packages for human consumption. *Land O'Lakes Creameries, Inc.* v. *Louisiana State Board of Health*, U.S. District Court, Eastern District of Louisiana, Civil Action No. 7229. Here we are reminded of the talk given by E. J. Roberts of Crowley's Milk Co. before this institute a year or so ago, when he pointed out that there is no sound public health or quality justification for a measure of this kind.

(17) See cases cited in notes 6, 7, 15.

(18) See note 6.

(19) See the *Welsh* case, note 14.

(20) See notes 8, 9.

(21) See note 15.

(22) *Welsh Farms, Inc., et al.* v. *Bergsma*, note 14. *General Ice Cream Corp.* v. *Powers*, Albany County, New York Supreme Court (1955); *Otto Milk Co.* v. *Rose*, note 7.

(23) *Safeway Stores* v. *City of Oakland, Alameda*, Superior Court (1955) (2 miles); *Foremost-International Dairies, Inc.* v. *City of Greenville, S.C.*, Greenville County, Court of Common Pleas (1956) (within city); *City of Grand Haven* v. *Grocers Co-op. Dairy Co.*, 330 Mich. 694, 48 N.W. (2) 362 (1951) (5 miles) etc. In Fulton N.Y., the city invoked an old resolution of its board of health imposing a 5-mile limit on pasteurizing plants; the case was settled in the supreme court of the county by an order (Dairy Record, Sept. 19, 1956) which leaves the resolution a dead letter; compare the 1928 case of *Lang's Creamery, Inc.* v. *Niagara Falls*, 224 App. Div. 483, 231 N.Y.S. 368, reversed on other grounds, 251 N.Y. 343, 167 N.E. 464, leaving the question an "open one" at that time.

(24) Unnecessary imposition of local requirements more stringent than the State was recently set aside in *Cabell's, Inc.* v. *City of Nacogdoches*, 288 S.W. (2) 154 (Texas, 1956); *Borden Farm Products* v. *Borough of Somerville, N.J.*, supra, note 14; etc. But compare *City of Weslaco, Tex.* v. *Melton*, 301 S.W. (2) 470 (1957) upholding a pasteurization ordinance in a State permitting raw milk.

(25) See proposed National Milk Sanitation Act of 1957, H.R. 7794, 85th Cong., 1st sess.

(26) *Peoples Dairy* v. *City of Lackawanna*, 149 N.Y. Supp. (2) 392 (1956).

(28) Efforts such as those of the National Automatic Merchandising Association and various public officials culminated in adoption of a recommended sanitation ordinance and code for vending machines; U.S. Public Health Service Publication No. 546 (July 1957).

(29) *Defiance Milk Products Co.* v. *Dumond*, 309 N.Y. 537, 132 N.E. (2) 829 (1956).

(30) *Independent Dairymen's Assn.* v. *Denver*, 142 F (2) 940 (1944).

(31) See notes 5, 7, 15.

(32) 1952 Convention, Central Atlantic States Association of Food and Drug Officials. See also the address of H. R. Robinson, U.S. Public Health Service, before the Dairy Products Improvement Institute, 1957.

APPENDIX B

McCONNELL, BRANDT, VAN HOOK & PASCHEN,
Chicago, April 14, 1958.

Mr. OTIE M. REED,
National Creameries Association,
Washington, D.C.

DEAR MR. REED: Mr. Howard Dean of Dean Milk Co. has asked me to forward certain information to you which he thought might be of interest to you in your support of H.R. 7794.

The following are lawsuits in which Dean Milk Co. has been involved, wherein there have been certain restrictions imposed on the shipment of milk because of the local imposition of particular sanitary requirements.

1. *Dean Milk Company* v. *Dr. S. J. Phillips*, Civil Action No. 5960, United States District Court of Louisiana, New Orleans Division.

In this case the State board of health interfered with the shipment of milk from Arkansas to the Federal Military Reservation at Camp Polk, asserting that it was necessary for the Dean Milk Co. to obtain a license from the State of Louisiana to make such a shipment. The court enjoined the officers of the board of health from interference with shipments from Arkansas to the Federal Military Reservation in Louisiana on the grounds that this was purely interstate commerce and the company therefore was not required to obtain a State permit. Dean Milk Co. made a showing that it was approved by the U.S. Public Health Service.

2. *Dean Milk Company* v. *City of Madison*, 340 U.S. 349 (1951).

In this case there was a city ordinance requiring that all milk sold in the city be pasteurized within 5 miles of the city limits. The court held that this ordinance was an invalid burden on interstate commerce. Defense of this ordinance was predicated entirely on health considerations.

3. *Dean Milk Co.* v. *City of Aurora*, 404 Ill. 331 (1949), 88 N.E. 2d 827.

The ordinance herein involved vested complete discretion in the city health officer to grant or refuse milk licenses and further required that all milk processed more than 25 miles from the city limits be marked as not inspected and not graded by the city health officer. The ordinance was held void as an attempted exercise of extraterritorial jurisdiction.

4. *Dean Milk Co.* v. *The City of Elgin*, 405 Ill. 204 (1950) 90 N.E. 2d 112.

This ordinance requiring dairies, whether located within or without the city, and selling milk in the city, to pay an annual license fee and inspection fee based on the amount of milk received, was held to be void as an attempted exercise of extraterritorial jurisdiction. The city sought to justify the ordinance on health grounds, but was not allowed to as such considerations could in no event have justified the measure.

5. *Dean Milk Co.* v. *The City of Waukegan*, 403 Ill. 597 (1949) 87 N.E. 2d 751

This ordinance, providing that "no milk products shall be sold" in the city "unless same is produced and pasteurized" within the county, was held to be void and it could not be upheld as an attempt to fix a convenient location for the purpose of regulation and inspection.

6. *Dean Milk Co.* v. *The City of Chicago*, 385 Ill. 565 (1944) 53 N.E. 2d 612

This was an action by Dean Milk Co. to restrain the city from interfering with the sale of milk by Dean in paper containers; a municipal ordinance of the city of Chicago required bottling in "standard milk bottles." The ordinance was construed to mean glass bottles and was upheld against attack on its reasonableness on the ground that sanitation factors could justify the city council's enactment of it. (The ordinance was later changed to permit paper containers.)

I notice that section 13 of H.R. 7794 provides for exclusive enforcement by the U.S. Government. There may be instances where a dairy may have to act fast to protect its property, as in the case of the matter of *Dean Milk* v. *Phillips* above, where the State board of health had actually confiscated the milk trucks delivering the milk to the Army post and the Dean Milk Co. had to obtain a temporary restraining order on its own motion so as to save its property. As you can appreciate, in some instances the U.S. Government may not be able to act quite that speedily to protect a dairy. I should think that a private person injured by a violation of the proposed act should be able to sue for an injunction.

Very truly yours,

W. DONALD MCSWEENEY.

The CHAIRMAN. You may proceed.

STATEMENT OF DR. RUSSELL E. TEAGUE, COMMISSIONER OF HEALTH, KENTUCKY, AND REPRESENTATIVE OF ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICERS

Dr. TEAGUE. Mr. Chairman and members, my name is Dr. Russell E. Teague. I am commissioner of health of the State of Kentucky. I am representing the Association of State and Territorial Health Officers. I have here a statement that I would like to file with the committee.

We are very much in favor of H.R. 50 and identical bills. In fact, our organization proposed the principles on which these bills are drafted. I am delighted to see that they have been incorporated, that is, all of the recommendations that our organization made.

Thank you.

The CHAIRMAN. Thank you, your statement will be made a part of the record.

(The statement of Dr. Russell E. Teague follows:)

STATEMENT OF DR. RUSSELL E. TEAGUE, COMMISSIONER OF HEALTH OF KENTUCKY AND REPRESENTATIVE OF THE ASSOCIATION OF STATE AND TERRITORIAL HEALTH OFFICERS

Mr. Chairman and members of the committee, I am Dr. Russell E. Teague, Commissioner of Health of Kentucky, and I am appearing before you as the representative of the Association of State and Territorial Health Officers whose membership includes the commissioners of health of the 50 States, and in my capacity as chairman of the environmental health committee of that association, concerning support of the Federal milk legislation incorporated in H.R. 50 and identical bills, National Milk Sanitation Act introduced by Congressman Lester Johnson and others on February 6, 1959.

It is significant to note that the State and territorial health officers, in full awareness of their responsibilities and in the interest of facilitating the flow of high quality milk in interstate commerce and of preventing the use of milk sanitation requirements as trade barriers, appointed a subcommittee to make a thorough study of the need for Federal legislation regarding interstate milk shipments, and of the provisions of several bills previously introduced pertaining to this matter.

In this study, the association gave consideration to the practice of some States and municipalities to use health regulations as economic barriers to the free movement of fluid milk both in intrastate and interstate commerce. The

association recognized that States and their political subdivisions have the right to exclude milk of questionable quality, but unanimously agreed that health regulations should not be used to restrict either the intrastate or interstate movement of milk of high sanitary quality. In this connection it was felt that the sanitary control of market milk and milk products cannot be divorced entirely from the economics of milk production, processing and marketing, and that health agencies at all levels of government have a responsibility to avoid taking actions which cannot be sustained on public health grounds, and which have an adverse economic effect on the dairy industry.

The changes which have taken place in the dairy industry in the past 25 years, and which have resulted in greatly increased volumes of milk being offered for sale in interstate commerce, were reviewed in order to determine whether or not the present system of State and local supervision could be utilized for the control of interstate milk shipments without creating an undue burden on interstate commerce.

It was the consensus of opinion that the problems of the industry can no longer be considered solely on a local milkshed basis, that the increased interstate movement of milk has complicated its control by State and local agencies, and that uniform sanitary standards and practices are necessary to insure the quality of milk shipped interstate and to eliminate the unjustified use of health regulations as trade barriers. While the voluntary cooperative State-PHS program for the certification of interstate milk shippers which was actually established at the request of our association, has greatly facilitated interstate milk shipments, it has not been able to break down deliberate barriers toward which most of the past Federal legislative proposals have been directed. For these reasons, it was agreed by the Association of State and Territorial Health Officers that some form of Federal legislation was needed.

The association considered specific forms of Federal legislation that might be appropriate. While it favored the objectives and certain aspects of some of the previous bills, it was opposed to those sections which would provide for centralized Federal control, supervision, and the extension of such control to all milk supplies "affecting interstate commerce." It was felt that direct Federal supervision would unnecessarily superimpose another layer of control on existing State and local systems that might be utilized, and that the "affects interstate commerce" provisions would result in the Federal Government preempting the right of State and local governments to control their intrastate supplies.

Consideration was also given to a Federal legislative approach which would simply place a legislative base under the present voluntary State-PHS milk certification program. It was recognized, however, that such an approach would not solve in its entirety the trade barrier problem, and thus would not be acceptable to the proponents of the proposed Federal legislation. However, in view of the fact that the voluntary certification program, which utilizes State and local inspection services, has proven effective and practical in operation, the association believed that the essential elements of this program should be incorporated into any Federal milk sanitation legislation enacted by the Congress to control interstate milk supplies. It is our belief that if these elements were coupled with a provision prohibiting a State or municipality from excluding milk from out-of-State sources which complied with basic public health criteria for certification, that such an approach would provide an effective and practical means of assuring high-quality products for consumers in milk-importing areas and for eliminating the use of health regulations as trade barriers without abridging the rights of State and local agencies to control the sanitary quality of their intrastate supplies. In fact, the association believes that this approach would strengthen the programs of State milk sanitation agencies. Therefore, the following recommendation was passed on October 24, 1958, at the annual association meeting in Washington, D.C.

RECOMMENDATION

That the Association of State and Territorial Health Officers recommend to the Congress the adoption of Federal legislation pertaining to interstate milk shipments, incorporating the following principles:

A. Declare as public policy that the sanitary control of fluid milk and fluid milk products is necessary to protect the public health, and that the exercise of such sanitary control is primarily the responsibility of State and local health departments, except that no State or local government has the right

to obstruct the free movement in interstate commerce of fluid milk products of high sanitary quality by the use of unnecessary sanitary requirements or other health regulations;

B. Establish uniform sanitation standards and practices consistent with those contained in the unabridged form (pt. III and pt. IV) of the milk ordinance and code—1953 recommendations of the Public Health Service, for fluid milk and fluid milk products shipped in interstate commerce;

C. Authorize the Surgeon General of the Public Health Service to conduct, in cooperation with State milk sanitation authorities, a program for certification of interstate milk shippers, in which certification would be based on compliance ratings made by State milk sanitation rating officials in accordance with a rating method, criteria, and procedures to be promulgated by the Surgeon General of the Public Health Service;

D. Authorize the Surgeon General to certify only those interstate sources of fluid milk and fluid milk products which are awarded a compliance rating of 90 percent or more by the State milk sanitation authority;

E. Authorize the Surgeon General—

(1) To make ratings, inspections, laboratory examinations, studies, and investigations as he may deem necessary to satisfy himself as to the validity of the sanitation compliance ratings submitted by the State milk sanitation authorities for certification;

(2) To provide for revocation or suspension of certifications for cause; and

(3) To disseminate information on certified sources;

F. Prohibit the use of State and local milk regulations as trade barriers to the interstate shipment of fluid milk and fluid milk products of high sanitary quality by providing that no State, municipal, or county authority, or official may exclude, on public health grounds, or because of varying sanitation requirements, any fluid milk and fluid milk products shipped in interstate commerce from sources certified by the Surgeon General as having a sanitation compliance rating of 90 percent or more, if, upon receipt, such fluid milk and fluid milk products comply with the bacterial standards, temperature requirements, composition standards, and other criteria specified in the prescribed sanitation standards and practices;

G. Authorize the Surgeon General to amend the prescribed sanitation standards and practices if, after consultation with State and territorial health authorities, other State milk control agencies, and the dairy industry, he finds amendments are necessary to either protect the public health or to eliminate obsolescent sanitation standards and practices;

H. Authorize the Surgeon General—

(1) To conduct research and investigations, and to support and aid in the conduct by State agencies, other public or private organizations and institutions of research and investigations, concerned with the sanitary quality of fluid milk and fluid milk products; and

(2) To make the results of such research studies and investigations available to State and local agencies, public or private organizations and institutions, and the milk industry;

I. Authorize the Surgeon General to—

(1) Train State and local personnel in milk sanitation methods and procedures;

(2) Provide technical assistance to State and local milk sanitation authorities on specific problems;

(3) Conduct field studies and demonstrations; and

(4) Cooperate with State and local authorities, public and private institutions, and industry, in the development of improved programs for control of the sanitary quality of milk; and

J. Exclude from provisions of the legislation, manufactured dairy products such as butter, condensed milk, and evaporated milk unless used in the preparation of fluid milk or fluid milk products, sterilized milk or milk products not requiring refrigeration, all types of cheese other than cottage cheese, and nonfat dry milk, dry whole milk, and part-fat dry milk unless used in the preparation of fluid milk or fluid milk products; and further

K. Authorize necessary appropriations for the Surgeon General to carry out his responsibilities under the legislation.

It is the feeling of our association that H.R. 50 will go far toward the elimination of sanitary regulations as economical trade barriers and will, at the same time, protect and maintain the rights and prerogatives of State and local health authorities in respect to milk originating within their respective jurisdictions.

Recently the State health officers have become more and more concerned because of the action of some States in passing legislation which would limit milk from other States being brought across the line into their State. Such legislation, indeed, endangers the free flow of a valuable food and if this food is wholesome and pure it seems unreasonable that such trade barrier should be established.

Inasmuch as H.R. 50 and identical bills embody and conform to the recommended principles adopted by the Association of State and Territorial Health Officers, this association wishes to fully support and endorse this bill as introduced by Congressman Lester Johnon and others, and urges the favorable endorement of your committee on this bill. I am pleased to note here that the American Public Health Association has also, by resolution, endorsed the principles contained in H.R. 50.

As a representative of the Association of State and Territorial Health Officers, I wish to express to you, the Committee on Interstate and Foreign Commerce, the thanks of the entire membership of the association for the time you have allotted to uor organization to be heard on this very vital matter concerning the health and welfare of the people of our Nation.

Thank you very much, Mr. Chairman.

The CHAIRMAN. You may proceed.

STATEMENT OF JOHN MARSHALL, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF DAIRY EQUIPMENT MANUFACTURERS

Mr. MARSHALL. My name is John Marshall and I am the executive vice president of the National Association of Dairy Equipment Manufacturers. We have a statement I have prepared. We are in support of this bill. I would like the opportunity to appear at a later hearing you have indicated will be called.

The CHAIRMAN. All right. Your statement will be made a part of the record.

(The statement of John Marshall follows:)

STATEMENT OF JOHN MARSHALL, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF DAIRY EQUIPMENT MANUFACTURERS

My name is John Marshall. I am the executive vice president of the National Association of Dairy Equipment Manufacturers, with offices at 1012 14th Street NW., Washington, D.C.

This is an association of manufacturers of dairy plant processing machinery and equipment. The member companies produce approximately 85 percent of the Nation's annual supply of such equipment. This equipment is used in all types of dairy processing plants including milk plants and ice cream manufacturing plants, milk-drying plants, butter and cheese manufacturing plants. Many of our members also manufacture refrigerated bulk farm milk tanks, a relatively recent development, which are now installed on some 180,000 farms throughout the United States.

We appreciate, very much, having the opportunity of appearing before this committee to furnish information bearing on the question of the multiplicity of municipal and county regulations relating to sanitary standards for dairy machinery and equipment, one of the problems with which H.R. 50 and H.R. 13, identical bills undertake to deal.

We are pleased to note this bill, H.R. 50, is actually an amendment to the Public Health Service Act. I should like to take this opportunity to compliment the authors and their advisers for their insight of the problems involved and the necessity of having the administration of this bill under the control of the U.S. Public Health Service.

Our industry has had the opportunity of working with representatives of the Public Health Service, particularly those who administer the milk sanitation activities of the service, for many years. They have been of great help in assisting with the development of adequate public health controls, sanitary design, and construction standards for dairy equipment.

In recent years, there has been a steady and rapid growth in the shipments of milk and dairy products in interstate commerce. This makes it all the more important that the provisions of H.R. 50 be acted upon favorably.

The multiplicity of sanitary regulations applicable to dairy equipment is a problem of long standing, but considerable progress has been made, especially during the past 15 years, in reducing the problem. This progress has been accomplished by a cooperative activity known as the 3–A sanitary standards program, engaged in by public health officials, milk producers, dairy plant operators, and the manufacturers of equipment.

Dairy plant machinery and equipment is intended for sale and installation in plants in all States of the Union. I think you can therefore understand the desirability of uniform sanitary standards, for each piece of processing equipment. Such standards prescribe: (*a*) the materials to be used in the construction of such equipment; (*b*) fabrication and design of such material; and (*c*) its construction including the finish of the material, etc., which are considered to be essential from a sanitary standpoint in the use and maintenance of such equipment and its sanitary performance. It is important, of course, that once an effective standard for a piece of dairy plant processing machinery or equipment is established, that all 50 of the States and the several thousand cities and towns accept equipment built to meet such standards. When an individual State or municipality sets up regulations or requirements for a piece of equipment which differ from the accepted standard, it requires such equipment to be custom made at a greatly increased cost, as you can well realize. Dairy plant machinery and equipment contact surfaces, that is, the surfaces that come in contact with the dairy product processed, are made of the finest steel available; namely, 18–8 stainless steel. The cost of such steel is from 60 cents a pound up, and fabrication of it is an expensive process. Unless an assembly line operation can be operated, the costs are bound to be much higher. I am sure you realize that when a community requires a special piece of equipment that varies in one way or another from the 3A standard existing, that the cost of manufacturing this piece of equipment is far in excess of the regular standard line of such equipment. These costs must be passed on to the purchaser, whether he be the farmer or the processor in whose farm or plant the equipment is installed.

I would like to review the 3A program briefly for you, because its aims and accomplishments are pertinent to the legislation under consideration.

The purpose of a 3A sanitary standard is to delineate the several criteria which I previously mentioned.

Such a standard is developed through the joint collaboration of (1) manufacturers of such equipment with (2) the users of such equipment, (3) the International Association of Milk and Food Sanitarians' Committee on Sanitary Procedure and (4) representatives of the Milk and Food Program of the U.S. Public Health Service.

Some 20 standards have been approved, representing nearly all processing and farm equipment which comes into contact with milk and milk products during production and processing for use by the consumer.

It was suggested, at some time in the 1930's that the standards that were being developed at that period by the three organizations be known as 3A sanitary standards because of their three-party nature. This title has been retained over the years, and it now represents: (1) the International Association of Milk & Food Sanitarians, (2) the U.S. Public Health Service, and (3) the Dairy Industry Committee. The first two groups, I am sure all of you are acquainted with, and understand what they represent. The Dairy Industry Committee is an association of eight national trade associations, representing the dairy processors of the country and their suppliers and equippers. It has a sanitary standards subcommittee which works with respective committees of the two other groups in today's formulation of standards.

The first rough equivalent of a 3A sanitary standard—although it was not referred to then by that name—was developed in 1929, and applied to sanitary fittings used in milk plants. It appeared in the form of dimensional drawings, and there was no reference to the type or composition or finish of the metal of the fittings. The standards work slowly broadened throughout the 1930's. Then, after the end of World War II, the sanitarians, the users and the manufacturers of equipment, began to formulate and publish the standards in the particular manner which now is followed. I have mentioned that some 20 standards are now available.

A question that might come to your mind is, "How, and by whom, then, is a 3A sanitary standard developed today?"

The procedure by which a 3A sanitary standard is developed is briefly as follows: (1) A request that a standard be developed for a certain type of equipment is presented by a sanitarian, or a U.S. Public Health Service representative, or representatives of the users, or by an equipment company or equipment man to the executive committee of the 3A sanitary standards committees. This executive committee considers the request, in terms of the need for such a standard or the timeliness of action to meet the need. If it approves the request, it asks DISA to name a task committee, membership on which is open to a representative of each DISA company of record manufacturing the type of equipment in question. All other manufacturers of record, also, are urged by DISA to participate in the discussions of that task committee, and their views are accorded full weight. The task committee meets, names a chairman, and proceeds to develop a tentative standard for the equipment.

After several meetings, and after unanimous agreement as to the content, the tentative standard is submitted by the DISA task committee to the sanitary standards subcommittee of the DIC, that is, to the representatives of the users. Following a study by this DIC subcommittee, the DISA task committee reviews the users' comments. The task committee, having had the benefit of an expression of the users' views, revises the tentative standard which again then is submitted to the sanitary standards subcommittee of the DIC.

When a tentative standard, perhaps revised by the DISA task committee several times, is fully approved by the DIC subcommittee, it goes forward to the committee on sanitary procedure of the International Association of Milk and Food Sanitarians and to the Milk and Food Branch of the U.S. Public Health Service, for study from that vital side of the cooperative triangle. After a minimum of 6 weeks has been allowed for such study, the tentative standard is then considered at a semiannual joint meeting of the DIC subcommittee, of the committee on sanitary procedure of the International Association of Milk and Food Sanitarians and of the representatives of the Milk and Food Branch of the U.S. Public Health Service. Manufacturers, too, are represented at this joint session.

Usually, afterward, the DISA task committee of manufacturers again revises the tentative standard, because of new suggestions and attitudes brought to light by the all-parties discussion.

Perhaps the various stages I have told you about are repeated, in the same sequence, several times more, before a tentative standard wins the approval of all the parties. When it has won that approval, it is signed by the chairman of the committee on sanitary procedure of the International Association of Milk and Food Sanitarians, by the chief of the Milk and Food Branch of the U.S. Public Health Service, by the chairman of the sanitary standards subcommittee of the dairy industry committee, and by the chairman of the DISA technical committee. Then it is published in the next issue of the Journal of Milk and Food Technology as a completed 3A sanitary standards.

Reprints of the standard as soon as it has been published, become available, on request, to all members of dairy trade associations, to all enforcement officers, and, of course, to other persons having a legitimate interest.

Let me now reemphasize certain points that I have made. One is that 3A sanitary standards are developed out of the richest and most practical experiences of the enforcement people, the dairy farmers and processors, and the equipment manufacturers—out of the knowledge and practicality and integrity and mutual respect of all the three important interests. No one "puts across" a sanitary standard. When a standard is signed, it has already traveled the straight and narrow, the supercritical road of all parties' examination.

The other point is that this very process of three-sided standards formulation becomes a democratic process. An equipment manufacturer doesn't have to belong to any trade association to suggest the need for a standard or to sit with a task committee in developing successive tentative drafts. Any dairy processor can make himself heard as a standard is developed. Any enforcement officer can find one or more ready channels through which to be heard.

Plain and simple and wholesome self-interest, and professional devotion to the public welfare are the real advocates of a sanitarian's, or a processor's, or an equipment manufacturer's acceptance of a 3A sanitary standard.

I would like to say that only those who have served on a 3A committee can fully know of the intricate and painstaking and difficult work and the number of man-hours required in the development of a 3A sanitary standard.

Next, one might ask, "But why have 3A sanitary standards for dairy equipment?" or "Is there a need for them?"

Many of us do not realize that there is a standard for virtually everything we purchase—although one may not be conscious of it when he or she makes a purchase. There are standard grades of milk and dairy products, for example. There are standard grades of paper, packages, foods, feeds, fertilizers, pharmaceuticals and cosmetics, building materials, the material from which dairy equipment is fabricated, including 18–8 stainless steel, and of hundreds of other products. In our field, sanitary standards for dairy equipment protect everyone sitting in this room, all our families and our associates, and everyone who consumes milk in any form.

We have, in the United States, many hundreds of local milk ordinances. I have seen many of these, and in each one there are prescribed certain enforceable criteria regarding the sanitation of equipment in the milk plants. It has been the practice of many sanitarians to apply highly individualistic sanitation standards to the equipment in the plants they supervise. At one time, because of this, there were many differences among locally enforced standards, many of which really approached the nature of actual specifications for equipment construction. I am sure you realize that under such circumstances many misunderstandings and disagreements among sanitarians, manufacturers, and users developed, with the user usually in the middle. Much of this misunderstanding and disagreement was due to a lack of common language which could be used by the three groups to indicate exactly what was wanted or needed for adequate public health protection or for workmanlike and practical equipment building. So this resulted in many pieces of equipment having to be custom made, not for basic technologic or economic causes, but because of not always justifiable requirements peculiar to one or a few health jurisdictions. Many times it was necessary for the manufacturer to send mechanics into the field to make structural changes in equipment after it had been delivered to a user, although identical equipment was everywhere else approved without change. All of these things resulted in substantial increases in costs—costs to the user; costs to the manufacturer; overall enforcement costs due to constant "confusion in the craft"; costs, all of which accumulating, raised the cost to the consumer of milk and dairy products.

I have heard sanitarians themselves say that some of their number are inclined to become, over the years, somewhat eccentric and possibly, at times, arbitrary as a result of some one particular problem they have had which caused them considerable trouble. I believe some sanitarians who, if present here today, would agree, they have seen different and respected members of their own group take almost opposite positions on certain rather simple matters—which naturally would lead one to ask, "What is the correct health and sanitary view?" This would seem to indicate a general need for the development of rather universally acceptable sanitary standards for dairy equipment. Enactment of H.R. 30, we believe, would result in such acceptance.

We in the industry do not consider the terms of the printed standards a full measurement of the accomplishments of the 3A sanitary standards movement. I would say that a 3A sanitary standard on a piece of dairy equipment gives a sound and firm base on which sanitarians can act in approving equipment in a processing plant or on a farm that comes under their jurisdiction. If a 3A sanitary standard has been developed for a type of equipment and a particular piece of equipment of that type which a sanitarian is inspecting meets that standard, then he knows that the experience and knowledge of the many members of the Committee on Sanitary Procedure of the International Association of Milk and Food Sanitarians are supporting him in an approval of the equipment. He will know that he is in line with an industrywide voluntary movement that rests upon a blending of industrial science and public health science and is capable of bringing orderliness and a justifiable degree of economy into operations that affect the health and well-being of every citizen and every enterprise that he services. He will know that he is an active participant in one of the soundest and most beneficial activities underway in the food-safety world today.

The 1953 edition of the U.S. Public Helath Service model ordinance and code, third printing, page 86, under paragraph headed 3A Sanitary Standards states:

"Health officers should accept new dairy equipment which complies with the 3A sanitary standards promulgated jointly by the Sanitary Standards Subcommittee of the Dairy Industry Committee, the Committee on Sanitary Procedure of the International Association of Milk and Food Sanitarians, and the Milk and Food Program, Division of Sanitary Engineering Services, Public Health Service,

Department of Health, Education, and Welfare. Equipment manufactured in conformity with 3A sanitary standards complies with the sanitary design and construction standards of this ordinance and code."

The U.S. Public Health Service milk ordinance and code is now being followed in 36 of the States and in over 1,900 counties and municipalities. However, there are certain States, counties, and municipalities where the local health department official requires special equipment to be made. Some State milk sanitarians some county sanitarians, and some municipal sanitarians because of authority granted them by their respective health departments are, for some reason or other, prone to set up regulations or requirements for one or more pieces of dairy equipment covering such things as: (1) better than a No. 4 finish which is the recognized standard in all of the 3A standards, (2) longer legs on farm bulk milk tanks, (3) different kinds and sizes of outlets and valves which vary from the applicable 3A standards, (4) special finishes on exteriors such as farm milk tanks, which never come into contact with the dairy product, (5) a larger size outlet on a farm tank and pickup transportation tank than the 3A standard, namely, 2 inches instead of 1½ inches, which require special fabrication, (6) a mirror finish which requires a No. 7 finish put on by hand.

This is, as I am sure all of you can realize, an expensive procedure. Most companies supplying a No. 7 finish charge a minimum of $1 gallon of capacity which for example on a 300-gallon farm tank would be an additional charge of $300 for which the farmer gets no additional return and with which he may have trouble because of the added care he must take in cleaning and handling this equipment in order not to scratch the finish in any way. Certainly I believe you will agree that such requirements have little if any public health significance.

A number of persons have indicated that H.R. 50 should not be supported in its present form due to the fact that it would use the milk ordinance and code of the U.S. Public Health Service as the basis for the Federal milk sanitation code, and that the Public Health Service ordinance does not provide for new developments and, thus, is inflexible.

Many years of experience of the manufacturing of dairy plant processing machinery and equipment including farm bulk milk tanks has indicated just the opposite, that is, we have found that the applicable provisions of the milk ordinance and code while precise are suitably flexible. I believe this statement can be best supported by referring to a few of the code provisions with which our equipment must comply.

As the first example, let's refer to one of the most important processes in any milk plant operation—pasteurization of the product. I quote from the Public Health Service milk ordinance and code above referred to, third printing, page 94, item 16 p. pasteurization.

"The terms 'pasteurization,' 'pasteurized,' and similar terms shall be taken to refer to the process of heating every particle of milk or milk products to at least 142° F., and holding at such temperature continuously for at least 30 minutes, or at least 161° F., and holding at such temperature continuously for at least 15 seconds, in approved and properly operated equipment: *Provided*, That nothing contained in this definition shall be construed as barring *any other process* which has been demonstrated to be equally efficient and which is approved by the State health authority."

I call your attention particularly to the flexibility of this provision, note the words that I have italicized. Certainly, this is a flexible provision.

Example No. 2. I am sure all of the members of the committee recognize the importance of temperature-control instrument devices used on pasteurization equipment. I am sure too, that committee members are aware of the rapid progress we have made in the development of control instruments in the last few years. The code has provided for introduction of these new developments. In item 16 p. (a), which sets forth the specifications for temperature control instruments and devices used on pasteurization equipment, under Satisfactory Compliance, the U.S. Public Health Service code states:

"All temperature-control instruments and devices used in connection with the pasteurization of milk or milk products shall comply with the following or *equally satisfactory specifications*.

"These or equally satisfactory specifications shall be complied with in the case of all new and replacement equipment."

Example No. 3. The members of the committee are, I am sure, fully aware of the need for proper and adequate cleaning and sanitizing of all dairy farm and

milk plant equipment. You are also aware that many new and more efficient cleaning compounds, bactericides, and detergent-sanitizers have been introduced in recent years. The flexibility of the code is again demonstrated in the manner in which it provides for use of such new products. Appendix F, page 182, permits the use of any new cleaners and sanitizers that may be developed, providing they are nontoxic and their use results in clean and sanitized equipment which meets the criteria set forth in the code.

Example No. 4. Item 14r, section 7 (p. 66) of the U.S. Public Health Service code requires proper bactericidal treatment of dairy farm equipment. This item covers all multiuse containers, equipment, and other utensils used in the handling, storage, or transportation of milk on the farm and to the plant. I quote from "Satisfactory Compliance," for this item.

"By approved bactericidal process is meant the application of *any method of substance* for the destruction of pathogens, and of other organisms as far as is practicable, which is effective, which does not adversely affect the equipment, the milk or milk products, or the health of the consumers, and which is approved by the health officer."

The code has thus been written to permit the acceptance of new procedures and new equipment. This is in sharp contrast to the many instances we find in some States and municipalities where new equipment and new products are not permitted for many years after they have been adequately tested and their safety demonstrated. Let me give you an instance or two of how far behind the times some milk ordinances and some milk sanitation officials are—even in some of our leading cities. First, the automatic cleaned-in-place operations for dairy equipment today is recognized by most sanitarians and public health officials as being a method which does a better sanitation job for many pieces of equipment than can be accomplished manually. However, we have been working with New York State and New York City to secure permission to install farm bulk milk tanks to be automatically cleaned-in-place. After nearly a year we have still not received permission to put in even one such tank, though we have agreed to remove any tanks so installed at our expense if the results of the automatic cleaned-in-place operation were not acceptable to either New York State or New York City. The U.S. Public Health Service code permits automatic cleaning. Second, the Milk Control District No. 1, Ardmore, Pa., requires, and I quote from a letter written from the chief milk control officer to manufacturers of bulk tanks.

"*Factory inspection is still required on all tanks supplying this area.* Much thought and consideration have been given in a study concerning revision of regulations and abolition of factory inspection; however, no change is contemplated at this time."

Factory inspection sounds innocent enough, but what is meant here is scrutiny with a magnifying glass of the surfaces of each piece of equipment by the Ardmore officials in the factory of the equipment manufacturer, whether that factory is in Wisconsin, New York, or California.

Please keep in mind, gentlemen, that our manufacturers have installed over 180,000 such tanks on dairy farms in the United States in the past 10 years. My members who produce the great majority of these tanks, manufacture them to the rigid specifications and performance requirements of the 3A sanitary standards. State and municipal officials throughout most of the United States and the Public Health Service, have found these tanks to meet all necessary health requirements. This official in Ardmore, Pa., requires that before any tank can be installed on a farm coming under his jurisdiction, that the health officer or his assistant personally inspect the tank at the manufacturer's plant. The manufacturer, of course, has to pay the expenses to and from the plant incurred by such officials, plus a fee of $10 per tank. This cost is then passed to the farmer. The health officer in this case asked me why do we object? He says the farmer has no objection to paying these added costs.

We, as manufacturers of dairy equipment, believe if this bill were enacted that it would benefit both the consumers of milk, and the dairy industry. We believe that it would improve—not weaken—health protection, since U.S. Public Health Service sanitary standards are high and have proven to be effective. Therefore, we urge that this committee act favorably on H.R. 50.

The CHAIRMAN. You may proceed.

STATEMENT OF MISS SALLY BUTLER, DIRECTOR OF LEGISLATION, GENERAL FEDERATION OF WOMEN'S CLUBS, WASHINGTON, D.C.

Miss BUTLER. I am Miss Sally Butler, director of legislation of the General Federation of Women's Clubs. I am here favoring the legislation that will give the consumer a little consideration economically and so forth. We really are in favor of the bill. We will be very glad to have our statement incorporated in the record.

The CHAIRMAN. Thank you. Your statement will be made a part of the record.

(The statement of the General Federation of Women's Clubs follows:)

STATEMENT OF GENERAL FEDERATION OF WOMEN'S CLUBS, WASHINGTON, D.C., SUBMITTED BY MISS SALLY BUTLER, DIRECTOR OF LEGISLATION, AUGUST 1, 1961

The General Federation of Women's Clubs, with a membership composed of homemakers, is and has always been concerned with the problems of the consumer. The general federation is set up in every State with a committee that works on consumer interest problems.

Since milk and milk products are a very basic food for the people of the United States false barriers should not be set up by any State government that would hinder the free flow of fluid milk and fluid milk products from State to State, providing such products meet the standards set up by the U.S. Public Health Service.

There are no such State laws or regulations which would control the flow of any other commodity in interstate commerce, to our knowledge, and we urge that no such regulations be allowed with regard to fluid milk and fluid milk products which meet U.S. Public Health standards.

The club members are very appreciative for President Kennedy's endorsement of the principles of the proposed milk sanitation legislation. We think this legislation is indeed very favorable to the consumer.

For the information of this committee I should like to append a former statement by the general federation on "National Milk Sanitation." This statement sets out the reasoning of the general federation and was presented by the Subcommittee on Health of the Senate Committee on Labor and Public Welfare in 1960.

STATEMENT OF GENERAL FEDERATION OF WOMEN'S CLUBS, WASHINGTON, D.C., SUBMITTED BY MISS SALLY BUTLER, DIRECTOR OF LEGISLATION, MAY 1960

The General Federation of Women's Clubs was chartered by the U.S. Congress in 1901. Today there are approximately 5 million members in the United States. The purpose of the organization is "to unite the women's clubs and like organizations throughout the world for the purpose of mutual benefit, and for the promotion of their common interest in education, philanthropy, public welfare, moral values, civics, and fine arts."

As you will note, among other things, we work for the public welfare and we believe the welfare of the consumer is indeed public affairs. Our organization has an American home department with a consumer division. States likewise have set up these same committees as have many of the local clubs. The members concern themselves with problems that come up in their local communities and also with problems that are interstate and affect local communities. The membership of this organization is made up of homemakers across the country and their interest lies in the economic welfare as well as the health of the people.

Everyone is aware that milk and milk products are a very vital part of the average diet. We want good milk and milk products as well as pure, wholesome food of all kinds. There should be certain standards for all things intended for human consumption. That is why the General Federation of Women's Clubs began years ago to work for a Food and Drug Administration set up by our Federal Government. The Food and Drug Administration has the wholehearted support of the women who are responsible for the foods they prepare for their families. We are aware that the U.S. Department of Health, Education, and Welfare does have a standard for milk and milk products established. We are

grateful and believe this standard is such that it amply protects the health of the consumer. We are also aware that some States have special standards for the milk and milk products for their individual States and which do not improve upon the health standards as set by the United States Code. We take no issue with this except when it is done for economic reasons favoring the producers and processors. We believe the consumer must be considered at all times.

It surely is not right for any State to prohibit the sale of milk from any other State providing the milk and milk products meet the required U.S. standards. To do so places a hardship economically on the counsumer. This country is great because of our free enterprise system where competition is the keystone of our Republic. Why should States pass laws to prevent competition in the milk industry? Such seems to us consumers to be the case. No other commodity, that we know of, is so regulated as are the dairy products in interstate commerce.

We are aware of the fact that to transport milk for long distances creates problems for those who wish to ship milk into other States and cities, but if they can meet all Federal standards and do so, and then sell their milk and milk products at sufficient profit to stay in business, surely the consumer is entitled to the opportunity to buy what they want at the price they wish to pay.

The membership of the General Federation of Women's Clubs, as consumers, urge that this Congress pass a law that will put milk and milk products into the same category as other essential foods and commodities.

Give us the right to choose our foods on an equitable market. Give us the right of choice that comes with fair competition. We want sanitary milk and milk products. We are convinced that if these products measure up to U.S. Department of Health standards all consumers will be protected. We will not be deprived of the opportunity to buy on the local markets good foods because some States require standards which are more restricted than the U.S. regulations and yet do not improve upon the health standards as set by the United States Code.

We believe that since milk is so necessary to good diets the consumer should have every advantage that he gets when buying all other necessary foodstuff, and that no consumer should be deprived of the chance to secure milk and milk products on local markets if it can be brought to those markets at an economic advantage to the consumer.

The General Federation of Women's Clubs is working with those Congressmen who are trying to make available to the consumer the milk and milk products at the very best economical rates possible. We believe the consumer is entitled to this consideration. We believe it is indeed a very unfair proposition to so regulate the sale of such a vital food that is essential to the good health, and particularly to the diet of children when the products meet the full requirements of U.S. regulations.

We urge you to pass fair legislation which will protect the consumer as to proper health regulations and as to the best economic advantage for the consumer.

The CHAIRMAN. You may proceed.

STATEMENT OF O. J. MUEGGE, STATE SANITARY ENGINEER, STATE BOARD OF HEALTH OF WISCONSIN

Mr. MUEGGE. Mr. Chairman, I am O. J. Muegge, State sanitary engineer of the Wisconsin State Board of Health. I appear for the board in favor of the bill. I would like to file this statement.

The CHAIRMAN. Your statement will be included in the record.

(The prepared statement of O. J. Muegge follows:)

STATEMENT OF O. J. MUEGGE, STATE SANITARY ENGINEER, STATE BOARD OF HEALTH OF WISCONSIN

Mr. Chairman and members of the committee, I am O. J. Muegge, State sanitary engineer, Wisconsin State Board of Health. On behalf of the board, I am appearing in support of bill, H.R. 50, and other identical bills. In 1960, I also appeared in favor of passage of similar bills. My present statement is based on the same premises and updated facts.

The Wisconsin State Board of Health is comprised of doctors of medicine and dentistry. The board is in sympathy with the objectives of the proposed legislation and considers that milk which is palatable and of safe bacteriological quality should move freely in intrastate and interstate commerce. Such free movement of milk, produced and marketed in accord with uniform nationwide acceptable standards, is in the interest of public health as well as being beneficial to the dairy industry.

The board, in fulfilling its duties as the guardian of health of all the citizens of Wisconsin and of the many visitors to the State, has promoted the adoption and enforcement by municipalities of adequate sanitary regulations for the production and processing of fluid milk. Municipalities were urged to adopt ordinances patterned after and equivalent to the "recommended milk ordinance and code" of the U.S. Public Health Service in order to gain uniformity of regulations and thus permit reciprocal inspection and control of fluid milk. This promotional work, carried on in cooperation with the State department of agriculture and University of Wisconsin, has brought about the enactment of essentially uniform regulations by 78 municipalities of the State. Regulations were also promulgated by department of agriculture which were and are accepted by the Public Health Service as being in accord with the provisions of the "recommended milk ordinance and code." The State program was amplified in 1957 by legislation which provided that after July 1, 1959, all fluid milk in packaged form must meet the "grade A" regulations of the State or its municipalities.

The effectiveness of the Grade A milk program in Wisconsin is demonstrated by comparison of disease outbreaks of milk-borne origin for periods before and after the program became established. Between 1917 and 1947 there were 23 outbreaks of disease—undulant fever, scarlet fever, septic sore throat, typhoid fever and paratyphoid fever—which resulted in 1,357 cases of illness and 31 deaths, all due to use of milk which because of inadequate regulations and control was improperly produced or processed. Since 1947, not a single outbreak of illness has been attributed to use of fluid milk in Wisconsin or to milk that was transported to municipalities of other States.

Programs to eradicate animal diseases which might be conveyed to man were also carried on as a means of advancing health protection. Concentrated effort by the State Department of Agriculture to control bovine tuberculosis and brucellosis have been most responsive. The State is accredited as being a tuberculosis and brucellosis free area by the U.S. Department of Agriculture. Tuberculosis has been reduced to the point where only 0.08 of 1 percent of the animals gave positive reactions. The incidence of brucellosis as determined by the Ring test shows that the percent of infected herds has dropped from 41.4 in 1951 to 0.85 in 1960. With the reduction in the latter disease in animals, the incidence of undulant fever in man has dropped from as many as 444 cases in a 1-year period prior to 1949 to 12 cases in 1959, eight of which were among slaughterhouse employees. In 1960, only five cases were reported, one of which was a slaughterhouse employee.

These data show that through control of animal diseases transmissible to man and through adequate enforcement of sound uniform regulations covering milk production, processing and distribution it is possible to provide wholesome, palatable, safe milk for the consumer. The data further show that the provisions of the "Recommended Milk Ordinance and Code," if utilized as provided for in the proposed National Milk Sanitation Act, are adequate to control production, processing and transportation of milk in such manner as to protect the health of all that may use Grade A milk or the products produced therefrom.

This being true, the problem then becomes one concerning adequate enforcement of proven regulations. Under the terms of the proposed act such enforcement should be assured even though initially the receiving municipality or State must have confidence in the integrity of the survey officers in the producing State. Complete acceptance of the work of the supervising and certifying agencies and of the training, educational interpretive and certifying activities of the Public Health Service will surely come with experience. To facilitate early acceptance of the proposed program by all receiving areas, the Public Health Service should strive to develop strong uniform State programs in the producing areas and give leadership in the training and guidance of personnel engaged in supervisory and rating activities in all States and in promoting reciprocity between States.

In this latter connection it should be noted that the State of Wisconsin has been a participant in the activities of the National Conference of Interstate Milk Shipments since its inception in 1950. It has endorsed and adheres to the program of reciprocity of inspection and has faith in the certification program. It does accept milk, produced in other States, from certified plants.

A similar policy of reciprocity exists within the State and the 78 communities having control regulations accept inspection by other municipalities or agencies and rating surveys by representatives of the board. This policy, as established by the Wisconsin Conference on Interstate Milk Shipments, provides that the right be reserved to check delivered products and review ratings or perform spot checking should delivered products be found unsatisfactory and not in full compliance with standards established by the regulations. This latter right should be reserved by any receiving municipality or agency as is now provided in the Recommended Milk Ordinance and Code and as is set forth in the proposed act.

The Public Health Service has found the survey officers of the Wisconsin State Board of Health to be fully qualified to make surveys and ratings of milk plants and farms. At present these officers check and rate compliance with the regulations (based on Public Health Service procedure) and the adequacy of enforcement with respect to approximately 300 interstate and intrastate processing plants. Of these, the 106 plants shipping milk interstate are presently certified by the Public Health Service as having a rating of 90 or more and are included in the interstate milk shippers list.

It is to be anticipated that favorable progress in the control and production of fluid milk has been made by other State milk control agencies. There is every reason to believe that any milk agency which surveys and rates the production of market milk will be cognizant of the need for and the desirability of equitable, just ratings. With respect to Wisconsin, I am sure that our own survey officers are just as conscientious in surveying plants and farms supplying interstate markets as they are in rating those supplying intrastate consumers. In fact, in many instances the rated milk supplies serve both interstate and intrastate channels and thus are not designed for any given market.

It has been said that milk is one of the most, if not the most, regulated commodity in interstate commerce. Perhaps this is as it should be since milk is a nutritious food in which bacteria can develop rapidly under favorable temperature conditions. However, because of the controls that are exercised and those to be established by the proposed act and because of modern equipment that keeps milk cool and uncontaminated while it moves quickly to distant points—which our good roads permit—there appears to be no sound reason why milk should not move as freely in interstate commerce as other commodities that could also cause disease or, to say the least, become unpalatable while in transit. For instance, the movement of milk from certified plants should be as free as the movement of federally inspected meats and as free as the movement of seafoods.

In conclusion, it is stressed that it is the belief of the Wisconsin State Board of Health that the proposed National Milk Sanitation Act will result in the production of good, wholesome, palatable, safe milk. Therefore, the board, in the interest of the health of the Nation, strongly recommends that the committee act favorably on this legislation so that grade A milk and products made therefrom which are properly produced, processed, and protected during transportation can move freely from the producing areas to consumers in any State, its municipalities or agencies and to establishments of Federal agencies.

Mr. Chairman, this concludes the statement.

The CHAIRMAN. You may proceed.

STATEMENT OF HAROLD NELSON, TEXAS MILK PRODUCERS FEDERATION, NEW BRAUNFELS, TEX.

Mr. NELSON. Mr. Chairman, I am Harold Nelson, of the Texas Milk Producers Federation, appearing in opposition to the bill. I would like to state for the record that Mr. L. Maxie, manager of the Mississippi Milk Producers Association asked me to enter an appearance for that organiaztion also, in opposition to the bill. I do not have a prepared statement, but I would like to request permission to submit one by mail.

The CHAIRMAN. You may do so within a reasonable time.
Mr. NELSON. Thank you.
The CHAIRMAN. You may proceed.

STATEMENT OF GLEN WAGNER, SECRETARY, OHIO MILK PRODUCERS FEDERATION, COLUMBUS, OHIO

Mr. WAGNER. Mr. Chairman, my name is Glen Wagner, Secretary of the Ohio Milk Producers Federation. We want to appear in opposition to the bill. I have a statement that I can file with the committee later in the day.

The CHAIRMAN. We will be glad to have your statement incorporated in the record.

(The statement of Glen Wagner, Ohio Milk Producers Federation follows:)

STATEMENT OF GLEN W. WAGNER, PORT CLINTON, OHIO, ON BEHALF OF OHIO MILK PRODUCERS FEDERATION, COLUMBUS, OHIO

I appear before this subcommittee to oppose H.R. 50 which deals with the sanitary control of fluid milk and milk products in interstate commerce. I do not believe that this bill is necessary to protect the public health and further believe that there is a contradiction in the very nature of the bill, inasmuch as it declares that the main responsibility for the public health of the people rests with State and local government, but then goes on to take away from such State and local governments the necessary enforcement power which will make any public health program effective and of benefit to the citizens under its jurisdiction.

Section No. 813(a) makes clear that the provisions of the bill are not to apply to manufactured dairy products. It is well known in the dairy industry that, in general, lower quality standards apply to the raw milk which goes into the making of manufactured dairy products. While not admitting any need for a national standard, it is obvious that if there is to be any work done along these lines, that the raw milk supply going into manufactured products demands more attention that the fluid milk supply with which this bill is improperly concerned.

The upgrading of quality in the milk business has been accomplished to a large extent by city and county health departments and other local authorities throughout the country. In many instances, these regulations and enforcement procedures have also tended to raise the standard of manufactured dairy products. It seems inconsistent to me for Congress, or this committee, to concern itself with that portion of the milk industry which is, at the present time, delivering to the American public the highest quality product at the lowest price in its entire history. If there are sanitation practices to be corrected, then, obviously, the main problem is with manufactured milk.

It is true that many manufactured dairy products are sterilized or undergo other treatment, and thus are not subject to the hazards that the fresh fluid milk supply must face. Nevertheless, it would be of more benefit to the public, the dairy industry, and to dairy farmers, if higher quality standards were enforced on manufactured milk and the products made therefrom. It seems ridiculous to ignore this quality problem and turn to the fluid milk industry with the object of protecting public health, when there is hardly any food in the perishable category that can be used as widely and as safely as the fresh bottle of milk which the American public can buy today, and which is, in the main, under the inspection of the local health department.

It has been said that some of these inspection requirements inhibit the free flow of milk. The facts are to the contrary. Fluid milk markets throughout the country have obtained supplementary supplies and, in some cases, regular supplies of milk from the large supply in Wisconsin. Transportation charges, more than any other factor, have entered into the preference which markets have for a nearby supply. There is a great deal of difference between theory and practice in the matter of moving milk from long distances into city markets which require the efficient, economical, and regular furnishing of milk supplies by local area dairy farmers.

Section 808(b) seems to leave the ultimate responsibility for public health and safety to the local health department. Many other provisions of the bill make sure that such local health department shall not have any authority which could protect the local public health if a State agency certifies the milk and the Surgeon General accepts such certification. I would particularly object to the portion of the bill which gives another State the power of determining whether or not its own milk supply is fit for shipment and consumption in interstate commerce.

If there is to be a Federal Sanitation Act, then without any question there should be Federal inspectors who will actually make the inspection at both ends of the shipping process and at the farm and plant level. The tanks shipping bulk milk in interstate commerce should then be sealed by a Federal inspector in the first instance, and unloaded under the supervision of a Federal inspector at the receiving or bottling plant.

As this bill is set up, the high quality of milk supplies, which is now in existence in most markets, would suffer and the division of authority and responsibility between the Surgeon General at the Federal level and a State official on the State level would be fatal to the efficient and timely public health inspection of the milk supply.

We oppose the bill because it fastens its attention on the wrong part of the milk industry, because it would hurt rather than help sanitation standards, because it would create more problems of administration, and because it is unnecessary in the interest of public health or economy.

The CHAIRMAN. It is unfortunate that we cannot sit this afternoon because of a very important bill this committee has on the floor of the House which requires our attendance.

We have a statement from John P. Gantt, manager of the North Carolina Milk Producers Federation, which will be submitted for the record.

(The statement of John P. Gantt follows:)

NORTH CAROLINA MILK PRODUCERS FEDERATION,
Greensboro, N.C., July 25, 1961.

THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

GENTLEMEN: The North Carolina Milk Producers Federation is in very much opposition to the National Milk Sanitation Act or any form of Government health inspection taking precedence over State or county health regulations for these reasons that follow:

1. North Carolina milk production has reached a supply-meets-the-demand situation; therefore any movement of milk into North Carolina would be in a way of surplus which in turn would cause a reduction in producer price.

2. The producers in North Carolina are voluntarily controlling their surplus milk problems by freezing bases in each milk shed; therefore, producing only the amount of milk needed for the particular markets. Any milk allowed to move into North Carolina would only disrupt our base control programs, thereby causing our producers to produce milk below cost.

3. We do not feel that milk can be transported at any great distance under the present refrigeration conditions so that it will meet the quality of product that we want our people to enjoy.

We do not think that if a bill of this kind was to pass, the Government regulations could be as high as those of North Carolina and other Southeastern States, because if the Government did set these high health standards, every barn in the North and Midwest would have to be renovated.

4. Since milk cannot carry a tolerance of any foreign body, this would cause a great expense on the Government inspecting all milk for pesticides and insecticides.

Gentlemen, we think here in the Southeastern States we have the best milk produced under the best sanitation conditions of any States in the country. Why not let each State control its own production and sanitation problems.

Sincerely yours,

JOHN P. GANTT, *Manager.*

The CHAIRMAN. The Chair has received a copy of a telegram addressed to our colleague, Lester Johnson, from the Wisconsin Farmers Union, Gilbert C. Rohde, president, requesting permission to have it made a part of the record. It will be made a part of the record at this point.

(The copy of the telegram from the Wisconsin Farmers Union is as follows:)

[Telegram]

Congressman LESTER JOHNSON,
House of Representatives,
Washington, D.C.:

The national milk sanitation bill, introduced by you and other dairy State Congressmen, has the wholehearted support of Wisconsin Farmers Union. In February of this year, our annual State convention endorsed the measure, stating that "many local milk sheds have set up arbitrary sanitation standards as barriers to the free flow of quality dairy products" and that these standards "are designed more to protect local milk monopoly than to protect public health."

On Friday, July 28, the State board of directors urged approval of the bill by the House Interstate and Foreign Commerce Committee, which is holding hearings.

In seeking favorable action on the bill, the directors said: "Lack of uniform standards and different State and local enforcement agencies have resulted in confusion in the marketplace, unnecessary duplication in inspection, increased cost of milk to the consumer and, in some instances, unnecessary milk shortages."

The directors noted that several years have gone by since the measure was first introduced. During that time, the legislation has received much additional support, including important consumer groups. "We feel that no time is better than now for final passage of this forward-looking measure."

We wish you the best of fortune in getting final approval for this legislation which justly deserves to be called the Johnson milk sanitation bill.

WISCONSIN FARMERS UNION,
GILBERT C. ROHDE, *President.*

The CHAIRMAN. The committee is now recessed, subject to the call of the Chair.

(Whereupon, at 12:05 p.m., the committee recessed, subject to the call of the Chair.)

NATIONAL MILK SANITATION ACT

WEDNESDAY, AUGUST 30, 1961

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 1334, New House Office Building, Hon. Oren Harris (chairman of the committee) presiding.

The CHAIRMAN. The committee will come to order.

Our first witness this morning is the Honorable Kenneth B. Keating. We are honored to have your statement, Senator.

STATEMENT OF HON. KENNETH B. KEATING, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator KEATING. Mr. Chairman, I appreciate this opportunity to express my views for the record. As a Senator from a State in which the dairying industry is of great importance I am, of course, interested in your deliberations on legislation to establish nationwide milk sanitation standards.

Although the bill before your committee is commonly referred to as the National Milk Sanitation Act, it does not have truly national sponsorship or support. It is backed by a single regional economic interest which seeks to advance its own competitive position.

I want to call the attention of your committee to an article written by an expert in this field, Dr. Paul Corash of the New York City Department of Health. Dr. Corash opposed the National Milk Sanitation Act in an article dated June 1961 which appeared in the Journal of Milk and Food Technology. He pointed out, and this makes good sense to me, that it is unreasonable to maintain that a town of a few hundred people in the arid Southwest would require the same type of milk control as a city of 8 million people in the Northeast.

I quote from Dr. Corash's article:

> It would be the sheerest arrogance to assume this, to contend that there can be no honest difference of opinion regarding milk regulations, or that there may not be a peculiar need for a certain type of regulation in one area as against another.

Dr. Corash also noted that the National Milk Sanitation Act, as submitted to the Congress, requires only two inspections of pasteurizing plants per year. As almost every large city in the country makes many more inspections to insure that it will have a safe milk supply, Dr. Corash contends that this provision would be very unsatisfactory.

The legislation before your committee directly challenges our basic system of milk marketing. The several Federal and State milk mar-

keting orders which assure the orderly distribution of milk in New York State have, I believe, worked very effectively. These orders represent a realistic and sensible policy for this sector of our agricultural economy. The establishment of milk marketing orders has permitted the farmer to receive a fair and honest return for his products and have been administered in such a way as to protect the consumer's interest as well. Compared to the farm programs which we have implemented on our basic commodities, this program has involved very little cost to the taxpayers. To summarily cast aside this longstanding system of distribution, would in my mind be a serious error. It could very well invite the type of oversupply problems that we have had with other farm commodities, which have resulted in the excessive and, I believe, totally unnecessary subsidization of basic crop prices.

Let's face it. The people who want this legislation want to receive the higher eastern seaboard price for their milk. I do not begrudge them this; but I question their motives in putting this legislation forward as a measure to protect health, safety, and nutrition. These producers already have significant markets. Their production area has become a center for the manufactured uses of milk. Furthermore, I think that they are fooling themselves in that the transportation costs for the shipment of milk into the markets which they consider vulnerable would very likely preclude the sale of their dairy products in the East.

The sponsors of this legislation have produced a "pat" answer. It has been volleyed around in the political mill for years. But it is not a good answer. It does not deal with the many detailed and important factors which affect the dairying industry.

I oppose this encroachment of the power of the Federal Government in an area in which the States do and should have the basic responsibility. I regard the so-called National Milk Sanitation Act as a brazen attempt to sell eastern agriculture down the river.

There are no simple answers to the problems which have been conjured up by the interests that support this bill. I hope that the committee will carefully scrutinize this legislation and will avoid hasty action. This is not just a matter that affects the Northeast. It affects the entire country, and it affects every sector of our agricultural economy. We have so many bad farm policies, that I shudder to think we could take another step as foolish and unwise as enacting the National Milk Sanitation Act.

(The article referred to is as follows:)

[June 1961 issue of the Journal of Milk and Food Technology]

IS FEDERAL MILK REGULATION THE ANSWER?

In the October 1960 issue of the Journal of Milk and Food Technology, Dr. J. C. Olson, Jr., raised and answered affirmatively the question: "Are we ready for a nationwide system of effective milk control." There is, however, another aspect of this problem which raises the question whether it is desirable to have Federal laws governing the sanitary aspects of milk control of the type introduced into the 86th Congress under the title, "The National Milk Sanitation Act."

The basic justification presented by proponents of Federal control is that some local regulations are designed as trade barriers to protect the local dairy interests. Certainly it is not our purpose here to defend this type of regulation. However, to impute such motives generally to all States and municipalities which have regulations different from the U.S. Public Health Service milk

ordinance and code or different from those of other jurisdictions, is a completely unworthy indictment of numerous boards of health and other local and State legislative bodies which have enacted their own milk sanitation regulations.

The Public Health Service ordinance and code which would presumably be the basis of any Federal milk regulation is an admirable instrument and serves an excellent purpose. It is designed to give guidance to local and State authorities in their formulation of milk regulations and wherever desired, it provides a complete code. The code, however, was never designed or intended to be forced upon any community against its will.

Giving full recognition to the merit of the code does not mean, however, that it has the infallability of the Ten Commandments, that it takes care of all eventualities in the best possible manner or that it is heretical to believe that other milk regulations may also have their proper place. It would be the sheerest arrogance to assume this, to contend that there can be no honest difference of opinion regarding milk regulations, or that there may not be a peculiar need for a certain type of regulation in one area as against another. Our country is vast and the variations in our environmental social and economic conditions cover wide extremes. It is obviously unreasonable to maintain, for example, that a town of 500 people in the arid Southwest requires the same type of milk control program as a city of 8 million people in the Northeast. Yet the effect of the National Milk Sanitation Act would be to impose the same milk regulations over both localities.

It should be remembered that the application of the proposed National Milk Sanitation Act is not restricted to the regulation of raw milk supplies but is applicable as well to the interstate shipment of pasteurized milk. The requirements of the Public Health Service milk ordinance and code are satisfied if the control agency makes a minimum of two inspections per year of each pasteurizing plant. No one experienced in large municipal control could possibly feel safe with such limited supervision in the light of the many things which can go wrong in the operation of a pasteurizing plant. Most large cities make far more frequent inspections to assure the safety of the milk supply. Yet, under the proposed law, a city or State would be required to accept shipments of pasteurized milk from any approved plant outside the State, provided it was subject to a meager two inspections per year.

It may be well to point out here that the right given the receiving areas to make tests is virtually a meaningless gesture. The milk would be consumed before the results of bacterial determinations were completed and a negative phosphatase test result would not be an adequate indication of proper pasteurization if the HTST process was used.

The argument that the law would not be applicable to intrastate milk control is obviously unrealistic because most States and large cities obtain some milk supplies from both intrastate and interstate sources and economic necessity would force the adoption of the Federal code since it would obviously be impossible for a State to operate under two different codes.

Is there any person with a wide experience in the field of milk sanitation brash enough to insist that there is only one proper way to regulate the sanitary aspects of milk control? The answer to this question is obviously "no," and yet, if the National Milk Sanitation Act were to be adopted, the entire country would have forced upon it a single set of proecdures and requirements which conceivably might not meet all of the particular needs of a given locality.

Nobody will deny the merit of a certain degree of uniformity but there is also great danger of making a fetish of this concept and placing our control programs in a straitjacket of mediocrity. Progress in milk control, as in every other endeavor, has been made by people who were not shackled by conformity and were able to strike out in new directions.

The objection to the use of milk regulations for trade barrier purposes is completely valid and such regulations should not be tolerated. Fortunately, there are highly effective remedies available to deal with this problem without the need of imposing upon the country a national milk control law. The record is replete with cases where both State and Federal courts have stricken down milk control statutes which were held to be arbitrary and in restraint of the free flow of commerce. Boards of health are generally aware by now that there must be bona fide reasoning behind their legal actions and it would indeed be a hardy board that would attempt a trade barrier type of regulation in this day and age.

It is interesting to note that a very recent decision by the Supreme Court of the State of Kansas held that the U.S. Public Health Service milk ordinance

and code which was in vogue in that State, was in itself a type of trade barrier regulation because the court held in part that "* * * if it becomes apparent that the statute, under the guise of a police regulation, does not tend to preserve the public health, safety or welfare but tends more to stifle legitimate business by creating a monopoly or trade barrier, it is unconstitutional as an invasion of the property rights of the individual."*

While the proponents of a National Milk Sanitation Act argue the need for improving the public health as the foundation for their position, perfect frankness compels the recognition that they are primarily interested in economic considerations. The midwestern producer groups who market so much of their milk at relatively low manufacturing prices, visualize the sale of their supplies at eastern fluid milk prices and this prospect looks very pleasing. However, the trade barrier argument seems to lose some of its potency when the proponents are perfectly willing to coerce the rest of the country by imposing an unneeded and undesired law to obtain an economic advantage. Any State or local jurisdiction which desires to obtain milk supplies from distant areas may voluntarily avail itself of the facilities provided under the interstate milk shipment program. The wrongs of trade barrier legislation are not neutralized by the greater wrong of the proposed coercive National Milk Sanitation Act.

PAUL CORASH,
City of New York Department of Health.

Mr. THOMSON. Mr. Chairman, I would like to include in the record at this place a statement of a comparison of the milk sanitary regulations of the States of Vermont and New Hampshire, with the provisions of the U.S. Public Health Service recommended milk ordinance and code as provided for by the Department of Health, Education, and Welfare.

The CHAIRMAN. Very well, it will be received for the record.

(The document referred to follows:)

COMPARISON OF THE MILK SANITATION REGULATIONS OF THE STATES OF VERMONT AND NEW HAMPSHIRE WITH THE PROVISIONS OF THE U.S. PUBLIC HEALTH SERVICE RECOMMENDED MILK ORDINANCE AND CODE

VERMONT

The regulations relating to milk and cream made by the commissioner of agriculture and approved by the Vermont Department of Health, published and revised January 1958, were reviewed and compared with the health and sanitation provisions of the milk ordinance and code—1953 recommendations of the Public Health Service.

The milk sanitation regulations of the State of Vermont are similar in scope to, and contain generally the same basic milk sanitation requirements as the Public Health Service recommended milk ordinance and code. The Vermont regulations, however, are not as specific as the provisions contained in the PHS recommended milk ordinance and code. A comparison of some of the principal provisions of the Vermont regulations with those of the PHS recommended milk ordinance and code follow:[1]

Health of cows

Vermont milk regulations do not mention bovine tuberculosis control measures. However, we have personal knowledge that they do provide a tuberculosis control program through the livestock division of the Vermont Department of Agriculture. Vermont achieved a modified accredited tuberculosis-free status in August 1957.

The PHS recommended milk ordinance and code requires that all milk shall be obtained from dairy herds which are in modified accredited tuberculosis-free areas as determined by the U.S. Department of Agriculture, and which have been tested not more than 6 years prior to the adoption of the ordinance, and at least

*Nebraska Supreme Court, *Lincoln Dairy Co.* v. *Finigan*, July 15, 1960.

[1] This comparison was made by the milk and food program, Division of Environmental Engineering and Food Protection, Bureau of State Services, Public Health Service, U.S. Department of Health, Education, and Welfare, on Aug. 21, 1961.

every 6 years thereafter. In addition, the Public Health Service ordinance requires that if any herd located in an area that fails to maintain a modified accredited tuberculosis-free status, or in an area in which the occurrence of bovine tuberculosis is in excess of 0.2 of 1 percent, the herd must be individually accredited by the U.S. Department of Agriculture as tuberculosis free or must pass an annual tuberculin test.

Vermont regulations with respect to bovine brucellosis are quite similar to those of the PHS milk ordinance and code, since both require that all milk must be from herds which are following the program of the U.S. Department of Agriculture for eradication of brucellosis.

Vermont regulations charge the milk producer with the responsibility of promptly detecting any inflamed or infected condition of the udder or teats of a cow, and removing such animals from the herd. The PHS-recommended milk ordinance and code requires that cows, which show a complete induration of one or more quarters, whether secreting abnormal milk or not, shall be permanently excluded from the herd. The PHS ordinance also requires that cows giving stringy, or otherwise abnormal, milk, shall be excluded from the herd.

Dairy farm requirements

The Vermont dairy farm sanitation requirements, in general, are similar to, and cover the same requirements as the PHS Milk Ordinance and Code; however, the Vermont regulations concerning several items of sanitation on the dairy farm lack the specificity contained in the PHS Milk Ordinance and Code.

The regulations of Vermont pertaining to dairy farm water supplies are very general as compared to the detailed requirements provided in the PHS Milk Ordinance and Code. The PHS-recommended milk ordinance and code is quite specific regarding the construction, protection, and testing of dairy farm water supplies, since a contaminated farm water supply can result in contamination of the milk with disease organisms.

Vermont regulations provide for the cleaning, sanitizing, and storage of utensils, but are not as specific as the PHS Milk Ordinance and Code with regard to acceptable methods for bactericidal treatment of utensils and equipment. Vermont regulations do not specify temperatures, time of exposure or concentration of chemical solutions to be used. The PHS-recommended milk ordinance and code contains such provisions.

The Vermont regulations do not cover the physical condition of the cowyard. The PHS Milk Ordinance and Code requires that the cowyard shall be graded and drained, and shall be so kept that there are no standing pools of water nor accumulations of organic wastes.

Vermont regulations do not specify that cow's udder and teats and the milker's hands be rinsed with an approved bactericidal solution before milking, as does the PHS Milk Ordinance and Code.

Pasteurization plant requirements

The milk regulations of Vermont do not specify adequate agitation of milk or cream throughout the 30-minute holding time, as is required by the PHS Milk Ordinance and Code. This is essential in the case of pasteurization by the vat method.

The Vermont regulations refer to several requirements pertaining to milk inlet and outlet valves and connections on pasteurizing vats as being installed by a "method approved by the commissioner." The PHS Milk Ordinance and Code is specific on each of these requirements relative to inlet and outlet valves and connections to pasteurizing equipment.

Vermont regulations do not contain requirements for air space heaters, approved air space indicating thermometers, and tests for checking such equipment, as does the PHS Milk Ordinance and Code. Such equipment is needed for proper pasteurization of milk and milk products by the vat method.

Vermont regulations are not specific with respect to the construction, installation, and operation of high-temperature, short-time pasteurizers. The PHS Milk Ordinance and Code contains specific requirements for this type of pasteurization equipment.

The Vermont regulations do not contain specifications for testing the termometric lag and response time of the recorder controllers used in high-temperature, short-time pasturization processes. No frequency of testing pasteurization equipment is stipulated in Vermont regulations. Such specifications and testing frequencies are spelled out in detail in the PHS Milk Ordinance and Code.

The Vermont regulations do not contain specific provisions on the following pasteurization plant sanitation items:

1. Provision for covers on receiving vats, protection from splash or drainage from mezzanines.
2. Proper storage and handling of all ingredients.
3. Insect and rodent control.
4. Proper handling, storage, and labeling of toxic substances, such as insecticides.
5. Prohibition against the handling of unapproved products in the plant.

The PHS Milk Ordinance and Code contains requirements covering all the above items.

The Vermont regulations are not specific with regard to construction and repair of containers and equipment. The PHS Milk Ordinance and Code contains specific requirements on the construction of containers, equipment, and bacteriological examination of single-service containers.

Vermont regulations contain neither specific requirements with respect to bactericidal treatment of containers and equipment, nor provision for checking the bacterial efficiency of cleaning and bactericidal treatment procedures by means of sterility tests of containers and equipment. Specific provisions relating to these items are included in the PHS Milk Ordinance and Code.

The Vermont regulations contain no specifications for installation, maintenance, cleaning, and bactericidal treatment of cleaned-in-place milk pipelines, as does the PHS Milk Ordinance and Code.

The PHS Milk Ordinance and Code contains specific bacteriological standards for single-service articles such as milk cartons, as well as bacteriological standards for the paper stock from which such articles are made. Vermont regulations are not specific on these points.

The Vermont regulations do not include any references to the cleanliness of vehicles used to transport milk or to their construction so as to protect the milk from contamination from the sun and from freezing, as does the PHS Milk Ordinance and Code.

Vermont regulations do not contain provisions for prevention of contamination of milk equipment by sewage backflow, or for deflectors for overhead sewage drain lines to prevent contamination of milk or milk equipment. These are all required by the PHS Milk Ordinance and Code.

Vermont regulations for pasteurization plants do not require that doors and windows be screened during fly season as does the PHS Milk Ordinance and Code.

Compulsory pasteurization

Vermont regulations do not require compulsory pasteurization of milk as is provided for in the PHS Milk Ordinance and Code.

Bacterial counts

The Vermont bacterial standard for raw milk for pasteurization and for pasteurized milk at the time of its delivery to the consumer is 100,000 per milliliter and 20,000 per milliliter, respectively. The PHS-recommended Milk Ordinance and Code maximum bacterial count for raw milk for pasteurization and for pasteurized milk at the time of its delivery to the consumer is 200,000 per milliliter and 30,000 per milliliter, respectively. The differences between the Vermont regulations and the PHS Milk Ordinance and Code, in this regard, cannot be considered as significant ones in terms of public health protection.

Vermont regulations do not specify a maximum coliform count for pasteurized milk as does the PHS Milk Ordinance and Code. The presence of coliform organisms in pasteurized milk is significant, since such organisms are destroyed or inactivated by proper pasteurization, and thus, the presence of coliform organisms in pasteurized milk is an indication that such milk has been contaminated after pasteurization.

Frequency of inspection

The Vermont regulations require at least annual inspections of dairy farms and plants. The PHS Milk Ordinance and Code requires inspection of both dairy farms and plants prior to issuance of permit, and at least once each 6 months thereafter; and further requires followup inspections to insure correction of violations.

Frequency of laboratory examination

Vermont regulations require milk samples to be analyzed at least once each month for both raw milk and pasteurized milk. The PHS Milk Ordinance and Code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period for milk and all types of milk products sold.

Adulteration, antibiotics, and toxic substances

While Vermont regulations contain a reference to the control of antibiotics in milk, they do not include specific references to the control of other toxic substances (e.g., pesticides), and to adulteration as does the PHS Milk Ordinance and Code.

NEW HAMPSHIRE

The Laws and Regulations Relating to Dairy Products (1955), and supplements thereto, adopted by the New Hampshire State Department of Health, and the Laws and Regulations Relating to Pasteurization of Milk and Other Dairy Products, adopted by the New Hampshire State Department of Health on March 28, 1961, were reviewed and compared with the health and sanitation provisions of the Milk Ordinance and Code—1953 Recommendations of the Public Health Service.

The laws and regulations of the State of New Hampshire pertaining to dairy farms are similar in scope and intent to the requirements contained in the PHS-recommended Milk Ordinance and Code, but lack specificity with respect to some important requirements. The New Hampshire laws and regulations pertaining to pasteurization plants are identical to the requirements contained in the PHS-recommended Milk Ordinance and Code. A comparison of some of the principal provisions of the New Hampshire laws and regulations with those of the PHS-recommended Milk Ordinance and Code follows:[2]

Health of cows

The New Hampshire laws and regulations do not contain specific references to either bovine tuberculosis or brucellosis control measures, but rather only require dairy cows to be healthy. New Hampshire has, however, attained a modified accredited tuberculosis-free status as determined by the U.S. Department of Agriculture, and was the first State to qualify as a brucellosis-free area.

The PHS-recommended Milk Ordinance and Code requires all milk to be from dairy herds which are located in a modified accredited tuberculosis-free area as determined by the U.S. Department of Agriculture, and which have been tested within 6 years of the adoption of the ordinance, and at least every 6 years thereafter. The Public Health Service ordinance further requires that if the herd is located in an area that fails to maintain a modified accredited tuberculosis-free status, or in an area in which the incidence of bovine tuberculosis is in excess of two-tenths of 1 percent, the herd must be individually accredited by the U.S. Department of Agriculture as tuberculosis free, or must pass an annual tuberculin test.

With regard to bovine brucellosis, the PHS-recommended Milk Ordinance and Code requires that all milk must be from herds which are following the program of the U.S. Department of Agriculture for eradication of brucellosis.

The PHS recommended milk ordinance and code also requires that cows which show a complete induration of one or more quarters, whether secreting abnormal milk or not, shall be permanently excluded from the herd. Also, the PHS ordinance requires that cows giving stringy, or otherwise abnormal milk, shall be excluded from the herd.

Dairy farm requirements

In general, the New Hampshire laws and regulations are very similar in scope and intent to the sanitation requirements contained in the PHS recommended milk ordinance and code.

New Hampshire laws and regulations do not contain any requirements as to the need for, or specifications regarding toilet facilities on the dairy farm. The PHS milk ordinance and code contains specific requirements as to the location, construction, and operation of toilets so that the waste is inaccessible to flies, does not pollute the surface soil, nor contaminate any water supply.

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[2] This comparison was made by the milk and food program, Division of Environmental Engineering and Food Protection, Bureau of State Services, Public Health Service, U.S. Department of Health, Education, and Welfare, on Aug. 21, 1961.

Pasteurization plant requirements

As stated, New Hampshire laws and regulations pertaining to pasteurization plants are identical to the requirements contained in the PHS recommended milk ordinance and code.

Frequency of inspection

The frequency of inspection of dairy farms and pasteurization plants is not specified in the New Hampshire laws and regulations. The law specifies that inspections "shall be made with such frequency as to satisfy the State department of health that the requirements herein stipulated are being observed and met."

The PHS recommended milk ordinance and code requires inspection of both dairy farms and pasteurization plants prior to the issuance of permits; requires at least one inspection of each farm and plant every 6 months; and further, requires followup inspections to insure correction of violations.

Frequency of laboratory examinations

The New Hampshire laws and regulations do not specify any frequency for the laboratory examination of milk and milk products. The PHS recommended milk ordinance and code specifies that bacterial counts, coliform tests, and phosphatase tests shall be made at a minimum frequency of four times each 6 months for milk and all types of milk products sold.

Adulteration, antibiotics, and toxic substances

The New Hampshire laws and regulations contain a section on adulterated milk; however, no specific reference is made to antibiotics or toxic substances. The PHS recommended milk ordinance and code specifically provides for the control of adulteration, antibiotics, and pesticide residues, and other toxic substances in milk.

Bacterial counts

New Hampshire requirements for bacterial counts for both raw and pasteurized milk are the same as those contained in the PHS recommended milk ordinance and code.

The CHAIRMAN. Our colleague from the State of Connecticut, Mr. Daddario, is with us this morning, and would like to make a brief comment and include a statement in the record. We will be glad to hear you now.

STATEMENT OF HON. EMILIO Q. DADDARIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. DADDARIO. Mr. Chairman and members of the committee, I want to thank you for this opportunity.

I had the pleasure last year of introducing before this committee those ladies who comprised the board of directors of the Connecticut Milk Consumers Association. They did appear and gave oral testimony.

I have a letter this year from Mrs. Joan Cunningham, who is the secretary of the association, in which she states a very good reason for their not being able to be here this morning. I would like to quote one passage from her letter:

> Our board of directors would very much like to come to Washington to testify favorably on H.R. 50 in person, but with school out and children demanding our full time, we find it impossible this year.

The contents of their statement and two articles affixed thereto which I would like to have included in the record, spell out very nicely the position of the association. I do believe they will contribute a great deal to the committee's discussions as its members consider this very important piece of legislation.

Thank you again, Mr. Chairman.

The CHAIRMAN. We are glad to have your statement and the supplemental statements will be included in the record.

Mr. DADDARIO. Thank you.

(The documents referred to follow:)

STATEMENT OF THE CONNECTICUT MILK CONSUMERS ASSOCIATION, INC., SUBMITTED BY MRS. JOAN CUNNINGHAM

I am Mrs. Joan Cunningham of West Hartford, Conn. I am the vice president-secretary of the Connecticut Milk Consumers Association, Inc. One other member of our board of director will testify on H.R. 3840, Mrs. Laura Pope of West Simsbury, Conn., a member of our factfinding committee. Two other members of our board of directors are included in our delegation. They are Mrs. Florence Boston of East Hartford and Mrs. Helen Socik of Bloomfield, Conn.

As we have been told rather consistently that ours is a unique organization, we felt it might be of benefit to briefly explain what we are and our purposes in existing at all. In the past, consumers in general have been accused of apathy regarding public hearings. We are consumers of milk who have no financial investment in the dairy industry beyond the payment of our milk bills. Concern over the size of these bills motivated the formation of the Connecticut Milk Consumers Association in August of 1957. For details of the hectic birth and calmer growth of our organization we offer copies of a reprint of an article which appeared in the American Milk Review of May 1958 entitled "Connecticut Consumers React to Prices."

Perhaps the simplest way of defining the philosophy of our group is to quote the preamble of our constitution. "The principles of the Connecticut Milk Consumers Association, Inc., are based on a belief of all members in the American system of free enterprise and the need of an alert citizenship to assure a continuation of such." It is because of this belief in the free enterprise system that we are here today testifying in favor of the national milk sanitation bill, H.R. 3840.

We have fought hard for our beliefs in Connecticut and have succeeded in having archaic restrictions lifted on container sizes by our State legislature, thus enabling milk to be sold in the more economical one-half gallon and gallon jugs. This has partially been responsible for a strongly competitive situation in our State and has brought the price of milk to the consumers more nearly in line with our surrounding areas for the first time in many years. We feel that passage of H.R. 3840 will be but another balancing factor to keep the situation reasonable.

Let me make one point clear, however. We are not trying to drive Connecticut farmers or dealers out of business. We believe that as long as a healthy dairy industry in Connecticut is justified and economically feasible, the consumers can and will support it. However, when premiums are demanded for local milk, the consumer should have the opportunity to choose lower priced, high quality out-of-State milk.

We greatly appreciate this opportunity to express our opinions on H.R. 3840 to this committee. We regret that we were not here in April 1957, but we knew nothing about that hearing until after the fact. Although the gentlemen from Connecticut who testified at that time knew about our organization, they did not solicit our opinions, nor was there any publicity until later.

H.R. 3840 is a much better bill than earlier versions in that it accomplishes its ends with less expense, less interference in local affairs, and less bureaucracy.

Basically, this legislation will insure equality of opportunity, a prime tenet of the free enterprise system.

" * * * the idea of equality involved in justice is the equality of opportunity—an open road to talent. Institutions, customs, and prejudices which confer on some members of society special privileges quite unassociated with inherent powers, socially exercised, are obviously in the road and to be removed. This is true whether the special privileges accrue to those who, as individuals are inherently strong or to those who, as individuals, are inherently weak. The equality of opportunity involves an inequality of reward in strict correspondence with desert, the expression of individual power in such form as to enhance the sum of social power." Social Goals and Economic Institutions, Frank D. Graham, Princeton University Press, 1949, page 18.

Ample evidence that some State and local rules and regulations concerning milk sanitation discriminate against outside supplies has been given to this committee. Also the unconstitutionality of this type of regulation has been proven by numerous court cases. (See pp. 85–101 of Hearings Before a Subcommittee of the Committee on Interstate and Foreign Commerce, House of Representatives, 85th Cong., 2d sess., on H.R. 7794 and H.R. 9286.) Positive legislation such as H.R. 3840 would cut away the cobwebs of outdated health laws which shield many a vested interest from competition.

Controversy centers on the economic and health aspects of this bill. Although they may be interrelated, we will discuss them separately for purposes of analysis.

In the long run, we believe that the health standards in the milk industry on a nationwide basis would improve, not only because the U.S. Public Health milk ordinance and code sets relatively high standards, but because all milk sold in the United States would be potentially in competition with milk that meets these standards. We are convinced that competition sets the standards more effectively than health regulations. This is contrary to popular notion, but we can find no other explanation for the fact that quite often the actual standards achieved by the milk industry are higher than those set by law.

For example, Boston requires that not more than 10,000 colonies of bacteria be present in 1 cubic centimeter when offered for sale. A published survey of the quality of milk sold in Boston during November-December 1959, shows that 56 ratings had a count of 5,000 or less and only 6 were between 5,000 and 10,000.

It is more difficult for consumers to procure such information in Connecticut than in Boston because section 1737d of the dairy laws of the State of Connecticut prohibits publishing the results of laboratory findings if the dealer is named. However, one informant who asked to remain anonymous did furnish us with some sample information from State tests, but did not include the names of the dairies involved. Connecticut requires that not more than 30,000 colonies per milliliter remain when pasteurized. The informant claims, "Percentage of compliance of dealers with bacteria standards has been excellent. Good milk runs less than 3,000/ml. Some may run 10,000 to 20,000, but rarely does one go over 30,000/ml."

There is no way a Connecticut consumer can find out the butterfat content or bacterial content of milk from a specific source of supply short of having it privately tested. In spite of the lack of consumer knowledge, the industry maintains higher than minimum standards. Much of this is due to the fact that they test each other's milk, and none of them can afford to be found wanting by a competitor.

As to allegations that the United States Code does not set as high standards as Connecticut, appendix A will show that the standards set by the United States Code are actually higher.

The economic aspects of this legislation are a little more complicated. Connecticut has for years employed health regulations for economic ends. Examples:

1. Sections 1758d, 1759d, 3217, 3218, 1760d, 3220, 3221, 3223, 3224, 3225, 3226, and 3227 of the dairy laws of the State of Connecticut and rules and regulations of the milk regulation board, revised to May 1, 1956. These sections require State inspection of out-of-State sources of supply and give the commissioner of agriculture the right to refuse to inspect when the supply reaches 110 percent of demand during shortage months and 125 percent of demand at other times. Dr. Stewart Johnson of the University of Connecticut estimates that a supply of 120 percent of demand during the shortage months would not be considered burdensome to the market.[1] In times of shortage in Connecticut, temporary permits are issued. Therefore, up until the advent of marketwide pooling under a Federal marketing order, producers in Connecticut did not always have to carry the full burden of the necessary surplus.

In addition to maintaining higher class I utilization, this restriction of supply was conducive to maintaining a quasimonopolistic class I price. In the 8 years from 1950 through 1957, the Connecticut class I prices averaged 36 cents per hundredweight more than the Boston-Springfield prices and 39 cents more than the New York price.[2] Even so, Connecticut class I utilization

[1] U.S. Department of Agriculture promulgation hearing record for the State of Connecticut, p. 1110.
[2] Ibid., exhibit 51, p. 6a.

remained substantially higher than in surrounding markets. Obviously health regulations were an effective economic barrier. Federal regulation has brought class I prices down to competitive levels.

2. Section 1767d of the dairy laws of the State of Connecticut prohibits importation of pasteurized milk except when a plant is in a town, city, or borough adjacent to the Connecticut border. Whether this law would stand up in a Federal court is questionable considering the decision in the case of the *Dean Milk Company* v. *City of Madison*.

Oddly enough, it is quite legal to bottle raw milk outside the State and sell it in Connecticut, but milk pasteurized in Springfield, Mass., cannot be sold in Hartford—only 30 miles distant. Restriction of competition is the obvious intent since by far the majority of people buy pasteurized milk.

Some people might look at our State laws and say, "Well, if you consumers don't like it, why don't you change it?" Unfortunately, it is not that simple in that the Connecticut Legislature has not been reapportioned since 1911. The rural control has been quite real. Our senate is apportioned according to population, and according to the 1950 census our senators represented anywhere from 22,000 to 123,000 people each. A rural vote is worth up to 5½ urban votes. Bills sponsored by our group recommending pasteurization of milk, recommending that the milk regulation board be given the power to license out-of-State dealers, and so forth were killed in the agriculture committee in 1959.

Another example of their power is the fact that when the department of consumer counsel was created this year the milk industry fought to keep all inspection powers and administration of unfair trade regulations in the milk industry under the department of agriculture. They were the only such group successful in keeping their affairs out of the jurisdiction of the consumer counsel.

We suspect that Connecticut is not the only State where such conditions exist.

We were quite surprised at a statement made by Dr. Dorris D. Brown in opposition to the National Milk Sanitation Act of 1957 on page 129 of the hearing record:

"In the New York market, competitive pricing and the cost of transportation and handling, and not alleged local sanitation standards, governs the flow of our fluid milk sales and confines these sales mainly to New York and New Jersey handlers. Likewise, competitive pricing and the cost of transportation and handling, and not alleged local sanitation standards governs the flow of sales of milk in the form of fluid milk mainly to marketers and consumers near the area of production throughout the United States."

Only a few months later, he testified at the promulgation hearing for the Connecticut Federal milk marketing order (p. 277 of the hearing record):

"Also, 7 United States Code, paragraph 608C(5)(G) reads '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 the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.' * * * In opposition to a separate order as proposed in the hearing notice item 14, exhibit 5, we intend to show that because of certain sections of the laws of the State of Connecticut and rules and regulations of the Connecticut Milk Regulation Board that a separate Federal order for the State of Connecticut cannot possibly achieve the objectives and requirements of the act."

Later in the hearing, Mr. George W. O'Brien, his colleague, also representing the Mutual Federation of Independent Cooperatives, Inc., testified:

"At the present time there is only one dealer with sales crossing the New York-Connecticut border. That one is Ryder dairy of Danbury with sales in Putnam County. Restrictive licensing on the New York side and restrictive health regulations on the Connecticut side are the reasons for this situation. That is, the small number of route crossings has been brought about by statutory restrictions rather than economic restrictions. With the extension of the order 27 marketing area to Connecticut there is a possibility of relaxation of these political restrictions and more dealers routes than crossing this State line.

"The fact I am showing here is that 25 years ago, before political restrictions between New York and Connecticut went into effect, there were crossings of dealers routes over this State line as they considered it one economic area." (P. 483–484.)

Perhaps the Mutual Federation wants to have its cake and eat it too. Certainly, the closed cream market in New York would be lost with passage of

legislation patterned after Congressman Johnson's bills. The extent of this economic advantage is described in material sent to us by Dr. Roland W. Bartlett, professor of agricultural economics, College of Agriculture, University of Illinois. He stated:

"Assuming the operation of the law of comparative advantage, cream as well as milk should be produced in the areas where cost of getting it produced plus transport costs are the lowest. Costs for transporting 100 pounds of milk as cream are roughly one-tenth of those of whole milk. Hence, this makes it possible to transport cream economically for long distances and accounts for the fact that both Boston and Philadelphia regularly buy cream from midwestern surplus-producing States such as Michigan, Wisconsin, and Minnesota. Therefore, prices for cream in Boston and Philadelphia are competitive with prices of midwestern cream.

"New York, in contrast to Boston and Philadelphia, has tended to limit its source of cream to areas closer to the market with the result that during the past 16 years New York cream prices have averaged over 20 percent higher than those of Philadelphia or Boston (table 1).

"From 1937 to 1955 the New York price per 10-gallon can of 40-percent cream averaged $30.11 or 24.4 percent more than the Philadelphia price ($24.41) and 23.2 percent more than the Boston price ($26,66). In 1955 the New York cream price averaged $33.72, the Philadelphia price $25.31, and the Boston price, $26.38 per 10-gallon can.

"Questions which logically can be raised are: Is it in line with public interest of some 13 million consumers in the New York market to limit the inspection area from which cream can be secured in order to enhance the cream price above its competitive level? Are midwestern cream producers being deprived of a market because of restriction of inspection areas?"

Obviously, there would be economic changes if this bill is reported out of committee and passed, but we firmly believe that the public interest in its broadest sense as outlined in our quote from Social Goals and Economic Institutions would be served.

We would not expect a rush of Wisconsin milk into Connecticut or other northeastern markets because of other limiting factors, but equality of opportunity would be more nearly a reality. The cost of transportation will always give an advantage to producers who are closest to the market. However, if milk from reserve supply areas were truly competitive, nearby milk would not command premiums above what consumers are really willing to pay for local milk.

At the present time, provisions of the Federal milk marketing orders in the Northeast give a distinct advantage to nearby producers in addition to transportation differentials. We have consistently opposed these provisions. Appendix B, on file with this committee, is a copy of our brief concerning the proposal to remove these provisions from the Boston, Springfield, Worcester, southeastern New England and Connecticut Federal milk orders. The decisions relative to this particular hearing which was held last fall are still pending.

A third influence on the movement of milk which cannot be ignored is summarized in a publication by the University of Massachusetts, intermarket price relationships, Herbert G. Spindler, page 67:

"The producer's quest for the highest price may conflict with the dealer's quest for lowest possible product costs. Since the dealer owns the milk he markets, his reaction to prices and costs usually determines the market in which milk is pooled. However, large differences in intermarket producer returns may result in shifts of producer outlets thereby putting economic pressure on dealers to shift plants to the higher priced market."

This brings us to a final point of caution. Passage of this bill will make all qualifying supplies of milk competitive. Therefore, any misalinement of class I prices could cause uneconomic shifts of supplies in response to artificial pricing. The Department of Agriculture is well aware of this and is gradually bringing eastern class I prices into alinement with midwestern prices via the device called a "snubber." We do not entirely agree with the methods of setting the class I price in eastern Federal orders, but this is neither the time nor place to go into that problem. It is our hope that passage of this bill will hasten action in the other area.

We would like to make the following suggestions for minor changes in the bill:

Page 11, lines 20 and 21: Could we have added "or for the circuit in which the State milk sanitation agency or complainant is located." (It would be rather difficult for an organization such as ours to do battle in a Wisconsin circuit court.)

Page 12, line 18: Change "may" to "shall."

We hope that H.R. 3840 will be favorably reported out of committee this year.

Thank you for the privilege of appearing before this committee.

APPENDIX A

A COMPARISON OF THE U.S. MILK CODE AND THE CONNECTICUT DAIRY LAWS

The United States Code sets as high or higher standards than the Connecticut laws. Some examples of the higher standards are:

1. The United States Code requires pasteurization of all milk. The State of Connecticut does not, although a few cities do.

2. The United States Code requires the application of the phosphatase and coliform tests to milk samples. Connecticut law does not. The phosphatase test determines the efficiency of pasteurization and the coliform test can determine whether milk is being contaminated after pasteurization.

3. The United States Code requires the testing of four samples of milk from each farm and plant a minimum of twice a year. Connecticut law simply states that it must be inspected regularly and as frequently as possible, but there is no legal minimum. At present the cost of inspection of all fluid milk farms and plants supplying Connecticut whether in Connecticut or not is borne by the taxpayers of Connecticut.

4. The United States Code requires inspecting the water supply a minimum of twice a year. In Connecticut the legal minimum is once a year.

5. "Cream" is defined in the United States Code as "a portion of milk which contains not less than 18 percent milkfat." In Connecticut "cream" is defined as containing "not less than 12 percent of butterfats."

6. The United States Code requires listing on the label the amount of nonfat solids added to fluid skim milk. This addition is desirable in that it makes the skim milk more palatable and richer in protein and B vitamins. Connecticut law approaches it by limiting the addition of nonfat solids, and consumers have no way of knowing whether only a little has been added or an amount equal to the limit.

APPENDIX B

U.S. DEPARTMENT OF AGRICULTURE, AGRICULTURAL MARKETING SERVICE

7 CFR Parts 904, 990, 996, 999, 1019

(Docket Nos. AO–14–A30; AO–302–A2; AO–203–A12; AO–204–A11; AO–305–A1)

MILK IN THE GREATER BOSTON, MASS., SOUTHEASTERN NEW ENGLAND, SPRINGFIELD, MASS., WORCESTER, MASS., AND CONNECTICUT MARKETING AREAS

BRIEF RE PROPOSAL NO. 8

Connecticut Milk Consumers Association, Inc., 41 Salem Road, East Hartford, Conn.

By way of preface, may we state that we have confined this brief to arguments in favor of proposal No. 8. We have an interest in many of the proposals in the hearing notice, but since our group depends entirely upon volunteers it was necessary to concentrate the available time and labor on our own proposal.

Hereinafter, the Agricultural Marketing Agreement Act of 1937, as amended, is referred to as the act. All references to location differentials indicate those in excess of transportation costs and are identified in proposal 8 of the hearing notice. The hearing record is abbreviated as H.R. and the name of the witness and page number are included in references to the hearing record.

Proposal No. 8: Delete the farm location differentials as set forth in section 904.64 of the Boston order, section 990.63 of the southeastern New England order, section 996.64 of the Springfield order, section 999.64 of the Worcester order, and section 1019.63 of the Connecticut order.

The effects of location differentials in carrying out the declared policies of the act are contradictory. The effects as related to the act can be summarized as follows:

I. In the Northeastern section of the United States location differentials, as presently set up, encourage orderly marketing procedures in that they tend to minimize price differences among markets at the point of common reserve supplies. But we maintain that orderly marketing procedures could be achieved by preferable methods; for example, maintaining class I price alinement among markets at city plants based on the distance from common reserve supplies or surplus areas; requiring justifiable performance standards for pooling; avoiding a large spread between the blend price and class I price. Concerning the last method, exhibit 51, page 67, offers the following conclusions:

"Differences between Boston and the secondary market prices result from differences in class II prices, class I prices, the proportion class II and the range between class I and class II prices.

"Secondary market blend prices, weighted by 30 percentage points more class I utilization, change more than Boston with a change in class I prices. As surpluses increase, there is some tendency for a larger proportion to gravitate into the Boston pool.

"A relatively low class I price, as compared with the class II price, automatically decreases the class I to blend price differences, and decreases price pressures from unregulated sources and up to 1954, New York 1–C milk."

II. Location differentials are at cross-purposes with the policies of the act in the following ways:

A. They arbitrarily enhance the value of some producers' milk at the expense of the value of other producers' milk regardless of quality or transportation costs. They in effect negate one of the purposes of the marketwide pool by creating inequalities among producers (Ex. 49, p. 1) (H.R. Whitney, 2526–2527) (H.R., Pope, 2546).

B. One of the act's declared policies is "To protect the interest of the consumer by * * * (b) authorizing no action * * * which has for its purpose the maintenance of prices to farmers above the level which it is the declared policy of Congress to establish in subsection (1) of this section" (parity prices to farmers) (the act, 7 U.S.C., sec. 602(2)). In addition, section 608c(18) provides that the Secretary shall set prices which will insure a sufficient quantity of pure and wholesome milk, and be in the public interest, parity prices notwithstanding.

Location differentials conflict with both these policies. No convincing evidence was produced to substantiate a claim that loss of this premium would result in a deficient supply of pure and wholesome milk. Exhibit 49 meets all arguments on this score.

Mr. Kenneth Geyer contended that should location differentials be removed "the Secretary would be subjected to well nigh irresistible pressures for higher class I prices in those orders in order to bring about a living price for nearby producers" (H.R. 2577).

We have two comments on this statement. Pressure of this type for this purpose may well be misguided. Prof. Herbert G. Spindler touches on this subject at some length in exhibit 51 and concludes on page 67:

"The fact that Boston blend prices tend toward a fixed level above the class II price (average deviation 11 cents) suggests that supply and demand forces are more influential than the level of class I prices in determining producer returns. * * * Whether relatively high class I prices increase blend prices is questionable. No doubt, demand-supply reaction to prices has an important leveling effect on blend prices. More research is needed on the effect (or its lack) of class I on blend price levels; lower class I prices increase the proportion of milk sold at higher prices and decreases prices to consumers."

Even if producer pressures should mount in this direction, we believe that the Secretary can and will make decisions based on evidence presented and in the general public interest.

Since the supply of milk is not endangered by the removal of location differentials, they are the antithesis of the above declared policies of the act.

C. The act also provides that no marketing order applicable to milk and its products "shall prohibit or in any manner limit" the marketing in that area

of any milk or product thereof produced in any production area in the United States. (7 U.S.C. sec. 608c(5)(G).) This is exactly what location differentials in excess of transportation costs do. What better way to limit the marketing of milk than arbitrarily lowering the price to producers beyond a certain distance from the market. This type of price discrimination is substantial in markets such as Connecticut (exhibit 49, pp. 6–7, and table 2, p. 16).

Recognition of this effect was implicit in a question asked of Mr. Whitney during cross-examination by a proponent of location differentials. He asked Mr. Whitney if his producers might not want to use this device to limit imports of milk from the Midwest some time in the future. (H.R., approximately 2540.) The witness answered that two wrongs don't make a right. Amen.

D. Even the class I price is indirectly affected by location differentials in a manner inimical to the public interest as defined in the act (7 U.S.C. sec. 602 (2)(b) and sec. 608c(18)). Obviously, since location differentials tend to limit the marketing of milk, they in turn affect the supply-demand relationship (H.R. Pope, 2543–44). The supply-demand adjustment factor in the class I pricing formula might have been even lower over the years without location differentials.

E. It is not the declared policy of the act to determine the center of supply, but location differentials arbitrarily influence the center of supply in that they are institutional premiums to nearby producers. The act is set up to determine minimums. Premiums should be subject to collective bargaining. Ultimately, consumers should determine the most economic center of supply consistent with the desired degree of quality through their buying decisions (H.R. Pope, 2545–2546.)

Some of the testimony relating to location differentials was sidetracked into a discussion of tax rates and problems. Mr. Smith, from Massachusetts, succeeded in proving that raising and educating children costs the public more than raising and milking cows. Our point is that if a particular area is needed for housing or industrial expansion, and if supplies of wholesome milk are readily available from outside this given area, then it is in the public interest that the Government not strengthen the bargaining hand of the producer in that area by deliberately giving him a better price for his milk than the producer outside the area. If the land is needed for children or industry, it will no doubt be purchased for that purpose regardless of the effect on the tax rate in the community. So why should the Government encourage an inflated price for the property?

A more pertinent fact brought out in testimony concerns the difference in the tax rates in northern New England and southern New England. Mr. Wildes (H.R. 1914) testified that the tax rates compared as follows: Northern New England—$1.66 per acre, southern New England—$5.32 per acre. Obviously, overhead will be higher due to this one factor alone for nearby producers in southern New England. Somehow, it doesn't make much sense to encourage production in high cost areas and discourage it in low cost areas by Government decree.

This concludes our arguments in favor of proposal No. 8. We pray that the Secretary will act favorably upon this proposal now in that it is a rare opportunity to correct this problem in all New England orders at once. Doing so would necessitate adjustment in New York-New Jersey in all probability, but it certainly would not be the first time that an order has been opened for amendment because of a decision relative to a neighboring order or orders.

Respectfully submitted.

Mrs. JOAN CUNNINGHAM,
Secretary,

JOHN H. THOMAS,
Vice President, Factfinding Committee,
Mrs. LAURA M. POPE,
Factfinding Committee.

NOVEMBER 14, 1959.

The CHAIRMAN. In resuming our hearings on H.R. 50 and other identical bills, proposing the enactment of the National Milk Sanitation Act, we are glad to welcome back to the committee this morning the Secretary of Agriculture, the Honorable Orville L. Freeman. The members of the committee will recall that Mr. Freeman testified before the committee on this legislation last year when he was Governor of the State of Minnesota.

Mr. Secretary, the committee feels that such important legislation as is presently before us which has a vital impact on agriculture should not be considered further without giving your Department an opportunity to express its views before the committee and, of course, to give the members an opportunity to ask questions. Some members are anxious to find out precisely how your Department's milk marketing orders would affect this proposed legislation. I am sure you will cover this and other important problems.

I say we welcome you, and will be glad to have your testimony at this time.

STATEMENT OF HON. ORVILLE L. FREEMAN, SECRETARY OF AGRICULTURE, U.S. DEPARTMENT OF AGRICULTURE

Secretary FREEMAN. Thank you very much, Mr. Chairman. May I express my most sincere appreciation to you, sir, and the members of the committee for your courtesy. This testimony has been somewhat delayed in its preparation and its submission here because I wanted personally to review this matter with great care.

It is important, as the chairman has so appropriately stated, and having been heard in connection with it and having reviewed it from the position and perspective of a Governor of one of our great States I wanted to be very sure, in my own mind, that what could conceivably have been sectional prejudice might not influence a decision reached in the capacity I now hold as Secretary of Agriculture, where it is my responsibility to think in terms of the entire Nation, and to attempt, so far as any human being can, to make allowances for any prejudices or background or even, if you will, sir, any prior statement that might have been made. And the net result is that we have reviewed this matter very thoroughly and carefully, have tried to go back to basic data, and have brought, to the best of our ability, to it an open mind and a sincere desire to reach conclusions that will better this Nation as a whole.

I do appreciate the opportunity now to come before this committee and to testify on H.R. 50 and to express the support of the U.S. Department of Agriculture for this bill.

Its provisions would insure the free and unobstructed movement in interstate commerce of milk and milk products that meet the high sanitary requirements recommended by the U.S. Public Health Service.

The subject matter of this bill is of great significance to consumers, to the processors and handlers of milk, and to farmers. Milk is our most basic food, and there is no other single consideration relating to food that is of more importance to consumers than the assurance of an adequate supply of pure and wholesome milk at fair and stable prices. Milk is also our most important single farm product, from the point of view of the number of farmers involved in its production as well as its share in total farm income. Likewise, the processing and distribution of milk employs more of the efforts of our food marketing industries than any other single food commodity. Thus anything that affects the production, marketing, and consumption of milk as importantly as does the legislation you are considering is of major concern to the Department of Agriculture, with its vital responsi-

bilities to farmers, to the food processing and marketing industries, and to consumers.

After a long and careful study, it is our conclusion that the legislation before your committee will serve the purpose of providing maximum protection of the public health at the lowest possible cost to farmers and to the processors and distributors of milk, and thus to consumers as well. Therefore we urge its enactment into law.

Our support of this legislation is in conformity with our objectives for both the producers and the consumers of milk and milk products.

Our objective for producers of milk is to assist them in producing and marketing a better food product with ever-increasing efficiency, and to help them obtain returns on their labor, investment, and managerial effort that are more equitable and more secure. For consumers we seek to assure an abundant supply of pure and wholesome milk at a fair price. The Department of Agriculture is currently undertaking an intensive effort to develop improved economic programs that will better serve these purposes both in respect to producers and consumers. A committee of specialists in milk marketing problems drawn from every section of the country and from every field of expert knowledge in milk production, processing, and marketing, is now seeking to ascertain and evaluate the opportunities afforded by modern dairy technology and marketing systems to further these goals. From this study, from numerous other studies within the Department and by industry, land-grant colleges, and State governments, and from consultation with producers as authorized by the Agricultural Act of 1961, we intend to use every resource at our disposal to develop and enact improved programs to raise farm income to a fair level.

The primary concern of the Department of Agriculture in respect to milk sanitation regulations is with their economic effects. We do not have direct responsibility or authority for administering such regulations, and we respect the competence and authority of the U.S. Public Health Service to establish and administer standards in this field.

Nevertheless, just as inadequate returns to dairy farmers, or inadequate economic resources for the processing and distribution of milk, may greatly affect the purity and wholesomeness of the milk supply, so also do regulations to protect the sanitary quality of milk have important economic consequences. There is substantial reason to believe that both farmers and consumers are penalized by the multiplicity of local sanitation regulations and inspection requirements which are now enforced throughout the country. The proposed legislation would establish a uniform sanitary standard for milk under which milk could be shipped freely anywhere that it can find an economic market; subject, of course, to provisions of purely economic programs designed to guarantee adequate supplies and fair prices under the Marketing Agreement Act of 1937.

Producers, handlers, and consumers would benefit substantially by the elimination of many of the present needless costs of complying with overlapping and duplicating inspections and the differing standards of various States and localities.

It is now frequently necessary for inspectors to travel long distances to inspect milk supplies before a permit to ship milk can be issued,

even though the milk concerned may be already fully inspected in accordance with fully acceptable standards by officials of another jurisdiction. Varying procedures or equipment may be required under various State and local health ordinances. In some cases there are variations in requirements as to labeling or the specifications of containers. All these unstandardized requirements create unnecessary costs which add nothing to public health protection and could be reduced under the proposed legislation.

These economic gains will be paralleled by gains in purity and wholesomeness of milk. The U.S. Public Health Service has had experience and the major responsibility in the Federal Government for the development of sanitary standards to safeguard the health of consumers of milk. The USPHS model milk ordinance and code, upon which the proposed Federal milk sanitation code would be based, has been voluntarily adopted by more than 1,900 local jurisdictions and serves as the basis of milk sanitation regulations in 36 States. This code, when applied through the compliance procedure administered by the USPHS and as proposed under this legislation, will afford fully adequate protection to consumers of milk. We believe that it will tend to upgrade the quality and purity of milk supplies which now are not produced, processed, and marketed in compliance with the Federal milk sanitation code.

We believe this will occur because consumer preference can be expected for milk which does meet the standards of the USPHS code, and that producers and handlers will find it to their advantage to meet these standards in order to qualify their milk supplies for acceptance in whatever market they may find to be most advantageous economically from time to time.

In testifying as to the adequacy of the USPHS code, when supplied through the compliance procedure administered by the Public Health Service and as proposed in this bill, we in the Department of Agriculture do not rely on our own judgment alone. The overwhelming preponderance of expert medical, public health, and sanitation testimony which your committee has received, which you are fully aware of, supports enactment of this bill. In earlier hearings this year before your committee, expert testimony was presented in support of enactment of the bill from all of the major national professional associations in this field, as follows:

Conference of State Sanitary Engineers, represented by Dr. John Andrews, chief, Sanitation Section, Sanitary Engineering Division, State Board of Health, State of North Carolina;

Association of State and Territorial Health Officers, represented by Dr. Russell E. Teague, commissioner of health, State of Kentucky;

American Public Health Association, represented by Mr. P. Walton Purdom, director, Division of Environmental Health, Community Health Services, Department of Health, city of Philadelphia, Pa.;

U.S. Department of Health, Education, and Welfare, represented by Mr. Ivan Nestigen, Under Secretary; Dr. John D. Faulkner, Chief, and Dr. Robert Anderson, Deputy Chief, and Mr. Max Decker, staff veterinarian, Milk and Food Branch, Public Health Service.

In addition to these representatives of the national professional associations of public health and sanitation authorities, your committee received testimony in support of enactment of the bill from Dr.

Joseph C. Olson, Jr., professor of dairy bacteriology, University of Minnesota, and Mr. O. G. Muegge, State sanitary engineer, State Board of Health, State of Wisconsin.

The USDA has carefully considered the claim made by opponents of this legislation that a number of States have "higher" sanitation standards than those recommended by the USPHS. We have requested the Department of Health, Education, and Welfare to submit to us a report on the differences between the USPHS milk ordinance code and the regulations of certain States which have failed to adopt this code as a basis for their milk sanitation regulations.

This report, which I would like, with your permission, to submit for the record, following my statement today, leads to our conclusion that the claim referred to above is not supported by the facts, and that the health of consumers of milk will be more effectively protected if this legislation is passed. Furthermore, the adoption of this legislation will in no way interfere with the rights and opportunities of local handlers, if they wish, to produce and sell milk under requirements more exacting than those deemed adequate by the Public Health Service. A potential market frequently exists for food products having special characteristics for which some consumers are willing to pay premium prices.

The adoption of the proposed legislation will also eliminate the opportunity to misuse milk sanitation programs as economic trade barriers. There is considerable evidence to indicate that milk sanitation regulations of States and municipalities frequently are used to obstruct the movement of milk of high sanitary quality in interstate commerce. Such obstruction may result from legal limitations contained in the law and regulations of the given jurisdictions, or from practical difficulties in the inspection of farms or plants located in distant areas, when a community insists on making its own inspections as a prerequisite for acceptance for out-of-State milk. Or it may be a matter of administrative policy which has been established for economic purposes.

The Department of Agriculture has no direct administrative responsibility or authority in the area of obstructions to the movement of milk in interstate commerce. However, the Department has made an intensive research study of this problem, and in 1955, published a report on the impact of sanitary requirements, federal orders, state milk control laws, and truck laws on price, supply, and consumption. The results of this study were published in Marketing Research Report No. 98 by the Agricultural Marketing Service. This study included a survey of the policies affecting the acceptance of milk in all communities over 25,000 population having full-time health units. The report states, on page 20 under "Examples of Restrictive Sanitary Regulations," as follows:

> By far the most common policy standing in the way of free movement of milk was the refusal of given jurisdiction to accept milk produced or handled under the supervision of other jurisdictions having substantially equivalent sanitary standards. In order to get comprehensive information on this and some other aspects of sanitary regulation, a mail questionnaire was sent to health officers of all urban places of 25,000 or more population having full-time health units (app. A). Replies were received from 318 cities, out of the 334 questionnaires sent out, about a 95-percent return. Respondents in six jurisdictions reported that the questionnaire was not applicable to their situations.

Out of 312 cities, 100 refused to accept milk from farms supervised by their own State department of health or agriculture (in many States the State agency does not supervise sanitation on dairy farms); 84 refused to accept milk from farms supervised by some other State (although a given city might accept supervision of one State and reject that of another); 74 refused to accept milk from farms approved by cities not having the standard ordinance; while only 49 refused to accept milk under supervision by cities having the standard ordinance (table 8).

It should be kept in mind that there were many cities which unconditionally accepted milk, the production and handling of which was supervised by specified agencies. There were 127 cities which accepted supervision of farms by their own State department of health or agriculture without question; 75 which accepted supervision of some other State or States; 69 which accepted supervision by cities having the standard ordinance; and 42 which accepted supervision by cities having other types of ordinance.

The most common condition for accepting milk produced under the supervision of another agency was that the source be rated by the methods prescribed by the U.S. Public Health Service. Another common practice was to approve a source only after visiting the supply area and inspecting some of the farms.

In "Summary and Conclusions" section of the same report, the following statement is made:

Sanitary regulations hinder or prevent the movement of milk into a substantial number of cities. Some markets prohibit outright the entry of milk from beyond specified limits. Others burden such entry by insisting on their own inspection and then delay or refuse to inspect, or levy discriminatory fees. Still other markets differentiate their regulations from those of surrounding areas without apparent necessity.

Shippers are understandably reluctant to protest publicly against obstructions arising from health ordinances or administrative practices thereof which they might encounter in their efforts to sell milk, for fear of antagonizing or provoking local pressures upon the officials responsible for certifying milk supplies. It should be recognized that these obstructions frequently may serve as hurdles which outside milk suppliers must overcome at considerable cost and inconvenience to themselves, rather than at all times as absolute barriers to any movement of milk. Because these hurdles may be raised or lowered arbitrarily, depending upon local market pressures, outside milk shippers are under constraint to avoid jeopardizing the "good will" in the receiving market area upon which future sales opportunities may depend.

Because the Department of Agriculture has no regular and continuing administrative responsibility in this field, we have asked the U.S. Public Health Service to furnish illustrations of State or local health regulations which have been administered in such a manner as to constitute barriers, or obstructions, to the free movement of milk since the Department of Agriculture's report in 1955. With the permission of the committee, I request that this statement on "Reported Instances of Sanitary Milk Regulations Used as Trade Barriers," be inserted in the record following my statement.

It should be pointed out that the distortion and misuse of milk sanitation regulations and procedures for economic purposes is bound to impair their effectiveness in protecting the public health. By eliminating the opportunity to misuse milk sanitation programs as economic trade barriers, public health officials will be able to devote greater energy and to function with increased efficiency in carrying out

their primary responsibility of protecting the public health. Consumers will have greater assurance of an adequate supply of pure and wholesome milk. Both consumers and farmers producing milk will gain the advantage of less costly and more efficient marketing of milk through the reduction of overlapping, duplicating, and inconsistent sanitation regulations and inspections.

Some opposition to this legislation has arisen from the fears of milk producers in certain areas that its passage might result in a reduction of the prices they receive for their milk. We do not believe these fears are justified. The cost of transporting milk, and the preference of plants for nearby milk supplies will continue to be legitimate economic factors protecting milk producers in high-production-cost areas against serious competition from distant sources of milk.

Moreover, as I stated earlier, this Department is determined to protect and improve the incomes of farm people, including milk producers, through constructive and equitable economic programs. The price-support program for dairy products is providing stability and a very substantial degree of protection to the incomes of all dairy farmers, and I am hopeful that with appropriate legislative improvements this protection will be strengthened. Federal milk marketing orders, now operating in 80 markets throughout the country, would furnish full protection to producers in those markets against the loss of any justified price and income protection they may now be receiving. Similar protection is available in milk markets that are not now regulated under Federal orders if such protection is needed and desired by local producers. This Department has recommended and will continue to support appropriate broadening of the enabling authority which provides for milk marketing orders where such is required to help accomplish the goal of equitable returns to milk producers.

It is our view that the legitimate income goals of milk producers can be accomplished more easily and more surely through united efforts to establish constructive and orderly economic programs that are fair to all producers, to consumers, and to the public, than through the dependence upon the misuse and distortion of public health regulations for narrow economic purposes.

The proposed legislation will contribute to this purpose through the extension of uniform milk sanitation and inspection standards and procedures to take the place of varying, frequently conflicting, and sometimes inadequate State and local sanitation standards and levels of performance. Its adoption will be a long step forward toward more orderly and more efficient marketing of milk, toward the elimination of waste and unnecessary costs to producers and consumers alike, toward greater unity of purpose among dairy farmers throughout the Nation, and toward a secure, and wholesome supply of milk at reasonable cost for the American people.

Thank you, Mr. Chairman.

The CHAIRMAN. The statements referred to by you may be included in the record, along with your presentation this morning.

(The documents referred to follow:)

SUMMARY OF PRINCIPAL DIFFERENCES BETWEEN THE MILK SANITATION LAWS AND REGULATIONS OF CERTAIN STATES AND THE MILK ORDINANCE AND CODE—1953 RECOMMENDATIONS OF THE PUBLIC HEALTH SERVICE

STATES

Maine	Connecticut	Michigan
Vermont	New York	North Dakota
New Hampshire	New Jersey	California
Massachusetts	Pennsylvania	
Rhode Island	Tennessee	

Milk and Food Branch, Division of Environmental Engineering and Food Protection, Bureau of State Services, Public Health Service, Department of Health, Education, and Welfare, Washington, D.C.—Revised to January 1, 1962

MAINE

The law and regulations[1 2 3] of the State of Maine relating to the production and processing of milk were compared with the sanitation and administrative requirements contained in the milk ordinance and code—1953 recommendations of the Public Health Service.

The Maine law,[1] effective September 16, 1961, and the regulations,[2] effective January 1, 1962, are administrated and enforced by the State department of agriculture.

The milk laws and regulations of Maine were found to be itemized and contain generally the basic milk sanitation requirements of the PHS milk ordinance and code. They are not, however, in some instances, as specific in detail as the PHS milk ordinance and code. A summary of some of the principal differences follows:

Health of cows

The Maine law[3] specifies that the commissioner of agriculture shall "formulate and apply programs for the control and eradication of tuberculosis, brucellosis, and such other diseases as he deems necessary or practicable so far as funds are available." The milk regulations require all milk to be from herds located in a modified accredited tuberculosis-free area as determined by the U.S. Department of Agriculture. The State legislature has been appropriating funds to test all dairy animals in the State every 3 years.

The PHS milk ordinance and code requires the testing of individual dairy herds for tuberculosis at least every 6 years, even if located in a modified accredited tuberculosis-free area.

The Maine milk regulations state that after July 1, 1962, all milk shall be from herds which are located in an officially certified brucellosis-free area. Currently the State is following plan A of the U.S. Department of Agriculture for the eradication of brucellosis. Maine became a modified certified brucellosis-free area on July 1, 1950.

The PHS milk ordinance and code states all milk for pasteurization must be from herds certified as following either plan A or plan B of the U.S. Department of Agriculture for the eradication of brucellosis.

Dairy farm requirements

The Maine milk regulations relating to floors, gutters and walls of dairy barns and lighting, ventilation and walls of the milkhouse contain double standards, one standard for existing dairy farms and the other for new dairy installations.

The regulations permit wooden floors and gutters in existing dairy barns but new barns must have concrete or other approved impervious materials. The

[1] Ch. 32 of the general laws, as amended, Mar. 31, 1961.
[2] Milk regulations and standards, dated and signed Dec. 18, 1961, effective Jan. 1, 1962.
[3] Laws and regulations relating to disease control of domestic animals, effective Sept. 12, 1959.

window area in new milkhouses may not be less than 10 percent of the floor area while the window area of existing milkhouses may be less than 10 percent of the floor area.

The construction requirements for dairy barns and milkhouses are the same for existing and new installations in the PHS milk ordinance and code.

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The Maine regulations require all milk to be cooled to 45° F. immediately after milking and maintained at or below this temperature until pasteurized.

The PHS milk ordinance and code requires that all milk for pasteurization, unless delivered to a milk plant or receiving station within 2 hours after completion of milking, shall be cooled immediately to 50° F. or less.

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The Maine regulations are not specific in requiring hand-washing facilities, bactericidal rinse of milkers' hands, bactericidal rinse of udders and teats, or two-compartment wash and rinse vats.

The PHS milk ordinance and code specifically covers these items.

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The Maine regulations do not require bacteriological testing of dairy farm water supplies and do not contain specific construction requirements for dairy water supplies. Administratively, Maine is requiring dairy farm water supplies to conform with the recommendations of the State Department of Health and Welfare.[4]

The PHS milk ordinance and code contains detailed requirements for the protection and laboratory testing of dairy farm water supplies.

Pasteurization plant requirements

Maine laws[1] and regulations[2] covering pasteurization plants and the pasteurization of milk and milk products are the same in intent as the PHS milk ordinance and code. Those items pertaining to the construction of the plants are as specific as the comparable items in the PHS milk ordinance and code. However, the items in the Maine law and regulations covering the construction, installation and operation of pasteurization equipment are not as specific as those contained in the PHS milk ordinance and code. The Maine regulations state, "all milk plant equipment shall be constructed, installed and operated so as to meet the approval of the Commissioner. So far as practicable, the Commissioner may be guided by the requirements of the current PHS milk ordinance and code in approving the construction, installation and operation of the milk plant and equipment." Administratively, the Maine Department of Agriculture is following the PHS milk ordinance and code relative to the construction, installation, testing and operation of pasteurization equipment.

Compulsory pasteurization

Maine does not require compulsory pasteurization of all milk sold or offered for sale, as is provided for in the PHS milk ordinance and code.

Bacterial counts

The Maine regulations require milk for pasteurization to have a standard plate count of not more than 100,000 colonies per milliliter and have a laboratory pasteurization count of not more than 10,000 colonies per milliliter. The Maine law requires pasteurized milk to have a standard plate count of not more than 20,000 per milliliter and flavored drink and flavored milk and cream to have a standard plate count of not more than 50,000 per milliliter.

The PHS milk ordinance and code specifies that pasteurized milk, as delivered to the consumer, shall not exceed 30,000 per milliliter and that raw milk for pasteurization shall not exceed 200,000 per milliliter, as delivered from the farm.

The Maine regulations provide for a premium grade milk with maximum raw milk and pasteurized milk bacterial counts of 10,000 per milliliter and 5,000 per milliliter, respectively.

Neither the Maine law nor the regulations provide for coliform standards for pasteurized milk as does the PHS milk ordinance and code.

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[1] See footnote 1 on p. 212.
[2] See footnote 2 on p. 212.
[4] The State of Maine, private water supplies, department of health and welfare, reprint 1961.

Frequency of inspection

The Maine law provides for the issuing of an annual license to farm producers and pasteurization plants after the Commissioner has satisfied himself by inspection or investigation that the laws and regulations have been complied with.

The PHS milk ordinance and code requires inspection of producer dairies and milk processing plants initially and at least once each 6 months thereafter.

Frequency of laboratory examination

The Maine law and regulations do not specify any frequency of laboratory examination of milk or milk products.

The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Acceptance of milk from out-of-State sources

While Maine milk law specifies that the Commissioner (of Agriculture) shall inspect the production, transportation, storage, and sale of milk, cream, butter, and all other dairy products,[5] the Commissioner is empowered to issue a milk license to any producer or dealer, if he is satisfied, after inspection or investigation, that the applicant has complied with all of Maine milk law, rules, and regulations.[6]

Section 11 of the PHS milk ordinance and code provides that subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

VERMONT

The laws and regulations of the State of Vermont relative to milk sanitation[7 8 9 10] were examined and compared with the sanitation and administrative provisions of the milk ordnance and code—1953 recommendations of the Public Health Service. The Vermont Department of Agriculture is responsible for the enforcement of the laws and regulations relating to the production and processing of milk and milk products for consumption within the State.

The milk laws and regulations of Vermont were found to be itemized and contain generally the basic milk sanitation requirements of the PHS milk ordinance and code. They do not, however, contain the degree of specificity which is contained in the PHS milk ordinance and code. A summary of some of the principal differences follows:

Health of cows

The Vermont law[7] states that the commissioner of agriculture shall eliminate tuberculosis in animals from the State and shall participate in the cooperative programs of the U.S. Department of Agriculture. Administratively, the commissioner of agriculture is requiring the tuberculin testing of all dairy animals every 4 years. The PHS milk ordinance and code requires the testing of individual dairy herds for tuberculosis at least every 6 years, even if located in a modified accredited tuberculosis-free area.

The commissioner of agriculture is authorized by State law[7] to eradicate brucellosis from the State. They require all calves to be vaccinated, whether born within the State or imported. Initially all animals were blood tested and all herds have been subsequently ring tested four times a year with those show-

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[5] Sec. 87–A, ch. 32, R.S., as amended.
[6] Sec. 87–C, ch. 32, R.S., as amended.
[7] Title 6, ch. 103, General Laws, as amended.
[8] Bulletin No. 54, Regulations Relating to Milk and Cream as required by No. 209 of the acts of 1939 and amended by No. 176, acts of 1941; No. 209, acts of 1945; No. 202, acts of 1947; No. 145, acts of 1953; No. 17, acts of 1957; regulations revised and published January 1958.
[9] 5M sets 4–51, Dairy Farm Inspection Regulations.
[10] Sampling report, containing Vermont bacteriological and physical standards for milk and milk products and empty containers (not numbered or dated).

ing a suspicious ring test being blood tested and reactors slaughtered. The State achieved a modified certified brucellosis-free status in August 1957.

The PHS milk ordinance and code states that all milk for pasteurization must be from herds certified as following either plan A or plan B of the U.S. Department of Agriculture for the eradication of brucellosis.

Dairy farm requirements

In general, the Vermont dairy farm sanitation requirements are similar in scope and intent to the sanitation requirements contained in the PHS milk ordinance and code. However, they are not as specific as they are in the PHS milk ordinance and code.

Vermont milk regulations [8] require dairy farms to be provided with "an adequate water supply of a safe sanitary quality," but the regulations are not as specific as the PHS milk ordinance and code with respect to the construction and protection and do not require that dairy farm water supplies be bacteriologically tested. Administratively, the commissioner of agriculture is requiring dairy farm water supplies to be constructed in accordance with the requirements promulgated by the State Department of Health.[11]

The PHS milk ordinance and code contains specific requirements for the construction and bacteriological testing of dairy farm water supplies.

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Vermont milk regulations do not require, as does the PHS milk ordinance and code, that a two-compartment vat be provided in the milkhouse for washing and bactericidal treatment of milk utensils. Neither are the Vermont regulations specific as to acceptable methods of application of bactericidal treatment for utensils and equipment as is the PHS milk ordinance and code.

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The PHS milk ordinance and code requires all outer openings of the milkhouse to be effectively screened during the fly season. Vermont regulations do not specify that the milkhouse shall be screened during the fly season. Administratively, the State department of agriculture is following the recommendations for new milkhouses contained in the "Uniform Milkhouse Plans for the Northeast," [12] which specifies that "all openings should be screened during the fly season."

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The Vermont regulations do not require that the milking barn floor be constructed of concrete or other impervious easily cleanable material, as is required in the PHS milk ordinance and code.

Pasteurization plant requirements

Vermont regulations do not contain requirements or specifications for air-space heaters or air-space indicating thermometers for vat pasteurizers as does the PHS milk ordinance and code. Although no requirement for air-space heaters is contained in the regulations, the pasteurization plant inspection sheet [13] contains an item for air-space heaters.

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Vermont regulations do not specify adequate agitation of milk throughout the 30-minute holding time, as is required by the PHS milk ordinance and code.

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Vermont regulations are not specific with respect to the construction, installation, and operation of high-temperature short-time pasteurizers. In lieu of these requirements, Vermont is administratively following the requirements contained in the PHS milk ordinance and code. The PHS milk ordinance and code contains specific requirements for this type of equipment.

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Vermont regulations contain requirements for temperature control instruments and devices to safeguard pasteurization processes. However, they do not include specification for air-space indicating thermometer for pasteurization vats and the testing of thermometric lag and response time of the recorder controller.

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[8] See footnote 8 on p. 214.
[11] Rural Water Systems, Vermont State Department of Health, 1961.
[12] "Uniform Milkhouse Plans for the Northeast," February 1958.
[13] Pasteurization plant inspection form, 1250–7–61.

The Vermont regulations do not require that the milk or milk equipment be protected from splash or drainage from mezzanines and platforms; that all ingredients be properly protected; that no unapproved products be handled; and that toxic substances be properly labeled, stored, and handled to prevent accidental contamination of the milk. Specific provisions relative to these items are included in the PHS milk ordinance and code.

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Vermont regulations contain no specific requirements with respect to bactericidal treatment of containers and equipment. Neither is provision made for checking the bacterial efficiency of cleaning and bactericidal treatment procedures by means of sterility tests of equipment. Specific provisions relating to these items are included in the PHS milk ordinance and code.

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The Vermont regulations contain no specifications for installation, maintenance, cleaning, and bactericidal treatment of cleaned-in-place milk pipelines, as does the PHS milk ordinance and code.

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Vermont regulations make no provision for prevention of contamination of milk equipment by sewage backflow which is a requirement of the PHS milk ordinance and code. The Vermont regulations further make no mention of deflectors for overhead sewage drain lines to prevent contamination or drip from such lines reaching milk equipment.

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The PHS milk ordinance and code contains specific bacteriological standards for single-service articles such as milk cartons, which includes bacteriological standards for the paper stock from which such articles are made. The PHS milk ordinance and code further requires that no toxic substances shall be present in finished single-service articles. Vermont regulations are not specific on these points.

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The regulations of Vermont for pasteurization plants specify that the plant shall be free of flies, but does not specifically require that doors and windows be screened during fly season as does the PHS milk ordinance and code.

Compulsory pasteurization

Vermont regulations do not require compulsory pasteurization of milk as is provided for in the PHS milk ordinance and code.

Bacterial counts

The Vermont bacterial standards [10] for raw milk for pasteurization is 100,000 per milliliter and 20,000 per milliliter for pasteurized milk. The PHS milk ordinance and code specifies that raw milk for pasteurization shall not exceed 200,000 per milliliter and 30,000 per milliliter for pasteurized milk as delivered to the consumer.

Frequency of inspection

Vermont regulations require inspection of dairy farms and pasteurization plants before a permit is issued and at least annually thereafter. The PHS milk ordinance and code requires inspection of both dairy farms and pasteurization plants prior to issuance of permit, and at least once each 6 months thereafter.

Frequency of laboratory examination

The Vermont regulations require bacterial count of raw milk monthly and bacterial count, coliform test, and phosphatase test monthly for pasteurized milk. The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Adulteration, antibiotics, and toxic substances

Adulteration and antibiotics are covered in the Vermont regulations but toxic substances are not.

The PHS milk ordinance and code specifically provides for the control of adulteration, antibiotics, and toxic substances in milk.

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[10] See footnote 10 on p. 214.

Acceptance of milk from out-of-State sources

Vermont regulations require that no milk or cream which has been transported into the State of Vermont shall be sold or offered for sale unless such milk or cream has been produced and handled in conformity to the requirements of Vermont regulations and has been subject to the same standards of supervision and inspection as are required for milk or cream produced within the State, and at the time of delivery conforms to the provisions of the above regulations.[14]

Section 11 of the milk ordinance and code provides that subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than than that of the local supply, a rating of 90 percent or more.

(Revised to January 1, 1962.)

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NEW HAMPSHIRE

The laws and regulations [15 16] of the State of New Hampshire relative to milk sanitation were examined and compared with the sanitation and administrative provisions contained in the Milk Ordinance and Code—1953 Recommendations of the Public Health Service. The New Hampshire State Department of Health is administering and enforcing the laws and regulations [15 16] relating to the production and processing of milk and milk products for consumption within the State.

The milk laws and regulations [16] relating to pasteurization plants and pasteurized milk products were found to be identical to the PHS milk ordinance and code. New Hampshire is now preparing laws and regulations relating to the production of raw milk for pasteurization based on the PHS milk ordinance and code.

A summary of some of the principal differences between New Hampshire milk sanitation requirements and those contained in the PHS milk ordinance and code follows:

Health of cows

The laws and regulations [17] of New Hampshire for the eradication and control of tuberculosis and brucellosis are not as specific as the requirements contained in the PHS milk ordinance and code. Administratively, the State veterinarian is carrying out a tuberculosis and brucellosis control program for dairy cattle quite similar to that found in the PHS milk ordinance and code. New Hampshire obtained a brucellosis free area status on April 25, 1960.

Dairy farm requirements

The present New Hampshire laws and regulations [15] relating to dairy farm requirements were found to be similar in scope and intent to the sanitation requirements contained in the PHS milk ordinance and code. The New Hampshire laws and regulations do not specify that (1) barn floors be of concrete or other impervious materials, (2) bacteriological tests be made of dairy farm water supplies, (3) small mouth milk pails be used for hand milking or stripping, (4) utensil washing facilities be located in the milkhouse, (5) convenient and adequate toilet facilities be provided, and (6) wastes be properly disposed of as does the PHS milk ordinance and code.

Pasteurization plant requirements

New Hampshire has adopted the pasteurization standards and pasteurization plant sanitation requirements of the PHS milk ordinance and code as the State regulations [16] governing the processing of milk and milk products.

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[14] Regulation 34, "Regulations Relating to Milk and Cream." Bulletin No. 54, published and revised, January 1958.

[15] Laws and Regulations Relating to Dairy Products, ch. 184 RSA, as revised June 23, 1959.

[16] Laws and Regulations Relating to Pasteurization of Milk and Other Dairy Products, Mar. 28, 1961.

[17] New Hampshire Revised Statutes Annotated—1955, and General Regulations Governing the Admission of Domestic Animals Into the State of New Hampshire, revised April 1961.

Compulsory pasteurization

New Hampshire laws and regulations do not require compulsory pasteurization of milk as does the PHS milk ordinance and code.

Bacterial counts

New Hampshire laws and regulations relating to bacterial counts are the same as the requirements contained in the PHS milk ordinance and code.

Frequency of inspections

The New Hampshire laws and regulations do not specify the frequency for the inspection of dairy farms or milk pasteurization plants. Administratively, the New Hampshire State Health Department is inspecting pasteurization plants four times a year.

The PHS milk ordinance and code requires inspection of both dairy farms and pasteurization plants prior to issuance of permits, and at least once each 6 months thereafter.

Frequency of laboratory examination

The New Hampshire laws and regulations do not specify the frequency with which milk samples shall be submitted for laboratory examination.

The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Acceptance of milk from out-of-State sources

New Hampshire laws and regulations do not preclude the acceptance of milk from out-of-State sources which comply with all of the New Hampshire milk sanitation requirements. Administratively, some milk supplies are accepted into the State without direct inspection, on the basis of acceptable milk sanitation survey ratings. In some instances, direct inspections are made of out-of-State sources.

Section 11 of the PHS milk ordinance and code provides that subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

MASSACHUSETTS

The laws and regulations of the Commonwealth of Massachusetts relative to milk sanitation [18] [19] [20] [21] [22] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. Jurisdiction for the enforcement of such laws and regulations is divided between the department of agriculture and the department of public health. The director of the division of dairying and animal husbandry, department of agriculture, acts under the supervision of the milk regulation board, and is responsible for the enforcement of its regulations, as they pertain to dairy farms and transportation of milk from production areas to the pasteurization plants. (The milk regulation board consists of the commissioner of agriculture, the commissioner of public health, chairman of the milk control board, and the attorney general.) The commis-

[18] Ch. 94, general laws, as amended.

[19] Rules and regulations relative to establishing grades of milk as promulgated and adopted by the milk regulation board. (Authority: GS, ch. 94, sec. 13 as amended by ch. 263 of the acts of 1933.)

[20] Milk plant regulations, milk transportation regulations and regulations relative to establishments for the pasteurization of milk outside the Commonwealth as promulgated and adopted by the milk regulation board. (Authority: Ch. 94, sec. 13, GS, as amended by ch. 263 of the act of 1933.)

[21] Regulations for the inspection of dairy farms producing milk for distribution, sale, or exchange in the Commonwealth. Milk regulation board. Dec. 22, 1932. (Authority: Ch. 305, acts of 1932.)

[22] Rules and regulations pertaining to establishments for pasteurization of milk as prescribed and established by the department of public health. (Authority: Sec. 48A, ch. 94 of the general laws, as amended by ch. 158 of the acts of 1932.)

sioner of public health is concerned with the operation of pasteurization plants under regulations promulgated under authority of chapter 94 of the general laws.[18] The department of agriculture is responsible for the inspection and the issuance of permits for all milk plants wherever located, shipping milk within or into the State of Massachusetts.

A summary of some of the principal differences between Massachusetts milk sanitation laws and regulations and the requirements of the PHS milk ordinance and code follows:

Health of cows

Massachusetts law [23] states that whenever not less than 85 percent of the cattle permanently kept in the Commonwealth are being tested for bovine tuberculosis, the entire Commonwealth may be declared to be a quarantine area and all bovine cattle may be required to be tested by the tuberculin test. Administratively, the director of the division of livestock disease control of the department of agriculture, is requiring the tuberculin testing of dairy animals on an annual basis. Massachusetts is a modified accredited tuberculosis-free area, as determined by the USDA.

The PHS milk ordinance and code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required.

Massachusetts law [24] requires the testing of all dairy cattle by an approved method for the detection of brucellosis. Massachusetts is following plan A approved by the U.S. Department of Agriculture for the eradication of brucellosis. Massachusetts was accredited brucellosis-free in March 1959, as determined by the USDA.

The PHS milk ordinance and code states that all milk for pasteurization must be from herds certified as following either plan A or plan B approved by the USDA for eradication of brucellosis.

Dairy farm requirements

Massachusetts regulations require dairy barn floors to be "tight, clean and in good repair" but do not require such floors and gutters to be constructed of concrete or similar material. The Massachusetts regulations specify that "the hands of the milkers shall be washed clean immediately before the milking and kept clean and dry during the process of milking," but do not require hand-washing facilities in or convenient to the milking barn. Likewise, the regulations specify that "the udders and teats of all milking cows shall be clean at the time of milking" but do not require the application of a bactericidal solution to the udders and teats before milking or to the milkers' hands.

The Massachusetts regulations do not specifically require water heating facilities in the milkhouse. Administratively, however, the director of the division of dairying and husbandry is requiring water heating facilities in milkhouses using bulk milk tanks.

The PHS milk ordinance and code contains specific requirements related to these items of dairy farm sanitation.

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Massachusetts regulations state that "sterlizing (of milk containers and equipment) may be done with boiling water, dry heat, live steam, or sodium hypochlorite." [21]

The PHS milk ordinance and code contains specific requirements as regard temperature, time of exposure, or concentration of chemical solution necessary for adequate bactericidal treatment.

Pasteurization plant requirements

Massachusetts regulations provide that all apparatus used in pasteurization of milk must be so constructed that it can be easily taken apart for cleaning, that such apparatus must be maintained free from portions showing exposed copper or brass, and that milk-contact surfaces of such equipment shall be free from lead, zinc, and cadmium.[22]

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[18] See footnote 18 on p. 218.
[21] See footnote 21 on p. 218.
[22] See footnote 22 on p. 218.
[23] Ch. 129, sec. 33B, general laws, as amended by ch. 527, July 13, 1956.
[24] Ch. 129, sec. 33C and 33D, general laws, as amended by ch. 527, July 13, 1956.

The PHS milk ordinance and code provides detailed construction requirements for all multiuse equipment with which milk comes in contact, including specific references to such items as toxicity, use of rubber and rubberlike materials, V-type threads, close-fitting shafts, thermometer seals, wing nuts and bayonet locks, corrosion, open seams, and good repair.

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Massachusetts regulations do not contain bacteriological standards for single-service articles, such as milk cartons, as well as bacteriological standards for the paper stock from which such articles are made.

Specific requirements for such standards are provided for in the PHS milk ordinance and code.

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Massachusetts regulations state that pasteurization vats "which permit foam formation shall be equipped with a device which will keep the atmosphere above the body of the milk to at least pasteurizing temperature during the holding period." [21]

The PHS milk ordinance and code requires that means shall be provided, and used, in pasteurization vats to keep the atmosphere above the milk at a temperature of not less than 5° F. higher than the minimum pasteurization temperature, in order that every particle of milk will be pasteurized.

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While Massachusetts regulations require all milk equipment and containers to be "sterilized" before use,[22] no reference to methods, temperatures, time of exposure, or concentration of chemical solution, necessary for adequate bactericidal treatment, are mentioned.

The PHS milk ordinance and code not only contains specific requirements relative to such methods but contains testing procedures and standards to evaluate the effectiveness of such methods.

Compulsory pasteurization

Massachusetts regulations do not require compulsory pasteurization of all milk sold or offered for sale. However, many of the local boards of health have compulsory milk pasteurization requirements.

The PHS milk ordinance and code prohibits the sale of all raw milk. For those communities which still find it necessary to permit the sale of raw milk, specific modifications of the PHS milk ordinance and code are recommended.

Bacterial counts and phosphatase test requirements

The Massachusetts bacterial count standard for raw milk [19] is identical to that contained in the PHS milk ordinance and code. The Massachusetts bacterial count standard for pasteurized milk is 10,000 per milliliter.[19]

Massachusetts regulations do not specifically require that the phosphatase test be run on pasteurized milk samples. However, the State department of health utilizes the phosphatase test as a proof of efficiency of pasteurization.

Massachusetts regulations provide for a premium grade market milk with maximum raw milk and pasteurized milk bacterial counts of 50,000 per milliliter and 5,000 per milliliter, respectively.[19]

The PHS milk ordinance and code specifies that pasteurized milk, as delivered to the consumer, shall not exceed 30,000 per milliliter. The PHS milk ordinance and code also states that milk shall show efficient pasteurization as evidenced by a satisfactory phosphatase test.

Frequency of inspection

Massachusetts laws and regulations require that each dairy farm be inspected at least once each year and registered annually. Any new dairy is required to be inspected before a certificate of registration is issued. A certificate of registration in full form and effect is prerequisite to the issuance of a local board of health permit for sale or delivery of such milk in any city or town.

Massachusetts regulations [22] require each pasteurization plant to be licensed annually, after inspection indicates conformance with applicable regulations. Administratively, the State department of health makes spot checks and plant visits at least every 3 months.

The PHS milk ordinance and code requires inspection of both farm and plant at the time a permit to each is issued and at least once each 6 months thereafter.

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[19] See footnote 19 on p. 218.
[22] See footnote 22 on p. 218.

Frequency of laboratory examinations

Massachusetts regulations require that, at least twice a month, each licensee of a pasteurization plant shall cause the raw milk of each producer to be examined for bacterial count, in an approved laboratory, prior and subsequent to laboratory pasteurization.[22] No specific frequency for examination of pasteurized milk is stated in Massachusetts State laws or regulations.

The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Acceptance of milk from out-of-State sources

Massachusetts laws do not provide for acceptance of out-of-State milk supplies, either raw or pasteurized, unless the farms and plants have been found to be in compliance with all Massachusetts rules and regulations.[25] However, the laws further state that, "if, at any time, the milk regulation board finds that a shortage of milk exists, or is threatened anywhere within the Commonwealth, temporary certificates of registration shall, without inspection, be issued for nonregistered dairy farms in such numbers and in such areas as the board deems wise." [26] Administratively, the commissioner of public health requires that each shipment of emergency milk be tested for standard plate counts, coliform count and quality tests.

Section 11 of the PHS milk ordinance and code provides that, subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

RHODE ISLAND

The laws and regulations of the State of Rhode Island, relative to milk sanitation,[27] [28] [29] were compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. Jurisdiction for the enforcement of such laws and regulations is divided between the department of agriculture and conservation and the department of health. The department of agriculture and conservation's responsibilities with respect to market milk relate exclusively to the "inspection of cattle, milk herds, barns, milking rooms and equipment, or the economic control of milk." [30] The department of health is responsible for the enforcement of provisions of the general laws of 1938, as amended, relating to the "inspection of milk and milk products and the control of same from the time of leaving the farm to the time of delivery to the consumer." [30]

A summary of some of the principal differences between the milk sanitation laws and regulations of the State of Rhode Island and the provisions of the PHS milk ordinance and code follows:

Health of cows

Rhode Island statute requires that all dairy cattle be free from tuberculosis [31] and, by regulation, requires that all dairy cattle be healthy and apparently free from other diseases as determined by physical examination.[28] Under the authority of chapter 207, section 1, by which bovine animals, suspected to be afflicted with tuberculosis, can be directed to be tested, the Commissioner of Agriculture has administratively required the annual testing of dairy herds for tuberculosis. Rhode Island is currently a modified certified tuberculosis-free State, as determined by the U.S. Department of Agriculture.

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[22] See footnote 22 on p. 218.
[25] Ch. 94, sec. 16C, General Laws.
[26] Ch. 94, sec. 16K, General Laws.
[27] General Laws of 1938, as amended.
[28] Rules and Regulations Relating to the Inspection and Registration of Dairies and Dealers and Distributors of Milk, as established by the department of agriculture and conservation, May 1, 1937, as amended.
[29] Rules and regulations adopted December 31, 1940, by the department of health under authority of sec. 5, ch. 219, of the General Laws of 1938, as amended.
[30] Administrative Act of 1939, ch. 660, sec. 184.
[31] Ch. 216, sec. 22, as amended May 1954.

All cattle, with specific exceptions, in Rhode Island must be bloodtested, at least annually, for brucellosis under State and Federal supervision.[32] Rhode Island obtained a modified certified brucellosis-free status on February 28, 1958. Exceptions to the above brucellosis requirement apply solely to steers, calves under 6 months of age, and vaccinated females under 24 months of age.

The PHS Milk Ordinance and Code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required.

The PHS Milk Ordinance and Code states that all milk for pasteurization must be from herds certified as following either plan A or plan B approved by the USDA for eradication of brucellosis.

The PHS Milk Ordinance and Code further requires that the milking herd be observed closely for evidence of other diseases and that compliance be based upon the diagnosis of a licensed veterinarian.

Dairy farm requirements

Rhode Island regulations require that milk utensils be subjected to "effective sterilization" with steam or chlorine, or be "rinsed" with hot water 180° F. or above.[28]

The PHS Milk Ordinance and Code specifically describes acceptable methods of bactericidal treatment of milk utensils and equipment, including temperatures, times, chemical concentrations, etc.

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Rhode Island statute requires all milk from dairy farms to be cooled to 60° F. or below within 1 hour after milking.[33] Rhode Island regulations require that in order to achieve this requirement, all milk must be cooled to 50° F. or below and maintained thereat.[28] It is further required that milk from farm bulk tanks be cooled to 40° F. or below.

The PHS Milk Ordinance and Code requires that all milk be immediately cooled to 50° F. or below and maintained at that temperature until delivery, if not delivered to a plant within 2 hours after completion of milking.

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Rhode Island laws or regulations contain no specific reference to (1) water heating facilities in the milkhouse; (2) utensil washing and bactericidal treatment vats in the milkhouse; (3) toilet facilities; (4) sanitary waste disposal; (5) convenient hand-washing facilities; (6) clean clothing; and (7) construction and cleanliness of milk transportation facilities.

The PHS Milk Ordinance and Code is specific with regard to these items of sanitation.

Pasteurization plant requirements

The pasteurization plant sanitation requirements of the State of Rhode Island are based upon the applicable provisions of the Milk Ordinance and Code Recommended by the Public Health Service—1939 edition.[29]

The Milk Ordinance and Code—1953 Recommendations of the Public Health Service is the most recent edition and takes cognizance of the notable advancements in the sciences of dairy technology and public health.

Compulsory pasteurization

Rhode Island does not require compulsory pasteurization of all milk sold or offered for sale.

The PHS Milk Ordinance and Code prohibits the sale of all raw milk. For those communities which still find it necessary to permit the sale of raw milk, specific modifications of the PHS Milk Ordinance and Code are recommended.

Bacterial counts

The Rhode Island bacterial count standards for raw milk for pasteurization are 100,000 per milliliter and 25,000 per milliliter for pasteurized milk.[31] Rhode Island provides for a special "Grade A Raw Milk" and "Grade A Pasteurized Milk" with maximum bacterial counts of 50,000 per milliliter and 10,000 per milliliter, respectively.[31]

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[28] See footnote 28 on p. 221.
[29] See footnote 29 on p. 221.
[31] See footnote 31 on p. 221.
[32] Ch. 207, sec. 33, as amended April 1952.
[33] Ch. 217, sec. 1(g), General Laws of 1938.

The PHS Milk Ordinance and Code specifies that raw milk for pasteurization shall not exceed a maximum of 200,000 per milliliter, as delivered from the farm, and that pasteurized milk, as delivered to the consumer, shall not exceed 30,000 per milliliter.

Frequency of inspection

Rhode Island State laws or regulations do not specify the frequency with which either dairy farm or pasteurization plant inspections shall be made.

The PHS Milk Ordinance and Code requires inspections of dairy farms and pasteurization plants prior to issuance of permits and at least once each 6 months thereafter.

Frequency of laboratory examinations

Rhode Island State laws or regulations do not specify the routine frequency with which milk and milk products shall be sampled for laboratory examination.

The PHS Milk Ordinance and Code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Acceptance of milk from out-of-State sources

Rhode Island law provides for the acceptance of out-of-State milk and milk products without direct Rhode Island inspection only "in the case of an acute shortage." [34]

Section 11 of the PHS Milk Ordinance and Code provides that, subject to laboratory tests upon arrival, the health authority should approve without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or, if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

CONNECTICUT

The laws and regulations of Connecticut, governing the production and pasteurization of market milk and milk products,[35 36] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. Responsibility for the enforcement of such laws and regulations is that of the Commissioner of Agriculture.[37]

A summary of some of the principal differences between Connecticut milk sanitation requirements and those of the PHS Milk Ordinance and Code follows:

Health of cows

Connecticut law states that any herd or any animal in the herd must be tested or retested for tuberculosis at any time when deemed advisable by Federal and State authorities.[38] Administratively, the Commissioner of Agriculture has required tuberculin testing of all herds on an annual basis. Connecticut is currently a modified accredited tuberculosis-free State, as determined by the U.S. Department of Agriculture.

Connecticut law relative to the control and eradication of brucellosis provides the Commissioner of Agriculture with authority to require all cattle to comply with brucellosis control and eradication procedures approved by USDA.[39] In July 1957, Connecticut achieved a modified certified brucellosis-free status, as determined by the USDA.

The PHS Milk Ordinance and Code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required.

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[34] Ch. 217, sec. 12, General Laws of 1938.
[35] General Statutes, Revision of 1958, as amended.
[36] Rules and Regulations of the Milk Regulation Board, Concerning the Production, Handling, and Distribution of Milk and Milk Products—Revised to January 1, 1960.
[37] Ch. 430, sec. 22–128, General Statutes of 1958.
[38] Ch. 433, sec. 22–290, General Statutes of 1958.
[39] Ch. 433, sec. 22–298 to 22–307, General Statutes of 1958.

The PHS milk ordinance and code further states that all milk for pasteurization must be from herds certified as following either plan A or plan B approved by the USDA for eradication of brucellosis.

Dairy farm requirements

Connecticut sanitation requirements for dairy farms [40] do not contain specific references to (1) cleanliness of floors, walls, and ceilings in the milking barn; (2) fly control in the milkhouse; (3) utensil washing and bactericidal treatment vats in the milkhouse; (4) cleanliness of the cows at the time of milking; (5) cleanliness of the milker's hands at the time of milking; and (6) provision of handwashing facilities.

Specific requirements relating to these items are included in the PHS milk ordinance and code.

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Connecticut law requires that water used on dairy farms be free from pollution or disease-producing organisms as determined by analyses of samples ordered taken by the commissioner of agriculture.[40]

The PHS milk ordinance and code requires dairy farm water supplies to be properly located, protected, and operated, as well as easily accessible, adequate, and of a safe, sanitary quality. It further includes detailed requirements for the proper construction and testing of such supplies.

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No reference to the temperature to which market milk on the dairy farm must be cooled and maintained is contained in current Connecticut laws and regulations.

The PHS milk ordinance and code states that raw milk for pasteurization, unless delivered to a milk plant or receiving station within 2 hours after completion of milking, shall be cooled immediately to, and maintained at, 50° F. or less until delivered.

Pasteurization plant requirements

Connecticut laws relative to pasteurization plants [41] are exceedingly more general than the requirements of the PHS milk ordinance and code. Many of the items of sanitation in the Connecticut laws are left to the approval of the commissioner of agriculture.

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Connecticut laws and regulations do not require that airspace heaters and airspace indicating thermometers be installed and properly used on pasteurization vats.

The PHS milk ordinance and code is specific in this regard.

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Connecticut law states that the water supply of a pasteurization plant shall be "adequate" and "pure." [42]

The PHS milk ordinance and code includes detailed requirements as to the location, construction, protection, and testing of plant water supplies.

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The PHS milk ordinance and code contains specific bacteriological standards for single-service articles such as milk cartons, which includes bacteriological standards for the paper stock from which such articles are made.

Connecticut laws and regulations contain no reference to such standards.

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Connecticut law relative to toilet and hand-washing facilities requires that such facilities, to the approval of the commissioner of agriculture, must be provided for the use of employees.[42]

The PHS milk ordinance and code specifically requires hot and cold running water, soap, and individual sanitary towels, as well as requires toilet facilities which comply with local plumbing codes, which are clean, free of flies, and are in good repair, and which are well lighted and ventilated.

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[40] Ch. 430, secs. 22–189 and 22–190, General Statutes of 1958.
[41] Ch. 430, secs. 22–198 to 22–201, General Statutes of 1958.
[42] Ch. 430, sec. 22–200, General Statutes of 1958.

Compulsory pasteurization

Connecticut does not require compulsory pasteurization of all milk sold or offered for sale.

The PHS milk ordinance and code prohibits the sale of all raw milk. For those communities which still find it necessary to permit the sale of raw milk, specific modifications of the PHS milk ordinance and code are recommended.

Bacterial counts and phosphatase test requirement

The Connecticut bacterial count standard for raw milk for pasteurization and for pasteurized milk is 150,000 and 25,000 per milliliter, respectively.[43] Connecticut does not require evidence of efficient pasteurization by means of a satisfactory prosphatase test.

In addition to regular raw and pasteurized milk, Connecticut has promulgated bacterial count standards for a special "grade A milk for pasteurization" and "grade A pasteurized milk."[43] The maximum counts for these products are 50,000 and 10,000 per milliliter, respectively.

The PHS milk ordinance and code specifies that raw milk for pasteurization shall not exceed 200,000 per milliliter, as delivered from the farm, and that pasteurized milk, as delivered to the consumer, shall not exceed 30,000 per milliliter. The PHS milk ordinance and code also states that milk shall show efficient pasteurization as evidenced by a satisfactory phosphatase test.

Frequency of inspection

Connecticut dairy laws provide that "the commissioner shall inspect regularly and as frequently as possible the dairy farms and milk plants * * *."[44]

The PHS milk ordinance and code requires inspection of both dairy farms and milk plants prior to issuance of permits, and at least once each 6 months thereafter.

Frequency of laboratory examinations

Connecticut laws or regulations do not specify any frequency with which milk samples shall be taken and examined for conformance to bacterial standards, coliform standards, or phosphatase test.

The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Acceptance of milk from out-of-State sources

Connecticut law does not provide for acceptance of out-of-State milk without direct inspection by the State of Connecticut, except that in cases of emergency (milk shortage), milk may be received into Connecticut from unapproved sources, providing such milk, upon arrival at a Connecticut plant, complies with the bacterial, chemical, and physical standards of Connecticut.[45] [46]

Section 11 of the PHS milk ordinance and code provides that, subject to laboratory tests upon arrival, the health authority should approve without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards, and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

NEW YORK

The laws and regulations of the State of New York, governing the production and pasteurization of market milk and milk products[47] [48] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. Responsibility

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[43] Sec. 144–1–81, rules and regulations of the milk regulation board, as adopted Oct. 11, 1961.

[44] Ch. 430, sec. 22–175, General Statutes of 1958.

[45] Ch. 430, sec. 22–184, General Statutes of 1958.

[46] Ch. 430, sec. 22–176, General Statutes of 1958.

[47] The public health law, ch. 45, as amended through 1958, New York State Department of Health.

[48] Sanitary Code and Administrative Rules and Regulations, ch. III, New York State Department of Health.

for the enforcement of such laws and regulations is that of the New York State Department of Health.[49] In addition to these State laws and regulations, the New York State Department of Health has developed, and is utilizing, a very detailed milk sanitation manual which consists of selected administrative forms, instructions, technical interpretations, and minimum recommended standards.

A summary of some of the principal differences between New York milk sanitation requirements and those of the PHS milk ordinance and code follows:

Health of cows

New York regulations state that all dairy animals shall be tuberculin tested at least annually except that, in the case of a herd having two successive negative annual tuberculin tests, a longer period may be approved by the State commissioner of health.[50]

With regard to the control and eradication of brucellosis, New York regulations require all dairy herds, producing milk to be pasteurized, to be brucellosis free in accordance to applicable rules and regulations of the New York State Department of Agriculture or those equivalent thereto.[51] The State of New York achieved a modified, certified brucellosis-free status in November 1959.

New York regulations require a physical examination, by a licensed veterinarian, of all milking animals producing milk to be pasteurized, at least annually.[52]

The PHS milk ordinance and code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required.

The PHS milk ordinance and code states that all milk for pasteurization must be from herds certified as following either plan A or plan B approved by the USDA for eradication of brucellosis.

The PHS milk ordinance and code further requires that the milking herd be observed closely for evidence of other diseases and that compliance be based upon the diagnosis of a licensed veterinarian. It does not require an annual physical examination of the herd.

Dairy farm requirements

New York regulations require the milker's hands to be washed and clean prior to, and during milking.[53]

The PHS milk ordinance and code similarly requires milker's hands to be clean immediately before milking and immediately after any interruption in the milking operation. In addition, handwashing facilities must be provided in or convenient to the barn at the time of milking.

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New York regulations pertaining to the dairy farm water supply state, in part, such water shall be derived from a source properly located, protected, and operated.[54] Administratively, the recommendations of the "Joint Committee on Rural Sanitation," PHS Publication No. 24, are used as a guide in the interpretation of properly located, protected, and operated water supplies.

The PHS milk ordinance and code includes detailed construction and protection requirements for dairy farm water supplies, as well as requirements for testing of such supplies.

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New York regulations require joints and seams of milk equipment and containers to be welded flush.[55]

The PHS milk ordinance and code permits joints and seams to be welded or soldered flush.

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Through the use of published administrative, interpretive, and technical sanitation manuals, detailed minimum requirements are provided by the New York

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[49] Art. 14, milk sanitation, sec. 1400, public health law.
[50] Regulation 19, sec. E, ch. III, Sanitary Code.
[51] Regulation 20, sec. E, ch. III, Sanitary Code.
[52] Regulation 22, sec. E, ch. III, Sanitary Code.
[53] Regulation 35, sec. F, ch. III, Sanitary Code.
[54] Regulation 40, sec. F, ch. III, Sanitary Code.
[55] Regulation 32, sec. F, ch. III, Sanitary Code.

State Department of Health for the installation and operation of pipeline (cleaned-in-place) milkers, refrigerated bulk milk storage tanks and farm transportation tanks.[56 57 58]

The PHS milk ordinance and code does not contain the same degree of detailed specificity with respect to the above individual types of farm equipment.

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New York regulations relative to cooling raw milk on the dairy farm state that milk shall be cooled immediately after milking, brought to a temperature of 60° F. or lower, and maintained thereat until delivery. However, morning's milk in cans may be delivered without cooling prior to 10 a.m., and night's milk also may be delivered without cooling within 4 hours after milking. Milk produced in refrigerated bulk milk storage tanks, however, is required to be cooled to 50° F. or lower.[59]

The PHS milk ordinance and code states that all raw milk for pasteurization, unless delivered to a milk plant or receiving station within 2 hours after completion of milking, shall be cooled immediately to, and maintained at 50° F. or less until delivered.

Pasteurization plant requirements

New York plant regulations do not require that storage tanks, receiving tanks or other equipment containing raw milk for pasteurization be covered. The regulations do state that covers on pasteurization vats and filler bowls be kept closed during operation.[60 61]

The PHS milk ordinance and code requires all equipment and containers with which milk comes into contact to be covered, or otherwise protected, to prevent the access of flies, dust, condensation, or other contamination during operation.

Bacteriological standards for single-service articles such as milk cartons, as well as bacteriological standards for the paper stock from which such articles are made are not included in the New York regulations. However, such regulations do require single-service containers to be acceptable to the State commissioner of health.[62] Acceptance of such containers is based upon fabrication plant inspections and bacterial examinations carried on by New York regulatory officials, the PHS, and the industry.

The PHS milk ordinance and code contains specific bacteriological standards for single-service articles as well as the poper stock from which such articles are made.

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New York regulations specify that pasteurizers shall be free from foam having a temperature of less than 143° F. during the holding period.[63]

The PHS milk ordinances and code requires that means shall be provided, and used, in pasteurization vats to keep the atmosphere above the milk at a temperature of not less than 5° F. higher than the minimum pasteurization temperature, in order that every particle of milk will be pasteurized.

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New York regulations require that all persons engaged in handling milk or milk products shall allow the health officer, permit issuing official, State commissioner of health, or authorized representatives, to make such physical examinations as they may require, or shall furnish such control officials with a report of same made by a private physician.[64]

The PHS milk ordinance and code requires that the health officer, or a physician authorized by him, shall examine and take a careful morbidity history of each person connected with a pasteurization plant, or about to be employed by one, whose work will bring him in contact with the milk processing and related operations.

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[56] Sanitary manual—Milk, items 905.22 (Sept. 26, 1960), 905.21 (May 23, 1958).
[57] Standards of compliance, refrigerated milk storage tanks, farm installation and operation—New York State Department of Health (undated).
[58] Minimum standard requirements for the installation and operation of pipeline milkers, M.S. 271—New York State Department of Health (Aug. 14, 1958).
[59] Regulation 39, sec. F, ch. III, Sanitary Code.
[60] Regulation 40, sec. G, ch. III, Sanitary Code.
[61] Regulation 53, sec. F, ch. III, Sanitary Code.
[62] Regulation 1ff, sec. A, ch. III, Sanitary Code.
[63] Regulation 50, sec. G, ch. III, Sanitary Code.
[64] Regulation 3, sec. B, ch. III, Sanitary Code.

Compulsory pasteurization

New York regulations require compulsory pasteurization in cities, incorporated villages and towns of 10,000 population or more.[65] Subject to specific requirements and restrictions, raw milk may be sold for consumption under New York regulation, provided it is sold at the dairy farm where produced.[66]

The PHS milk ordinance and code prohibits the sale of all raw milk. For those communities which still find it necessary to permit the sale of raw milk, specific modifications of the PHS milk ordinance and code are recommended.

Phosphatase test and coliform test requirements

New York laws and regulations do not require, as does the PHS milk ordinance and code, the routine conduct of the phosphatase test, as evidence of efficient pasteurization, or the coliform test, as evidence of contamination subsequent to pasteurization. Through published interpretive and administrative guidelines, detailed followup investigation procedures are specified when "positive" phosphatase samples are noted.[68] No laboratory in the State is approved for official milk examinations unless such laboratories agree to conduct phosphatase and coliform tests on all samples of pasteurized milk and milk products, and these tests are routinely made.

Sediment test

New York regulations require the milk of all producers making direct shipment to any processing plant to be tested for sediment by the processer or his representative at least once a month.[67]

The PHS milk ordinance and code does not contain this specific requirement.

Frequency of inspection

New York regulations require that producer dairies be inspected by qualified industry inspectors initially, and at least annually thereafter.[69] Such producer dairies are subject to additional inspections by the State or local permit issuing official, but at no stated frequency.[69] Milk processing plants must be inspected by the State or local permit issuing officials initially, and at least annually thereafter.[69]

The PHS milk ordinance and code requires inspection of producer dairies and milk processing plants initially and at least once each 6 months thereafter.

Frequency of laboratory examinations

The New York regulations specify that "Every processor shall cause to be taken at intervals of not more than 3 months, representative samples of the prepasteurized milk received from each producer by direct shipment," and that, "Every processor shall cause to be taken at intervals of not more than 1 month, representative samples of the prepasteurized milk received from each processing plant and from each route of dairy farms having farm bulk milk cooling tanks."[70] The permit issuing official may take samples of the prepasteurized milk received from individual producers or processing plants, but no frequency of sampling is stated in New York laws or regulations. In the case of raw milk for pasteurization, the health officer may accept the results of industry laboratory examinations with periodic checking. The permit issuing official is requested to take samples of pasteurized milk, for bacterial examination, at intervals of not more than 3 months.[71]

The PHS milk ordinance and code requires that at least four samples of all raw milk for pasteurization and four samples of all pasteurized milk be collected and examined during each 6-month period.

Acceptance of milk from out-of-State sources

New York law requires the sources of all milk shipped into the State from any other State to (1) be inspected initially, and at least annually, by personnel of the New York State Department of Health and (2) conform to all sanitary requirements and standards for milk produced within the State of New York.[72]

Section 11 of the PHS milk ordinance and code provides that, subject to laboratory tests upon arrival, the health authority should approve without inspec-

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[65] Regulation 5, sec. B, ch. III, Sanitary Code.
[66] "Investigation of Reported Underpasteurized Samples," item 906.7, sanitation manual (Feb. 20, 1956).
[67] Regulation 18, sec. D, ch. III, Sanitary Code.
[68] Regulation 14, sec. D, ch. III, Sanitary Code.
[69] Regulation 15, sec. D, ch. III, Sanitary Code.
[70] Regulation 16, sec. D, ch. III, Sanitary Code.
[71] Regulation 17, sec. D, ch. III, Sanitary Code.
[72] Art. 14, milk sanitation, sec. 1420, public health law.

tion by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency supplying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

NEW JERSEY

The laws and regulations of New Jersey, governing the production and pasteurization of market milk and milk products [72 74 75 76 77] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. Responsibility for the enforcement of such laws and regulations is that of the New Jersey State Department of Health and local boards of health.

The milk laws and regulations of New Jersey were found to be itemized in an orderly manner, but the individual items were not as specific as those contained in the PHS milk ordinance and code. However, the New Jersey regulations are supplemented by interpretation,[78 79] policies, and administrative procedures,[80 81] which provide more specific coverage of the milk sanitation requirements.

A summary of some of the principal differences between the milk sanitation laws and regulations of the State of New Jersey and the provisions of the PHS milk ordinance and code follows:

Health of cows

The New Jersey requirements for the eradication and control of tuberculosis [82] and brucellosis [83] are quite similar to those contained in the PHS milk ordinance and code. New Jersey also requires an annual physical examination of dairy animals by a licensed veterinarian [84] and has established procedures for a mastitis control program.[80] The State of New Jersey reached a modified, certified brucellosis-free area status in June 1958.

The PHS milk ordinance and code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required.

The PHS milk ordinance and code states that all milk for pasteurization must be from herds certified as following either plan A or plan B approved by the USDA for eradication of brucellosis.

The PHS milk ordinance and code further requires that the milking herd be observed closely for evidence of other diseases and that compliance be based upon the diagnosis of a licensed veterinarian.

Dairy farm requirements

The New Jersey dairy farm sanitation requirements [73 77 78] are similar in intent to those contained in the PHS milk ordinance and code; however, they lack the detailed specificity of the PHS milk ordinance and code, particularly with respect to the design and construction of equipment.

Pasteurization plant requirements

The PHS milk ordinance and code specifies that milk pasteurization plant rooms shall be of adequate size and that rodents be kept under control. These requirements are not included in the New Jersey milk regulations.

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[72] Ch. 10, title 24, Revised Statutes of New Jersey (circular F–D6, revised December 1958).
[74] The State Sanitary Code of the State of New Jersey, reprint 1960.
[75] Regulation adopted Jan. 9, 1945, governing the installation and operation of high-temperature short-term pasteurizing systems.
[76] Regulation adopted Apr. 20, 1949, establishing bacterial standards.
[77] Rules and regulations adopted Aug. 21, 1957, governing the production and handling of farm bulk milk.
[78] Interpretation of sanitary requirements for dairy farms (undated).
[79] Interpretation of sanitary requirements for milk plants and creameries (undated).
[80] Milk inspection reciprocity program (undated).
[81] Reciprocal milk sampling program (undated).
[82] Art. II, ch. 10, Revised Statutes of 1958.
[83] Ch. III, regulation 7, the State Sanitary Code, reprint, 1960.
[84] Art. 3, ch. 10, Revised Statutes of 1958.

The PHS milk ordinance and code contains specific bacteriological standards for single-service articles such as milk cartons, which includes bacteriological standards for the paper stock from which such articles are made. These bacteriological standards are not mentioned in the New Jersey regulations.

The PHS milk ordinance and code contains specific requirements in regard to the construction, protection, and bacteriological testing of milk plant water supplies.

The New Jersey laws, regulations, and interpretations do not contain specific construction and protection requirements for milk plant water supplies. Administratively, the State department of health evaluates the construction of private water supplies for milk plants on the basis of compliance with the requirements contained in the PHS milk ordinance and code.

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The New Jersey laws, regulations, and interpretations do not provide specifications for the installation and cleaning of cleaned-in-place pipelines as does the PHS milk ordinance and code. Neither does the New Jersey regulations specify sterility tests to check the effectiveness of the cleaning and bactericidal treatment of containers and equipment as does the PHS milk ordinance and code. Administratively, the State department of health has developed and is following recommended specifications for cleaned-in-place sanitary milk pipelines[85] which cover the installation requirements contained in the PRS milk ordinance and code.

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The New Jersey regulations do not require that airspace heaters and airspace indicating thermometers be installed on pasteurization vats and be properly used as does the PHS milk ordinance and code.

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The PHS milk ordinance and code contains specific requirements for the pasteurization of milk and milk products by the high-temperature short-time method, at least 161° F. for 15 seconds. The New Jersey laws and regulations specify 160° F. for 15 seconds for this method of pasteurization and do not cover the installation and testing procedures as specifically as does the PHS milk ordinance and code. Administratively, the State department of health is testing high-temperature short-time pasteurizers on the basis of compliance with the requirements of the PHS milk ordinance and code.

Compulsory pasteurization

New Jersey does not require compulsory pasteurization of all milk sold or offered for sale, as is required in the PHS milk ordinance and code. However, many of the local boards of health have adopted compulsory pasteurization ordinances.

Bacterial counts

The New Jersey bacterial count standard for raw milk for pasteurization[76] is 150,000 per milliliter. The PHS milk ordinance and code specifies 200,000 per milliliter for raw milk for pasteurization, as delivered from the farm. The New Jersey bacterial count standard for pasteurized milk is identical to those specified in the PHS milk ordinance and code.

The New Jersey bacterial count standard for pasteurized cream[76] is 100,000 per milliliter whereas the PHS milk ordinance and code specifies not more than 60,000 per milliliter.

Frequency of inspection

The New Jersey milk laws and regulations do not specify the frequency that producer dairies and milk processing plants shall be inspected. Administratively, the State department of health requires an initial inspection of fluid market milk plants and their producer dairies, followed by a minimum of two inspections per year for each plant and a sanitation compliance rating of a representative number of producer dairies twice yearly. The milk inspection reciprocity program[80] also requires the milk industry to make two satisfactory inspections per year for each producer dairy. The PHS milk ordinance and code requires inspection of both farms and plants initially, and at least once each 6 months thereafter.

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[76] See footnote 76 on p. 229.
[80] See footnote 80 on p. 229.
[85] Installation and cleaning of cleaned-in-place sanitary milk pipelines for use in milk and milk products plants (undated).

The PHS milk ordinance and code contains specific requirements for the testing of milk plant equipment, and the frequency that such tests must be performed to insure proper pasteurization of milk. The New Jersey regulations are less specific as to the type of tests to be made and the frequency of these tests.

Frequency of laboratory examinations

The New Jersey milk regulations do not contain specific requirements as to the frequency of laboratory examinations of raw milk for pasteurization and pasteurized milk and cream. However, the reciprocal milk sampling program procedures dealing with pasteurized milk and milk products requires the same frequency of laboratory examination and tests as in the PHS milk ordinance and code. Administratively, the State department of health under the milk inspection reciprocity program [86] is requiring the milk industry to make monthly laboratory examinations for each milk producer.

The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at least four times each 6-month period (eight samples per year).

Adulteration, antibiotics and pesticides

The New Jersey milk regulations state that "milk or cream shall not contain any water, drug, chemical, preservative, or coloring matter" [86] nor "any added poisonous or added deleterious substance." [87] This appears to be equivalent in intent to the provisions of the PHS milk ordinance and code, which specifically provides for the control of adulteration, antibiotic and pesticide residues, and other toxic substances in milk.

Acceptance of milk from out-of-State sources

The New Jersey regulations specify that all milk and milk products from in- and out-of-State sources shall be subject to inspection by the State department of health or a local board of health. Administratively, the State department of health is conducting initial inspections of all new applicants for fluid milk permits, which may then be followed by acceptance of inspections made by in-State and out-of-State milk inspection agencies applying substantially equivalent standards.

Section 11 of the PHS milk ordinance and code provides that, subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (8) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply or, if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

PENNSYLVANIA

The laws and regulations in Pennsylvania, governing the production and pasteurization of market milk and milk products, [88] [89] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. Responsibility for the enforcement of such laws and regulations is that of the Secretary of Agriculture.

A summary of some of the principal differences between the Pennsylvania milk sanitation requirements and the provisions of the PHS milk ordinance and code follows:

Health of cows

The Pennsylvania requirements for the eradication and conrtol of tuberculosis and brucellosis in dairy cattle [90] are quite similar to those contained in the PHS

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[86] See footnote 80 on p. 229.
[86] Art. 2, ch. 5, Revised Statutes of 1958.
[87] Art. 2, ch. 5, Revised Statutes of 1958.
[88] Milk sanitation law, Act of 1935, as amended to Oct. 13, 1959.
[89] Milk sanitation regulations, revised to June 15, 1960.
[90] Secs. 8 and 10, Act 210, as amended.

milk ordinance and code. Administratively, the Director of the Bureau of Animal Industry of the Department of Agriculture is testing all herds on the area plan for tuberculosis at least every 6 years and is following plan A of the U.S. Department of Agriculture for the control of brucellosis. Pennsylvania achieved a modified certified brucellosis-free status in March 1958.

The PHS milk ordinance and code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required.

The PHS milk ordinance and code states that all milk for pasteurization must be from herds certified as following either plan A or plan B approved by the USDA for eradication of brucellosis.

Dairy farm requirements

The Pennsylvania dairy farm sanitation requirements,[88] [89] although generally written, are similar in intent to the requirements in the PHS milk ordinance and code. However, they do not contain the degree of specificity contained in the PHS milk ordinance and code. The Pennsylvania regulations are supplemented by administrative interpretations and dairy farm sanitation report [91] which provide more complete coverage of the sanitation requirements. Some of the items of sanitation, such as fly control in the milkhouse, two-compartment sink for washing and bactericidal treatment of utensils, and hand-washing facilities are not specifically mentioned in the Pennsylvania laws and regulations, but these items are listed on the dairy farm sanitation report.

The PHS milk ordinance and code contains specific requirements in regard to the construction, protection, and bacteriological testing of dairy farm water supplies. The Pennsylvania laws and regulations do not contain specific and detailed requirements for the construction and protection of such water supplies. They also do not require bacteriological examination of dairy farm water supplies. However, the construction standards for individual water supplies [92] as promulgated by the Pennsylvania Department of Health are followed.

Pasteurization plant requirements

The PHS milk ordinance and code specifies that the walls and ceilings of pasteurization plants be of easily cleanable construction and maintained in good repair; that rooms be of adequate size; that certain operations and processes be separated to prevent contamination; that raw milk not be unloaded in the pasteurization room; and that there be no direct opening between the pateurization room and barns or rooms used for domestic purposes. These requirements are not specifically listed in the Pennsylvania laws and regulations. However, the Pennsylvania milk sanitation law states that "the milk plants in which milk is received or pasteurized shall not be constructed nor altered until the plans and specifications thereof have received the approval of the Secretary of Agriculture," [93] which is interpreted to require these items of sanitation. The Pennsylvania milk plant inspection report [94] also contains items covering these sanitation requirements.

The Pennsylvania milk laws and regulations do not specify that milk receiving vats be covered; that the milk or milk equipment be protected from splash or drainage from mezzanines and platforms; and that toxic substances be properly labeled, stored, and handled to prevent accidental contamination of the milk. These items are specifically required by the PHS milk ordinance and code. Administratively, the division of milk sanitation of the State department of agriculture is checking the handling of toxic substances in milk plants. The item "all products handled in sanitary manner" on the milk plant inspection report is interpreted to cover problems of splash or drippage.

The Pennsylvania milk laws and regulations are not specific with reference to the construction of toilet facilities in milk plants. The PHS milk ordinance and code contains specific provisions for compilance with municipal plumbing codes, ventilation, and lighting, self-closing doors, and sign directing employees to wash hands before returning to work.

The PHS milk ordinance and code contains specific bacteriological standards for single-service articles such as milk cartons, which includes bacteriological

[88] See footnote 88 on p. 231.
[89] See footnote 89 on p. 231.
[91] Dairy farm sanitation report, effective July 1, 1961.
[92] Construction standards, individual water supplies, December 1961.
[93] Sec. 12, act 210, as amended.
[94] Pennsylvania Milk Plant Inspection Report, AFC–MS–3.

standards for the paper stock from which such articles are made. Such bacteriological standards are not mentioned in the Pennsylvania laws and regulations.

Pennsylvania laws and regulations do not specify that hand-washing facilities, including hot and cold or warm running water, soap, and individual towels, be provided in the plant, and that such facilities be conveniently located, as is provided for in the PHS milk ordinance and code. However, the Pennsylvania milk plant inspection report contains an item for lavatory facility.

Pennsylvania milk laws and regulations do not require that air-space heaters and air-space indicating thermometers be instsalled on pasteurization vats and be properly used, as does the PHS milk ordinance and code.

Compulsory pasteurization

Pennsylvania does not require compulsory pasteurization of all milk and milk products sold or offered for sale, as is required in the PHS milk ordinance and code.

Bacterial counts

The bacterial counts specified in the Pennsylvania regulations for (1) raw milk and (2) pasteurized milk are identical to those specified in the PHS milk ordinance and code.

Frequency of inspection

It is required in Pennsylvania that dairy farms be inspected by licensed ("approved") industry inspectors initially, and once each 6 months thereafter; and that pasteurization plants be inspected by State or city inspectors at least yearly. The PHS milk ordinance and code requires inspection of both farms and plants initially, and at least once each 6 months thereafter.

Pasteurization plant equipment tests, and frequency of testing, are not specified in Pennsylvania regulations as they are in the PHS milk ordinance and code. Such tests include checking the timing of high-temperature short-time pasteurizer pumps; thermometer accuracy; checking pressure differentials in regenerator equipment; and determination of thermometric lag of recording thermometers. Administratively, the division of milk sanitation is carrying on a high-temperature short-time pasteurization equipment testing program.

Frequency of laboratory examinations

The Pennsylvania regulations[89] require that raw milk for pasteurization be tested for bacterial count and the presence of inhibitors monthly, and that pasteurized milk and cream be tested for bacterial count, coliform groups, and phosphatase activity at least monthly. The PHS milk ordinance and code requires that the bacterial count, coliform test, and phosphatase test be conducted at least four times each 6-month period.

Acceptance of milk from out-of-State sources

Pennsylvania milk laws and regulations do not provide for acceptance of out-of-State milk unless inspected by Pennsylvania "approved" inspectors. Out-of-State plants desiring to ship milk into Pennsylvania must provide an approved inspector, who has been examined and licensed in Pennsylvania. Pennsylvania official inspectors spot check, or may make actual inspections of farms in other States.

Section 11 of the milk ordinance and code provides that subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

TENNESSEE

The laws, rules, and regulations of the State of Tennessee relative to milk sanitation[90] were examined and compared with the sanitation and administrative provisions of the Milk ordinance and code—1953 recommendations of the

[89] See footnote 89 on p. 231.

[90] Tennessee dairy laws, rules, and regulations, department of agriculture, division of dairies. July 1957, as amended.

Public Health Service. Responsibility for the enforcement of such laws, rules, and regulations is that of the dairy commissioner, division of dairies, Tennessee Department of Agriculture.[96]

A summary of some of the principal differences between Tennessee milk sanitation requirements and those contained in the PHS milk ordinance and code follows:

Health of cows

While Tennessee dairy laws require whole fresh milk to be obtained from healthy cows,[96] they do not contain references to requirements for the control of bovine tuberculosis or brucellosis. Tennessee, however, has been accredited by the U.S. Department of Agriculture as a modified tuberculosis-free State as well as a modified certified brucellosis-free State. Such status is currently being maintained.

The PHS milk ordiance and code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required. The PHS milk ordinance and code further states that all milk for pasteurization must be from herds certified as following either plan A or plan B approved by the USDA for eradication of brucellosis.

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Tennessee regulations do not contain references to mastitis, but define "insanitary milk," in part, as being milk drawn from any sick cow, or cow having running sores.[97]

The PHS milk ordinance and code contains specific references to other animal diseases, physical condition of the udder, bloody, stringy or otherwise abnormal milk, and to the need for compliance with herd health requirements to be based on the diagnosis of the licensed veterinarian.

Dairy farm requirements

Tennessee dairy farm regulations[97] do not contain references to (1) construction, protection, and bacteriological testing of dairy farm water supplies; (2) acceptable methods for bactericidal treatment of utensils and equipment; (3) screening of milkhouse openings during fly season; (4) cleanliness of the cowyard; and (5) impervious barn floors.

The PHS milk ordinance and code contains specific requirements relative to these items of sanitation.

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Tennessee regulations require that milk in farm bulk tanks must be cooled to, and maintained at, 40° F. within 2 hours.[98] However, the laws and regulations fail to specify the temperature of cooling of milk in cans or other types of containers.

The PHS milk ordinance and code requires all milk for pasteurization, unless delivered to a milk plant or receiving station within 2 hours after completion of milking, to be cooled immediately to 50° F. or less and shall be maintained at that temperature until delivery.

Pasteurization plant requirements

While Tennessee dairy laws and regulations require that milk be pasteurized in apparatus of approved design and properly operated,[99] they do not contain requirements for (a) pasteurization vat air space heaters and thermometers; (b) adequate agitation of milk during the vat pasteurization holding period; (c) construction, installation, and operation of high-temperature, short-time pasteurizers; (d) pasteurization thermometer specifications; (e) plant equipment tests; and (f) covering of milk receiving vats and storage tanks.

The PHS milk ordinance and code contains specific requirements relative to these items of sanitation.

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Tennessee regulations state that all equipment and containers be thoroughly cleaned and sterilized by means of boiling water or superheated steam or other

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[96] Sec. 52–303, ch. 3. Tennessee dairy laws, rules, and regulations.
[97] Sec. 52–304, ch. 3. Tennessee dairy laws, rules, and regulations.
[98] Item C.2.(e), farm bulk milk tank and bulk milk tank regulations, State of Tennessee Department of Agriculture, May 1, 1959.
[99] Sec. 52–311, ch. 3. Tennessee dairy laws, rules, and regulations.

means acceptable to the commissioner,[1] however, no reference is made to the time and temperature exposure to which the equipment shall be subjected. No provision is made for checking the bacterial efficiency of cleaning and bactericidal treatment procedures by bacteriological methods.

Specific provisions relating to these items are included in the PHS milk ordinance and code.

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The Tennessee regulations contain no references to (a) labeling, storage, and handling of toxic materials; (b) protection of milk product ingredients; (c) prevention of contamination of milk equipment by sewage backflow; (d) bacteriological standards for single-service containers and paper stock; and (e) specifications for installation, cleaning, and bactericidal treatment of cleaned-in-place lines.

The PHS milk ordinance and code contains specific requirements relative to these items of sanitation.

Compulsory pasteurization

Tennessee regulations do not require compulsory pasteurization of milk.

The PHS milk ordinance and code prohibits the sale of all raw milk. For those communities which still find it necessary to permit the sale of raw milk, specific modifications of the PHS milk ordinance and code are recommended.

Bacterial counts

Tennessee law or regulations do not specify bacterial count standards for raw milk for pasteurization, or for pasteurized milk.

The PHS milk ordinance and code specifies that raw milk for pasteurization shall not exceed a maximum of 200,000 per milliliter, and that pasteurized milk, as delivered to the consumer, shall not exceed 30,000 per milliliter.

Sediment test

Tennessee regulations require that a sediment test be made twice a month on each can of each producer's milk supply, and monthly on cans of cream.[2]

The PHS milk ordinance and code does not contain this specific requirement.

Frequency of inspection

Tennessee regulations specify that inspections shall be made at a frequency "as the commissioner may deem proper" for both farms and plants.[3]

The PHS milk ordinance and code requires inspection of both dairy farms and plants prior to issuance of a permit, and a minimum of at least once each 6 months thereafter.

Frequency of laboratory examination

Tennessee regulations do not specify any frequency of laboratory examination of milk.

The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Acceptance of milk from out-of-State sources

Tennessee regulations provide authority for the commissioner of agriculture to accept milk from out-of-State sources if it complies with Tennessee laws and regulations. It further authorizes the commissioner to establish acceptable reciprocal inspection arrangements between various State, Federal, and local milk inspection authorities.[4] Tennessee dairy laws authorize the commissioner of agriculture, at any time, to inspect the source of supply, herds, processing plants or other facilities used in the production, manufacture, or distribution of milk or other dairy products.[5]

Section 11 of the milk ordinance and code provides that subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards

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[1] Sec. 52–306, ch. 3. Tennessee dairy laws, rules, and regulations.
[2] Milk quality rules and regulations. Tennessee dairy laws, rules, and regulations.
[3] Sec. 52–308, ch. 3. Tennessee dairy laws, rules, and regulations.
[4] Sec. 52–318, ch. 3. Tennessee dairy laws, rules, and regulations.
[5] Rules and regulations governing the registering of dairy products shipped into Tennessee from other States. Tennessee dairy laws, rules, and regulations.

and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to January 1, 1962.)

MICHIGAN

The laws and regulations of the State of Michigan, relative to milk sanitation[6 7 8] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. The Department of Agriculture of the State of Michigan is responsible for the promulgation and enforcement of such laws and regulations.[9]

A summary of some of the principal differences between Michigan grade A milk sanitation laws and regulations and the requirements of the PHS milk ordinance and code follows:

Health of cows

While Michigan laws are quite specific relative to bovine tuberculosis control, mastitis, and milk otherwise abnormal or produced from diseased cows,[10] requirements relative to bovine brucellosis control are not contained therein. However, Michigan has been a participant in the USDA plan A for the eradication of brucellosis for several years and the State achieved a modified, certified brucellosis-free status on June 30, 1958. Under the present Michigan brucellosis program, all milking herds are ring tested three times a year. Any suspicious herds are immediately blood tested, reactor animals are branded at once and are required to be slaughtered within 15 days.

The PHS milk ordinance and code states that all milk for pasteurization must be free from herds certified as following either plan A or plan B of the USDA for eradication of brucellosis.

Pasteurization plant requirements

Michigan law does not require adequate agitation of milk and cream during the vat pasteurization process, as does the PHS milk ordinance and code. Administratively, however, agitation is insisted upon, during the heating and holding periods, by Michigan authorities.

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Michigan law specifies that milk and milk products immediately after being pasteurized shall be promptly cooled to a temperature of 45° F. or lower and shall be stored at such temperatures.[11]

The PHS milk ordinance and code states that all pasteurized milk and milk products shall be cooled immediately to a temperature of 50° F., or less, and maintained thereat until delivery.

Bacterial counts

Michigan law[12] specifies that the maximum bacterial plate count of raw milk for pasteurization shall be 100,000 per milliliter, whereas the PHS milk ordinance and code specifies a maximum count of 200,000 per milliliter for raw milk for pasteurization as delivered from the farm.

Acceptance of milk from out-of-State sources

Michigan law requires inspection and approval of all supplies of milk sold in Michigan.[13] Such law does not provide for reciprocal inspection by agencies other than the Michigan Department of Agriculture.

Section 11 of the milk ordinance and code provides that subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards and (2) the supply has been awarded, by the milk sanitation agency of the

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[6] Milk law, Act 1969, P.A. 1929, as amended.
[7] Grade A milk law, Act No. 216, P.A. 1956, as amended.
[8] Regulation No. 403, as amended. Regulation governing the production, handling, sale, and disposition of milk and cream.
[9] Sec. 14, Act No. 169, P.A. 1929, as amended.
[10] Sec. 3(a), grade A milk law, Act No. 216, P.A. 1956, as amended.
[11] Sec. 4(o), grade A milk law, Act No. 216, P.A. 1956, as amended.
[12] Sec. 3(o)(2), grade A milk law, Act No. 216, P.A. 1956, as amended.
[13] Secs. 8 and 9, grade A milk law, Act No. 216, P.A. 1956, as amended.

State of origin, a rating equal to that of the local supply, or if lower than that of the local supply, a rating of 90 percent or more.

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(Revised to Jan. 1, 1962.)

NORTH DAKOTA

The laws and regulations of the State of North Dakota, relative to milk sanitation,[14] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. Enforcement of such laws is the responsibility of the commissioner of the dairy department—a division of the North Dakota Department of Agriculture and Labor.[15]

North Dakota dairy laws state that:

"* * * In the enforcement of the regulations regarding grade A milk in chapter A–18 of the North Dakota Revised Code of 1943, the dairy commissioner shall be guided by the interpretations, not inconsistent with North Dakota law and regulation, which are contained in the latest edition of the recommended milk ordinance and code of the U.S. Public Health Service, a certified copy of which shall be on file in his office. * * *[16]

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(Revised to Jan. 1, 1962.)

CALIFORNIA

The laws and regulations of the State of California relative to milk sanitation[17 18] were examined and compared with the sanitation and administrative provisions of the milk ordinance and code—1953 recommendations of the Public Health Service. The Director of Agriculture, Department of Agriculture of the State of California, is responsible for the enforcement of such laws and regulations.[19]

A summary of some of the principal differences between California milk sanitation laws and regulations and the requirements of the PHS Milk Ordinance and Code follows:

Health of cows

California regulations relative to bovine tuberculosis state, in part, that it is unlawful to sell milk or milk products from herds that have not negatively passed a tuberculin test applied regularly in accordance with department regulations, or from herds not located in a modified accredited area.[20] Tuberculin tests are scheduled every 2 years on California dairy herds. Annual tests are scheduled for herds with a history of infection and in areas, such as the Los Angeles milkshed, in which replacements are purchased.

The PHS Milk Ordinance and Code requires that all milk be from herds located in a modified accredited tuberculosis-free area, as determined by the USDA, and which have been individually tested at least every 6 years. In areas that fail to maintain such accreditation, or which have an incidence of bovine tuberculosis in excess of 0.2 percent, annual tuberculin testing is required.

Dairy farm requirements

California regulations state that the milkhouse must consist of two rooms; except that where the nature of the construction, production, and handling of the milk warranted, a one-room milkhouse on dairy farms with farm tanks and pipeline milking may be considered.[21]

The PHS milk ordinance and code does not contain limitations as to the number of rooms in a milkhouse.

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California law requires milkers' hands to be clean and dry during the entire period of milking, and that udders, flanks, hind legs, and tails of milking animals be reasonably clean during milking.[22]

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[14] North Dakota dairy laws, July 1, 1957, as amended.
[15] Sec. 4–1703, ch. 4–17, North Dakota dairy laws.
[16] Sec. 4–1704, ch. 4–17, North Dakota dairy laws.
[17] Agriculture Code of California Pertaining to Milk and Dairy Products, Dairies and Milk Products Plants (1961 edition).
[18] California Administrative Code, title 3, ch. 2. Animal Industry revised to 1959.
[19] Sec. 440, ch. 1, division 4. Agricultural Code of California.
[20] Sec. 454, ch. 2, division 4. Agricultural Code of California.
[21] Sec. 648(a), art. 22. California Administrative Code.
[22] Sec. 539, ch. 3, division 4, Agricultural Code of California.

The PHS milk ordinance and code specifies that the milkers' hands must be washed clean, rinsed with an effective bactericidal solution, and properly dried. Further, it is required that the udders and teats of all milking animals be clean and wiped with an approved bactericidal solution at the time of milking.

* * * * * * *

California diary farm regulations require udders and flanks of all cows to be properly clipped at least twice a year, or oftener when deemed necessary.[23]

The PHS milk ordinance and code provides that flanks, bellies, udders, and tails shall be clipped to facilitate cleaning, when the cows are stabled for the winter.

* * * * * * *

California regulations relative to dairy farms specify detailed construction dimensions for cowyards, milkhouses, alleys, gutters, stanchions, managers, ceilings, floors, etc.[24]

The PHS milk ordinance and code does not specify, as requirements, such construction dimensions.

* * * * * * *

The milk regulations of California require that there shall be 400 cubic feet of airspace for each stall in the milking barn.[25]

The PHS Milk Ordinance and Code requires sufficient air space and air circulation, in the barn or parlor, to minimize odors, to prevent excessive condensation, and to permit rapid drying for floors. It also states that no overcrowding shall be permitted and recommends a minimum of 400 cubic feet of air space per stanchion in new barns.

* * * * * * *

California regulations relative to manure disposal require removal to a distance of at least 50 feet from the milking barn or at least 100 feet from the milkhouse, and do not permit manure accumulation except in the open pasture.[26]

The PHS Milk Ordinance and Code contains specific means for the removal, storage, and disposal of manure so as to prevent breeding of flies and the access of the cows to such contamination.

Pasteurization plant requirements

California laws require sewer lines to convey refuse milk, water, and sewage away from a plant to a point at least 100 feet distant.[27] Since such laws also require that plans for new milk products plants and extensive repairs to existing plants be submitted for approval,[28] administratively, approval is not given unless a sanitary waste-disposal system is provided.

The PHS Milk Ordinance and Code contains specific requirements concerning proper disposal of milk plant wastes in a public sewer or in a manner approved by the State health authority.

* * * * * * *

California law, in addition, to requiring a milk plant permit,[29] requires the licensing of all persons who operate milk or milk products pasteurization equipment.[30]

The PHS Milk Ordinance and Code only requires the operator of a milk plant to hold a permit. Such permit is valid only if all of the requirements of the ordinance are complied with.

Compulsory pasteurization

California does not require compulsory pasteurization of all milk sold or offered for sale.

The PHS milk ordinance and code prohibits the sale of all raw milk. For those communities which still find it necessary to permit the sale of raw milk, specific modifications of the PHS milk ordinance and code are recommended.

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[23] Sec. 617, art. 21, California Administrative Code.
[24] Art. 22: Permanent Market Milk Dairy Buildings, California Administrative Code.
[25] Sec. 658(h), art. 22, California Administrative Code.
[26] Sec. 536, ch. 5, division 4, Agricultural Code of California.
[27] Sec. 551(b), ch. 5, division 4, Agricultural Code of California.
[28] Sec. 555, ch. 5, division 4, Agricultural Code of California.
[29] Sec. 506, ch. 3, division 4, Agricultural Code of California.
[30] Sec. 681(d), ch. 7, division 4, Agricultural Code of California.

Bacterial counts

California law states that raw milk for pasteurization, and pasteurized milk as delivered to the consumer, shall not contain more than 75,000 bacteria per milliliter and 15,000 bacteria per milliliter, respectively.[31] California laws and regulations do not contain any coliform count standards for pasteurized milk.

The PHS milk ordinance and code specifies that the bacterial count of raw milk for pasteurization as delivered from the farm, and of pasteurized milk as delivered to the consumer, shall not exceed 200,000 per milliliter and 30,000 per milliliter, respectively. The PHS milk ordinance and code further requires that pasteurized milk shall not contain more than 10 coliform organisms per milliliter.

Frequency of inspection

California regulations require that dairy farms be inspected at least six times a year and that pasteurization plants be inspected at least once every one-half month.[32]

The PHS milk ordinance and code requires inspection of dairy farms and pasteurization plants at least once each 6 months.

Frequency of laboratory examination

California regulations specify that raw milk for pasteurization must be taken for bacteriological examination at least once a month, that pasteurized milk must be examined, for bacteria count, at least once every one-half month, and that the phosphatase test must be applied to pasteurized samples, monthly.[33]

The PHS milk ordinance and code specifies that the bacterial count, coliform test, and phosphatase test shall be made at a minimum frequency of four times each 6-month period.

Acceptance of milk from out-of-State sources

California milk laws or regulations do not provide for the acceptance of out-of-State milk without the application of California requirements. In practice, dual inspections and an interchange of records and reports are carried on with States whose milk is marketed in California.

Section 11 of the milk ordinance and code provides that subject to laboratory tests upon arrival, the health authority should approve, without inspection by his own personnel, "outside" supplies of milk provided (1) they are under the official supervision of another agency applying substantially equivalent standards, and (2) the supply has been awarded, by the milk sanitation agency of the State of origin, a rating equal to that of the local supply, or if lower than that of the local supply a rating of 90 percent or more.

(Revised to January 1, 1962.)

[Attachment No. 2]

EXAMPLES OF REPORTED INSTANCES OF SANITARY MILK REGULATIONS USED AS TRADE BARRIERS

1. St. Louis, Mo.

The city of St. Louis, whose regulations are basically similar to those recommended by the Public Health Service, insists on making inspection of all milk sold in the city, whether from within the State or from out-of-State sources. Although during periods of shortage, grade A milk from outside sources is accepted without difficulty, at other times the city refuses to issue permits to out-of-State sources and cites failure to comply with health regulations as the reason.

One of the procedures used to deny permits is to "upgrade" the St. Louis regulations for the reason "that all new producers and plants must comply with additional requirements now found to be necessary," but which have been waived in the case of local producers holding permits. Supposedly all new farms and plants on the city's own milkshed must also meet these requirements. Outside sources wishing to sell milk in St. Louis find it difficult and expensive to comply with these requirements which are not insisted upon by their own milk sanitation agencies. Example: The city has been known to refuse to issue permits to

[31] Sec. 460, ch. 3, division 4, Agricultural Code of California.
[32] Sec. 602, art. 21, California Administrative Code.
[33] Sec. 601, art. 22, California Administrative Code.

out-of-State sources (1) when the producer dairies have well pit installations which meet current requirements for existing water supplies; (2) where so-called basement barns are used for milking, rather than milking parlors; and (3) for can producers. The milk ordinance and code, as well as all State regulations, provide for the acceptance of raw milk from both can and bulk tank producers.

One of the reasons why St. Louis insists on self-inspection, rather than to accept results of inspections made by the supervisory health jurisdictions of an out-of-State supply, is that St. Louis finances its milk inspection service by an assessment against the industry on a hundredweight basis, and feels that local industry would object if out-of-State supplies were not similarly assessed. Thus, if an outside supply is under a system of inspection in its own State, for which it pays another health agency, it would be subject to dual assessment and frequently feels that it cannot afford to enter the market.

Data is available which shows that milk inspectors from St. Louis, when making inspections in Illinois of Illinois shippers, are more severe in applying rating procedures than they are for their own shippers. This data indicates that debits of from 9 to 19 points in excess of those required by the PHS method of surveying milksheds have been inflicted on Illinois shippers. Accordingly, St. Louis is provided with an excuse for refusing permits, since by this technique their inspections show that the milk supply in Illinois is of inferior sanitary quality. PHS surveys of some of these same Illinois supplies have shown that they rate at least 90 percent compliance with the milk ordinance and code.

2. District of Columbia

The District of Columbia has for many years operated under a closed market system of administration. Milk has been admitted only during periods of extreme shortage, and only until such time as the local milkshed could be expanded to meet local needs. This situation has arisen as a result of an interpretation, by the Corporation Counsel, of the 1925 District of Columbia Milk Code to the effect that the District of Columbia Health Department must inspect all milk sold in the District. Such inspections are not usually made except under a milk shortage condition.

Over the years, the District of Columbia milk regulations have contained many restrictive provisions, which producers outside the local milkshed found expensive to meet when their permit applications were considered. Examples of such restrictive provisions were (1) insistence for many years that milk equipment and utensils on the farm must be subjected to steam sterilization, which can only be done through the installation of expensive steam chests and steam boilers; (2) insistence on two-room milkhouses for producer dairies; and (3) inclusion in the regulations of specific distances and dimensions for such items as barn gutters, cow platforms, location of cowyard, etc. Recently, the District of Columbia regulations were changed in such manner as to bring them into closer conformity with the milk ordinance and code; however, section II of the milk ordinance and code, which permits acceptance of milk from outside areas under specified conditions, was not included in the revised regulations. It has also been reported, though not proven, that when a new producer applies for a permit, the restrictive features, such as dimensions and distances, are still being applied in "scoring" the applicant's form.

Two years ago, during the local milk squabble, milk from sources in States outside the local milkshed was processed in District of Columbia plants for sale in nearby Maryland communities. The District of Columbia Health Department required that this milk be handled separately and not commingled with District of Columbia-inspected milk. However, it was processed in the same plants and equipment. Although the milk was accepted by the State health department in Maryland, the District of Columbia Health Department would not permit it to be sold to District of Columbia consumers. This appears to be a clear illustration of the unwarranted use of health regulations as an economic trade barrier since the milk sold in Maryland in no way endangered the public health.

3. Ardmore, Pa.

For many years this community has required that all milk sold within its jurisdiction be under direct inspection of its own milk sanitation officer. Although sufficient funds are reported to be appropriated for the inspection of the amount of milk which is consumed in the community, plants which also distribute elsewhere are required to pay the inspection costs of their total supply. Since this is a suburban community (Philadelphia), and sales would

be small, several Philadelphia plants have not found it economical to pay the inspection costs, and do not sell in this market. In addition, this township enforces highly specific sanitation requirements which have been carried to the extent that farm tanks and other dairy equipment meeting 3–A sanitary standards, which are recognized by most health jurisdictions, are not permitted on farms and plants supplying this market, unless they meet additional requirements. Thus, the trade barrier is not limited to milk alone, but extends to milk equipment as well, and results in higher equipment costs to dairy farmers and milk processors.

4. State of Nevada

The State of Nevada passed a law in April 1955 which requires the State department of health to investigate and inspect all out-of-State sources of milk (both farm and plants). Only in those instances where full compliance with Nevada regulations exists are permits issued. Initially, the Nevada State Department of Health had been willing to accept out-of-State milk which had been certified under the voluntary State-PHS program for certification of interstate milk shippers, but after the passage of this law, it was no longer able to do so.

Nevada regulations require a two-room milkhouse, which is not considered necessary for the production of clean, safe milk by most States or the Public Health Service. In order to comply with Nevada law, all out-of-State producers must construct two-room milkhouses. This requirement imposes a heavy burden on out-of-State dairy farm producers and their processors who wish to market a portion of their product in Nevada. An Idaho milk plant operator described the effects of this requirement as follows:

"* * * with interstate trade barriers such as they are, there is no incentive to increase our supply over and above local market requirements. Short supply States cannot expect others to carry a year-round surplus in order to give them a supply during a few fall months when they happen to be short, and shut out these shipments by means of arbitrary standards the balance of the year."

Utah shippers have been serious affected by this provision of Nevada regulations. It has been reported that Nevada has requested each Utah producer selling milk in Nevada to submit a plan indicating the changes they will make to comply with Nevada regulations. Upon receipt of such a plan, Nevada authorities will grant 1 year to achieve compliance.

5. General restrictions imposed by various States and municipalties which have the effect of obstructing the free movement of milk in interstate commerce

A number of States, including Alabama, California, Connecticut, Florida, Maine, Massachusetts, Michigan, Nevada, New Jersey, and New York, have included in their sanitary laws or regulations requirements that all out-of-State sources of milk and milk products be inspected by their own personnel before permits are issued. Frequently this provision of State law, and identical provisions in the sanitary regulations of many municipalties, are utilized to close the market against outside competition, which is a use of health regulations as economic trade barriers.

Various techniques are employed, such as (1) charging exorbitant inspection fees, which outside shippers feel they do not wish to pay considering the volume of milk likely to be sold; (2) inclusion of detailed specifications in the regulations which have little or no public health significance, such as specific distances and dimensions for gutters, etc., and which are not required by the State in which the supply is located; (3) modification of label requirements; (4) lowering of bacterial counts specified in their regulations, and then refusing to accept the milk from an outside source because the jurisdiction in which it is produced does not have an identical regulation (in several such cases the bacterial count of the milk being received in the community has not been in question); and (5) refusal or unwillingness to inspect dairy farms or milk plants located beyond an arbitrarily fixed distance.

Frequently, inspectors from one State, when inspecting supplies in another State, will apply standards more stringently than they are enforced at home. Recently, an official of a large dairy cooperative in one of the eastern States advised a representative of the Public Health Service that when inspectors from his State check sources located in a neighboring State, the standards of compliance insisted upon were much more rigid than those with which producers in his own State had to comply.

Many small communities, and in some cases health districts, also use the "direct inspection provisions" of their sanitary regulations to protect local distributors from competition. As indicated above, this is sometimes done by assessment of high fees, refusals to make such inspections because of staff limitations, or by insisting upon requirements, which their own sheds are not meeting, when inspections of outside sources are made. Therefore, even though the regulation in itself does not constitute a trade barrier, the net result of this administrative practice is to close the market. A number of small Missouri and Kansas communities are known to follow this practice.

The CHAIRMAN. That completes your statement?

Secretary FREEMAN. Yes, sir.

The CHAIRMAN. Mr. Friedel, do you have any questions?

Mr. FRIEDEL. It was a very fine statement. There is only one thing I would like to clear up.

In our city we have dated milk. Would the enactment of this bill affect that?

Secretary FREEMAN. It would not. One section of the bill provides that if the requirement is equally applicable to milk from local areas, and to other supplies that might come in, it would continue—there is such a specific provision.

Mr. FRIEDEL. It would continue?

Secretary FREEMAN. Yes, sir. I think it would not interfere.

The CHAIRMAN. What is it?

Mr. FRIEDEL. If they deliver milk on Monday it has "Monday" on the label—there is the date of the delivery.

If it is Friday, and you see a "Monday" date on a container the milk is 5 days old. The milk is dated.

The CHAIRMAN. That means from the processing plant?

Mr. FRIEDEL. Yes.

The CHAIRMAN. That does not mean from the distribution center.

Mr. FRIEDEL. No, just processing.

The CHAIRMAN. Mr. Younger, any questions?

Mr. YOUNGER. Mr. Secretary, did I understand that H.R. 50 and similar bills we are discussing apply only to milk in interstate commerce?

Secretary FREEMAN. Yes, sir.

Mr. YOUNGER. And have nothing to do with milk in intrastate commerce?

Secretary FREEMAN. No, sir, not until they are mingled. When they are mingled, then they would be a common product.

Mr. YOUNGER. In the testimony which you gave at the time that you were being investigated for confirmation by the Senate, Senator Aiken made this statement.

We do worry about whether there are 10,000 bacteria in the milk or whether there is 200,000 which is allowed by the Federal standards, and I am sure that you would not agree to lowering the quality of milk sold in any market.

And your statement was—

the Senator has stated it better than I did.

Is that statement true that the Federal standard permits 200,000 bacteria as against certain places in certain States that only permit 10,000 bacteria count?

Secretary FREEMAN. Yes, sir.

Mr. YOUNGER. That is the present U.S. standard of 200,000?

Secretary FREEMAN. That is my understanding. May I add, Mr. Younger, that the presence of bacteria per se does not necessarily

downgrade the quality or purity of the milk involved. My response to the Senator's question was, as I intended it and I hope it is conveyed in the answer, that I, certainly, would not participate in or seek to see milk made available that did not meet adequate standards of wholesomeness and purity.

Mr. YOUNGER. But the standard by the Federal Government is still 200,000 bacteria count?

Secretary FREEMAN. Yes, sir.

Mr. YOUNGER. That is what is proposed?

Secretary FREEMAN. That would be the maximum count allowed for new milk before pasteurization—that would be one of the factors in the Federal code that would require compliance, yes, sir.

Mr. YOUNGER. Is it true that no State or city has barriers against the acceptance of Grade A milk?

Secretary FREEMAN. No, I do not think it is. I think the report that was made to us by the Public Health Service would indicate there have been at different times, for all practical purposes, such barriers against grade A milk.

Mr. YOUNGER. I understand that there was at one time in the city an ordinance regarding grade A milk, and the courts threw that out.

Secretary FREEMAN. I think they would, yes.

Mr. YOUNGER. And that is the only case, or the only place that I know of or that has been called to my attention where there has ever been a barrier against grade A milk. Can you give me any other examples?

Secretary FREEMAN. I would refer, Congressman, to the appendix to this testimony and the report of the restrictions that the U.S. Public Health Service made to the Department of Agriculture, and in it you will find instances where, for all practical purposes, such barriers existed.

There is, obviously, a difference between an ordinance that said, "we will not accept grade A milk unless it comes from a jurisdiction within 20 miles of the locale of the courthouse," which, clearly would be subject to being struck down by law; and bringing about for all practical purposes that effect through administrative policies. This has been one of the confusing things, I think, in this picture, that it is not a matter of specific legislation per se, but it is a matter of general legislation and then its application, and its application on a variable basis, depending upon local supply circumstances, all of which has created a good deal of confusion and overlapping that we feel has been uneconomic.

Mr. YOUNGER. In a hasty review here—we have not had time to study it—I find no reference whatsoever to grade A milk in any of these cases covered in this testimony. Can you point out and give us specific examples where grade A milk has been denied acceptance in interstate commerce?

Secretary FREEMAN. Yes, sir. I think if you will study that and review it you will find repeated instances where it has been.

Mr. YOUNGER. Well, that is a general statement.

Secretary FREEMAN. What you are asking for is, is there a law somewhere that says that grade A milk will not be admitted? I know at this time I have no knowledge of any law that says that.

Mr. YOUNGER. And you know of no specific barrier that specifies grade A milk as undesirable anywhere?

Secretary FREEMAN. Of course not.

Mr. YOUNGER. Thank you. So that grade A milk then is outside of the purview of this legislation?

Secretary FREEMAN. No, sir.

Mr. YOUNGER. We are talking about barriers.

Secretary FREEMAN. Yes, sir.

Mr. YOUNGER. As to interstate commerce in milk?

Secretary FREEMAN. Yes, sir.

Mr. YOUNGER. You have just said, so far as you know there is no barrier against grade A milk specified as grade A milk?

Secretary FREEMAN. Yes, that is right.

Mr. YOUNGER. All right.

Secretary FREEMAN. But, I, also, said there have been, and we feel there are repeated instances where grade A milk is not admitted in various places at various times.

Mr. YOUNGER. But you admit those laws—and there has been one court case throwing out a law against prohibiting the acceptance of grade A milk specified as grade A——

Secretary FREEMAN. What we are really saying, and I want to be responsive to your question—is this, that you are correct, to my best knowledge there is no place where they say, "we will not accept grade A milk."

Mr. YOUNGER. That is right.

Secretary FREEMAN. But there are a number of requirements which, in their administration, have the effect of keeping grade A milk out.

Mr. YOUNGER. That may be right.

Secretary FREEMAN. That is the essence of the problem.

Mr. YOUNGER. Yes, but by and large what we are talking about is grade B milk, is it not?

Secretary FREEMAN. No, sir. I think by and large we are talking about grade A milk.

Mr. YOUNGER. Well, the milk producers tell me differently, but, be that as it may—we will have to accept your word as the decision. In our previous testimony—and you can probably clear up this question—the author of the bill, our colleague, Congressman Johnson of Wisconsin, testified that the President was in support of this sanitation milk law and later on Congressman Stratton, of New York, who appeared against the legislation, testified that the President had sent a telegram to the farmers in his district, stating that he was opposed to this type of legislation. Can you clear that up?

Secretary FREEMAN. I can only say that the Secretary of Agriculture is here testifying in favor of the legislation.

Mr. YOUNGER. And you do not know the position of the President?

Secretary FREEMAN. I have not discussed this personally with the President—no, sir.

Mr. YOUNGER. Does the State of Minnesota have any restriction against the acceptance of margarine?

Secretary FREEMAN. Yes, sir. That is, it has a tax on margarine.

Mr. YOUNGER. They have more than that, do they not—do they not prohibit the acceptance of margarine that is colored?

Secretary FREEMAN. Yes, sir.

Mr. YOUNGER. Did you, as Governor, do anything about that barrier to interstate trade?

Secretary FREEMAN. No, sir.

Mr. YOUNGER. Then you accept that it is possible for a State to legitimately put barriers against interstate trade?

Secretary FREEMAN. Let me put it this way in response to the margarine question. The rationale—and one that I thought had very real credence when this question came to my desk as Governor—was simply this, that I felt the dairy industry had a real proprietary right to the color "yellow" as it related to the substance placed on bread that we call "butter" traditionally, a spread, and that over many, many years it had built up consumer acceptance of this commodity with this color, and as such it did have a real proprietary right in that color. And I think that this is true. And I think that the butter industry has such a right and has built up this acceptance.

If someone wants to use margarine that is colored white and substitute it, why, that is a different question, and as such I did not feel that this was a barrier in the terms in which you addressed to me here this morning.

Mr. YOUNGER. As Secretary of Agriculture, in view of the number of farms that are producing soybeans and cottonseed and the various things to be used in the making of margarine, do you maintain the same position?

Secretary FREEMAN. I really did not come here to testify on that subject. And if you will give me a little time to think about it I might come with an adequate answer.

Mr. YOUNGER. Well, I think that this has a real bearing on whether or not a State has a right to erect barriers to interstate trade. You were Governor of a State, and you accepted a barrier, rationalizing as you will, and I do not agree with the rationalization that you used, the conclusion you arrived at, as Governor, but be that as it may—you rationalized it and now I am wondering if you rationalized the same thing against the farmers who are today producing soybean oil and may be very much interested in colored margarine going into a State.

Secretary FREEMAN. I would say that I feel this more strongly than a rationalization—that it is stronger than that—with the implication, and understandably so—and I do not say this with any sense of offense—that this was a political rationalization in a strong dairy State, which I gathered was implicit in the question or would be, but I do think, and I have thought a good deal about this, from the standpoint of economics and the number of producers where soybeans today are very strong as is the dairy industry, but I do feel that there is a real proprietary right that has been built up in the dairy industry in connection with butter and the color "yellow"—that you are coloring a commodity which, in effect, then is trading upon the acceptance of another product built up over many, many years, and I would not consider that a barrier, and I would honestly question the analogy that you make. And I think that in this instance this would properly be something that might well be subject to litigation as to what constitutes a State action which would interfere with the free flow of commerce on a legal basis.

I, as I now would view it, would feel that this is a legitimate propriety interest that the dairy industry is entitled to protect.

Mr. YOUNGER. Regardless of the number of farmers in all of the States who are interested in products that go into it?

Secretary FREEMAN. I beg your pardon?

Mr. YOUNGER. Despite the number of farmers in all of the States who are very much interested in the increase of the manufacture of margarine?

Secretary FREEMAN. Regardless of the weight of numbers, shall we say. And in this instance I think there is a legitimate right——

Mr. YOUNGER. I can very well see the rationalization you arrived at in being elected Governor of the State of Minnesota which is a very strong dairy State, but I thought that, possibly, your rationalization might have been changed somewhat when you have the national picture and, probably, more farmers interested in margarine than in dairy. I just thought that I would mention it.

Secretary FREEMAN. One of the reasons I was delayed in making this testimony, quite honestly, was because I wanted to take a very careful look at this and review it in great depth before I came here, trying to make allowances for what might be sectional prejudices and if I had changed my mind, I would have come here and eaten my words of a year ago. And I did not change my mind.

Mr. YOUNGER. One other question. Do you believe in State control of milk?

Secretary FREEMAN. State milk control laws have been passed and upheld and are in effect. The whole question of the economics of it is one that I would not vouchsafe a firm opinion on now. As the testimony indicates we presently have a very diligent and, I think, high-grade committee reviewing this extremely complicated and difficult area of milk and milk orders. Inevitably, this relates to State milk control measures as well.

I believe that State milk control measures have been upheld in the courts. And as such this legislation would not affect them. I believe there has been some confusion between milk marketing orders and State milk control laws and sanitary codes.

I would submit to you, sir, these are three different things entirely. The States do have, and I think, many will continue to have—and it is my understanding that the courts have upheld State milk control laws. They may or may not be sound economically in terms of the modern technology of the dairy industry as it relates to a total nation and its mobility.

I honestly am not prepared to give a firm answer to that question at this time.

Mr. YOUNGER. While I raise the question, I do it because you know California has such a law.

Secretary FREEMAN. Yes.

Mr. YOUNGER. I am interested to know whether you as Secretary of Agriculture intend to try and bring down the State laws governing the price of milk.

Secretary FREEMAN. May I say to you I have no such intention.

Mr. YOUNGER. Very well. Thank you, that is all, Mr. Chairman.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Mr. Secretary, I will have to make some observations in rebuttal to my colleague's statement relative to the Minnesota oleomargarine situation. Many years ago I testified in Washington in opposition to the tax on uncolored oleo. At one time the dairy industry was going all the way. And I opposed the tax bill that would

have levied a tax on uncolored oleo. But I did maintain the position as you stated that the farmers have a direct claim on the color of "yellow" because it is butter, and that someone was trying to imitate the color thereby capturing the market that had been developed by the dairy industry.

Dealing with the problems of the bills we have before us for discussion I would like to direct some questions to the sanitary code, but, also, to the problems of marketing orders.

I have here a map of the United States showing 79—your testimony indicated 80—marketing areas in the United States. Is that correct that it is 80?

Secretary FREEMAN. That is the present number.

Mr. NELSEN. The statement that disturbs me is the fact, as the marketing areas develop, the production there is pretty much determined by the market. The market is protected to the producers within the area, and then by tying in these health standards with the marketing orders, the farmers outside of the area are in effect barred from that market. Is that not true?

Secretary FREEMAN. There are a number of requirements of compliance—various ones that you are familiar with—that are in effect.

Mr. NELSEN. Do you have any figures on that? The present figures indicate 20 percent of the milk marketed within the United States goes into these areas. Is that about it?

Secretary FREEMAN. I think that is, probably, roughly right, yes.

Mr. NELSEN. Have you any figures that would indicate how much of that 20 percent is sold outside of the marketing areas into manufactured products?

Secretary FREEMAN. You mean how much moves from a marketing order as manufactured products?

Mr. NELSEN. Yes.

Secretary FREEMAN. No, sir.

Mr. NELSEN. Out of the competitive market, do you have any figures on that?

Secretary FREEMAN. No, I do not.

Mr. NELSEN. The point I want to make is this, the farmer who lives outside of a marketing area produces in the competitive market. The farmer who lives within the marketing area has an assured pegged price and he dumps his surplus in competition with the man who is denied a pegged price, and it makes it almost impossible for the dairy outside of the marketing area to exist.

You stated in your testimony that you did not have the authority to set up health regulations or standards in the Department of Agriculture relative to the marketing orders, is that true?

Secretary FREEMAN. Yes, sir.

Mr. NELSEN. Is it not also true that you opposed the Quie bill which would have given you that authority?

Secretary FREEMAN. Yes.

Mr. NELSEN. How do you justify that position?

Secretary FREEMAN. Because I think that the question of milk marketing orders is an economic question relating to the total dairy industry with which you are very familiar and economic factors there, too, some of which you have already related, that the question of sanitation can better be handled through the medium of this legisla-

tion and administered by the U.S. Public Health Service, and that the responsibility for so doing properly resides with them and not in the Department of Agriculture.

Mr. NELSEN. Is it not true that the health regulations or standards that are set up are designed in such a way that they fit in with the marketing orders which produces a monopoly market and there is no way that you can handle one without considering the other?

Secretary FREEMAN. I do not think so, no, sir. I would not agree with you on that.

Mr. NELSEN. Under the marketing orders law, the declaration of policy as to prices to farmers, parity prices, and so forth, gives the Secretary of Agriculture certain authority so that he may reject or deny a marketing order if it is in contradiction of the declaration of policy. Could you not as Secretary of Agriculture, if you feel that some of these standards are phony, could you not, under the declaration of policy, which is in the Agricultural Marketing Agreement Act of 1937, could you not deny approval of a marketing order if, in your judgment, the standards were phony?

Secretary FREEMAN. I am advised by the General Counsel that I could not and that the question of sanitation has not been and is not properly one of the standards that we apply in relation to passing on marketing orders.

Mr. NELSEN. But, if the sanitary regulations are such that they are obviously phony, would you not be in competition with or in conflict with the policy of the marketing order itself?

Secretary FREEMAN. Well, this was the question that the General Counsel took under advisement and did advise that they were not.

Let me put it this way: He has advised legally that this is not a proper consideration. In any event, to be directly responsive to your question, as a matter of policy it would be my feeling that the question of sanitation and its application can more effectively and efficiently and meaningfully be handled through the medium of this legislation and through the Department of Health, Education, and Welfare, rather than through the Department of Agriculture.

We are properly assigned responsibility in connection with the economic question. And my testimony here is responsive primarily, to the economic question. I come here merely to support the Public Health Service in their wish and their policy to improve health standards. And in doing so make the point that duplicating and varying standards are uneconomic.

Mr. NELSEN. The picture as it appears to me, with a map dotted as this one is, with marketing orders, that the possibility of the passage of a bill like this in the Congress of the United States with the population centers as they are, that our chances are not very good to pass a bill of this kind. I believe that last year was the first time that a subcommittee ever recommended for passage this bill—a year ago it did come out of our subcommittee—and I am examining this thing from the point of view of a farmer who lives outside the marketing area.

As I pointed out to you a year ago, my son operates our farm and we have 50 cows, with grade A milk, and a very fine dairy barn, and yet we have to compete in the competitive market with farmers who

live within the marketing area, getting $7 and $8 a hundred for their fluid milk, producing surpluses for manufactured products, in competition with my son and my neighbors. And there is not a thing that we can do about it. And we think that the passage of this bill would be a little bit of help.

But it seems, from your statement of a year ago, where you said on page 241 of the hearings:

> We in Minnesota, I might say, our concern is not with just the sanitary code as such, but have been considering what we believe to be some abuses of the milk marketing order structure as well. I would emphasize that we, certainly, do not oppose milk marketing orders properly drawn and administered to assure continuity of supply to the consumer and to the producer, but where they began to set up artificially high prices and higher costs to the total Nation, it would be inefficient production, and we feel that here, too, as in the case of sanitary regulations, the Nation as a whole pays the price that is unnecessary.

I hope you still sustain that position, because I agree with you.

Secretary FREEMAN. Might I just say that because I do sustain that position and am concerned about this, we are making this very careful study now and hopefully will be able to bring it to a conclusion and may very possibly recommend legislation at the next session of Congress in connection with the dairy program and will seek to resolve some of the conflicts and difficulties in this area which, as you know, are not simple.

Mr. NELSEN. But is it not true that as to this 200,000 bacteria count for raw milk, actually, the national code provides, as I recall, 30,000 bacteria count, and in New York City it is 40,000?

Secretary FREEMAN. That is right.

Mr. NELSEN. The national code is 30,000 for delivery to the consumer?

Secretary FREEMAN. That is right.

Mr. NELSEN. So far as what the public is concerned about it is after pasteurization and not prior thereto, is it not?

Secretary FREEMAN. Yes.

Mr. NELSEN. On page 9 of your statement you refer to the fact that if the local community wishes to set up a more stringent requirement there is nothing in the bill to stop it. Is it not possible that that would be a loophole if we do not set up something as a minimum standard—would they not be able to dodge this whole thing by such an interpretation?

Secretary FREEMAN. No. What I meant to say was this, that if someone wishes to apply a standard and to produce a special product, there is no reason why he cannot do so and may very well find a market for it. That would be a matter of local desire, but they would not be able to restrict you in the production of milk that met the national health code.

I do not think that they conflict.

Mr. NELSEN. On page 10 you suggest expanding the market and state:

> This Department has recommended and will continue to support appropriate broadening of the enabling authority which provides for milk marketing orders where such is required to help accomplish the goal of equitable returns to milk producers.

Now if the milk marketing orders are broadened—if we take a look at the map, there is not much that you can do but take the concentrated population centers, but in your testimony on the farm bill, as I recall, you said that you would not interfere with the existing markets, the marketing areas, but you state here that you would be willing to expand the marketing orders so that there would not be much point in expanding if there is no market in which to deliver milk. It seems to me that this is rather contradictory. I do not quite understand what you mean by this statement here.

Secretary FREEMAN. Well, I think what I meant by that statement was that the whole question of how many milk marketing orders there should be, how large a geographical area they ought to cover, is one of the things we need to review and one of the things the present committee is very carefully reviewing. They may very well conclude—I do not suggest this as my position now—that we would do better by having one-half that many and covering, conceivably a broader area as a part of a total program. That is a possibility. I do not say it is a probable one, nor do I say it is my recommendation.

Mr. NELSEN. The operator of our creamery has told me that from information he has it indicates that in some areas a great volume of surplus milk is produced; in other words, they produce far in excess of their needs, and they then, at a very high pegged price in the order area, were able to subsidize their sales price through that area, which made for a competitive situation which was very desperate.

I asked for information to back it up. They do not have it. It would be interesting to see that, because I think that it is not the intention of the marketing order to do that. I think it was intended for the consuming area to have an adequate supply and at a proper kind of price and a proper kind of milk and not with the idea of giving them an advantage to compete.

Secretary FREEMAN. No.

Mr. NELSEN. I just wanted to call that to your attention, because I think it is a serious question. And if it is possible to get figures on it I would like to get the figures on the amount of milk that is sold into manufactured products by producers within the marketing areas, if such figures are available.

Secretary FREEMAN. This would be part of the report we are reviewing now. And what you point out is very clearly a definite problem—there is no question about it.

Mr. NELSEN. You mentioned that there was some delay in preparing your testimony. I hope that it will not be too late so that we cannot pass this bill. At a meeting our chairman stated that there was very little chance for passing it at this session. I hope that we do get it through this session, however.

Thank you for your testimony.

Secretary FREEMAN. Thank you.

The CHAIRMAN. Mr. Thomson.

Mr. THOMSON. Thank you, Mr. Chairman.

Mr. Secretary, I noted that you said in your opening statement that you or the U.S. Department of Agriculture supports the subject matter of H.R. 50. I am wondering if that includes the subject matter

of H.R. 5928 and all of the other similar bills that are now before the committee.

Secretary FREEMAN. To be very honest, I do not know what H.R. 5928 is.

Mr. THOMSON. H.R. 5928 is identical to H.R. 50. And I wanted to have the feeling that you were supporting the bills we introduced, also.

Secretary FREEMAN. I will keep my partisanship well under control and say if it is the same bill I am for it.

Mr. THOMSON. Thank you.

Did you tell the chairman of the committee, in response to his initial question, that the effect of this bill would only be on areas outside of milk-margketing orders?

Secretary FREEMAN. No, sir.

Mr. THOMSON. Is it your understanding that it will include all milk, whether that milk goes into a milk-marketing area?

Secretary FREEMAN. Yes, sir.

Mr. THOMSON. Is it also your feeling that the sanitation requirements within milk-marketing areas should be handled by the Public Health Service?

Secretary FREEMAN. Yes, sir.

Mr. THOMSON. Well, now, is there any need for any further action on the part of the Public Health Service in the event of the enactment of this bill?

Secretary FREEMAN. Well, I do not pose as any expert on sanitation or health matters in the milk field. It would appear to me that the passage of this bill would have a very salutary effect in extending this code much more broadly than it is presently in effect, and as such would move toward encouraging the upgrading of milk supplies everywhere.

Mr. THOMSON. I was interested in your replies to the questions of Congressman Younger. Were you saying that it is less reprehensible to protect the color used in butter than it is to protect artificially colored oranges?

Secretary FREEMAN. I do not think I said that. I was not talking about oranges. I was talking about butter.

Mr. THOMSON. Well, I think you overlooked that. In reply to a question from Congressman Friedel in relation to the ordinance in the city of Baltimore, are you, Mr. Secretary, familiar with the dating restrictions placed on milk in the city of Baltimore?

Secretary FREEMAN. I think that is a part of the testimony that has been filed here.

Mr. THOMSON. I read from material prepared for me on this question:

> The dating of consumer packages of fluid milk and milk products, required by the cities of Tampa, Fla.; Detroit, Mich.; St. Louis, Mo.; and Baltimore, Md.; cannot be justified on public health grounds, since the date bears no relationship to the sanitary quality of the milk delivered to the consumer.

Your reply to him was that this law would not affect that practice.

Apparently, this is the type of restriction which cannot be justified and on public health grounds. Would you agree with that?

Secretary FREEMAN. I was responding to his question as to the bill as it now stands. And if it would affect this present procedure in Baltimore. As the bill has been written, it is my understanding that it would not. I am merely testifying in support, generally, of the bill. I am not prepared to recommend amendments to it at this time.

Mr. THOMSON. Now, in the city of Washington, D.C., this community has been listed as one of those which discriminates greatly against the introduction of milk from outside. Is this administration as interested in eliminating discriminaton in the field of milk as it is in, apparently, eliminating discrimination in the field of playing football in the city of Washington?

Secretary FREEMAN. I think the fact that the Secretary of Agriculture is here testifying in favor of this code would answer that question in the affirmative.

Mr. THOMSON. I noticed that the District of Columbia had regulations of specific distances and dimensions for such items as barn gutters, cow platforms, location of the cowyard, and so forth, and that they prevented the introduction of milk which was processed outside of the District of Columbia, though the State of Maryland accepted it.

Are those the types of discriminations which you think would be eliminated by this legislation?

Secretary FREEMAN. Yes, sir.

Mr. THOMSON. I noticed that in the city of New York they do not permit the use of automatic cleaning equipment for farm bulk milk tanks. The city of Baltimore, Md., requires factory inspection by city inspectors of all pasteurized plant equipment; the inspection cost is to be paid for by the equipment manufacturer.

The State of Louisiana requires longer legs on farm bulk milk tanks than are required by the diary industry committee of the International Association of Milk and Food Sanitarians and the Public Health Service.

An interesting requirement in the State of Nevada is that the milkhouse shall be 50 feet to the windward of the milking barn.

Sacramento, Calif., requires a circular opening in the wall of the milkhouse sufficiently large to permit the conducting of milk by a sanitary pipeline through the opening to the surface cooler. It is illegal to carry the milk into the milkhouse through the door.

Are those types of restrictions to the movement of milk that would be eliminated by this ordinance?

Secretary FREEMAN. Yes, sir.

Mr. THOMSON. The District of Columbia requires at least 600 cubic feet of air space per animal in the milking barn, and that the floor space be of not less than 3.5 feet in width, which shall be provided for each animal, while the State of Maryland requires a minimum of 400 cubic feet of air space per stanchion in new barn construction.

Are those examples of discriminations that might be removed by this legislation?

Secretary FREEMAN. Yes, sir.

Mr. FRIEDEL. What are you reading from?

Mr. THOMSON. I am reading from a document which I have had prepared on restrictive milk sanitation requirements.

I would like to offer this for the record, Mr. Chairman, at the conclusion of the statement of the Secretary.

The CHAIRMAN. Very well, it may be received.

(The document mentioned follows:)

EXAMPLES OF RESTRICTIVE MILK SANITATION REQUIREMENTS

A. Examples of specific equipment construction requirements which must be met in order to sell milk within a marketing jurisdiction, as reported by dairy equipment manufacturers and milk distributors

1. Pittsburgh, Pa., requires that pasteurization vats, milk storage vats, etc., have all milk contact surfaces finished with a better than No. 4 finish. No. 4 finish is recognized as the standard finish in all 3–A sanitary standards[1] for pasteurization equipment.

2. Louisiana requires longer legs on farm bulk milk tanks than are required by 3–A sanitary standards.

3. Mississippi and Louisiana require different types and sizes of outlets and valves on farm bulk milk pickup trucks and storage vats which vary considerably from recognized 3–A sanitary standards.

4. Ardmore, Pa., requires that all farm bulk tanks installed in its milkshed have a special exterior finish.

5. Ardmore, Pa., requires a No. 7 mirror finish on the milk contact surface of pasteurization plant equipment. A No. 4 finish is specified in 3–A sanitary standards for pasteurization equipment.

6. New York City and New York State do not permit the use of automatic cleaning equipment for farm bulk milk tanks. Automatic cleaning is an accepted practice in many States.

7. Ardmore, Pa., requires factory inspection by city inspectors of farm bulk milk tanks. Expenses for this inspection are paid for by the bulk tank manufacturers.

8. Baltimore, Md., requires factory inspection by city inspectors of all pasteurization plant equipment. The inspection cost is paid for by the equipment manufacturers.

9. Louisiana requires that all farm bulk tank milk pickup trucks be equipped with a refrigeration compressor in the pump storage compartment. This requirement is not specified in 3–A sanitary standards for pickup trucks.

B. Examples where specific barn and milkhouse requirements must be met in order to sell milk within a marketing jurisdiction

1. The Sacramento, Calif., milk ordinance requires a circular opening in the wall of the milkhouse sufficiently large enough to permit the conducting of milk by a sanitary pipeline through the opening to a surface cooler. It is illegal to carry the milk into the milkhouse through the door.

2. California milk regulations require:

(*a*) A two-room milkhouse unless a pipeline milker is used, in which case, a one-room milkhouse is acceptable;

(*b*) That the floors and gutters in the milking barn must be at least 4 inches thick and must slope lengthwise at least 1 inch in 10 feet; and

(*c*) That the cow standing platform and litter alley must slope at least 1 inch toward the gutter and all floor and wall junctions must have a minimum radius cover of 2 inches.

3. Nevada milk regulations specify that:

(*a*) The milkhouse shall be windward to the milking barn and more than 50 feet from corrals and feed sheds;

(*b*) That the litter alley behind a single row of cows shall be not less than 4 feet 9 inches wide plus the gutter, and for two rows of cows, the litter alley shall be at least 8 feet wide between gutters;

(*c*) That the gutter shall be not less than 14 inches wide and 4 inches deep, sloping one-half inch across its bottom;

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[1] 3–A sanitary standards are dairy equipment standards which have been cooperatively developed by the Dairy Industry Committee, International Association of Milk and Food Sanitarians, and the Public Health Service.

(*d*) That the milkhouse shall have two or three rooms and be separated from the barn by an alleyway which is not less than 8 feet and not more than 15 feet wide;

(*e*) The height of the walls in the milkhouse shall be at least 9 feet; and

(*f*) That a wall ventilator shall be installed in the milkhouse, not more than 6 inches nor less than 3 inches above the floor, and that the ventilator shall be 1 square inch in size for each square foot of room floorspace.

4. The Ohio milk regulations require that barn gutters be 16 inches wide. The gutters must be at least 8 inches deep on the inside of the gutter and at least 6 inches deep on the outside of the gutter.

C. Examples of differing requirements between milksheds

1. Air and floor space.

(*a*) District of Columbia requires at least 600 cubic feet of airspace per animal in the milking barn and that floorspace of not less than 3½ feet in width shall be provided for each animal.

(*b*) State of Maryland requires a minimum of 400 cubic feet of airspace per stanchion in new barn construction.

2. Cowyard.

(*a*) District of Columbia requires that the cowyard be at least 50 feet from the nearest point of the milking barn.

(*b*) State of Maryland has no specific requirement as to the distance the cowyard must be from the barn.

3. Milkhouse.

(*a*) District of Columbia requires that when the milkhouse is of frame construction, all walls, including partitions, shall be either made of concrete or other impervious material, or surfaced with cement plaster up to a height of at least 42 inches above the floor.

(*b*) State of Maryland requires that the walls in the milkhous be of impervious material and that the junction of the walls and floors be watertight and flush and that all ledges, open shelves, and similar dirt collectors be eliminated.

4. Bactericidal treatment of milk utensils.

(*a*) District of Columbia requires that milk utensils be exposed to steam for at least 15 minutes at a temperature of at least 180° F., or for at least 5 minutes at a temperature of at least 200° F. in a steam cabinet equipped with an indicating thermometer which is located in the coldest zone.

(*b*) State of Maryland requires that milk utensils be exposed to steam for at least 15 minutes at a temperature of at least 170° F., or for at least 5 minutes at a temperature of at least 200° F. in a steam cabinet equipped with an indicating thermometer which is located in the coldest zone.

5. Cows' udders.

(*a*) District of Columbia requires that individual cloth towels, which are laundered and sanitized after each usage, or individual single-service paper towels, shall be used to wipe the udders and teats of milking cows.

(*b*) State of Maryland requires that the cows' udders and teats shall look and feel clean and have been rinsed with an approved bactericidal solution just prior to milking.

6. Bacterial count.

(*a*) St. Louis, Mo., milk regulations specify a maximum bacteria count of 200,000 per milliliter for raw milk for pasteurization when it is received in cans and a maximum of 100,000 per milliliter when it is received from a farm bulk tank.

(*b*) All other cities and communities in the State of Missouri specify a maximum bacteria count of 200,000 per milliliter for all raw milk for pasteurization.

7. Testing of cattle for tuberculosis.

(*a*) State of Maryland Department of Health requires routine annual testing of dairy cattle for tuberculosis.

(*b*) Pennsylvania follows the tuberculosis eradication program of the USDA which does not require routine annual testing.

8. Pasteurized milk.

(*a*) The Baltimore, Md., city milk regulations require that all pasteurized milk sold in the city must be pasteurized within the city limits.

(*b*) All other cities and communities will accept pasteurized milk from other communities in the State when it is processed under Maryland State milk regulations.

9. Milk inspection.

a. Kansas City, Kans., milk regulations require that no milk can be received in the city. In this connection, Kansas City has arbitrarily established the limit of its inspection to 45 miles and charge an inspection fee based on 50 cents per cow.

b. All other cities and communities in Kansas accept quality milk supplies on a reciprocity basis from areas beyond the limits of their routine inspection.

D. Examples of requirements that are not directly related to public health.

1. Many of the requirements noted above—namely, A, 1–9 inclusive; B, 1–5 inclusive; and C, 2a, 6a, 7a, 8a, and 9a—cannot be justified on public health grounds.

2. The dating of consumer packages of fluid milk and milk products, required by the cities of Tampa, Fla.; Detroit, Mich.; St. Louis, Mo.; and Baltimore, Md.; cannot be justified on public health grounds, since the date bears no relationship to the sanitary quality of the milk delivered to the consumer.

NOTE: Attached are additional brief descriptions of reported instances of sanitary milk regulations being used as trade barriers.

EXAMPLES OF REPORTED INSTANCES OF SANITARY MILK REGULATIONS USED AS TRADE BARRIERS

1. St. Louis, Mo.

The city of St. Louis, whose regulations are basically similar to those recommended by the Public Health Service, insists on making inspection of all milk sold in the city, whether from within the State or from out-of-State sources. Although during periods of shortage, grade A milk from outside sources is accepted without difficulty, at other times, the city refuses to issue permits to out-of-State sources and cites failure to comply with health regulations as the reason.

One of the procedures used to deny permits is to "upgrade" the St. Louis regulations for the reason "that all new producers and plants must comply with additional requirements now found to be necessary," but which have been waived in the case of local producers holding permits. Supposedly all new farms and plants on the city's own milkshed must also meet these requirements. Outside sources wishing to sell milk in St. Louis find it difficult and expensive to comply with these requirements which are not insisted upon by their own milk sanitation agencies. Example: The city has been known to refuse to issue permits to out-of-State sources (1) when the producer dairies have well pit installations which meet current requirements for existing water supplies; (2) where "so-called" basement barns are used for milking, rather than milking parlors; and (3) for can producers. The milk ordinance and code, as well as all State regulations, provide for the acceptance of raw milk from both can and bulk tank producers.

One of the reasons why St. Louis insists on self inspection, rather than to accept results of inspections made by the supervisory health jurisdictions of an out-of-State supply, is that St. Louis finances its milk inspection service by an assessment against the industry on a hundredweight basis, and feels that local industry would object if out-of-State supplies were not similarly assessed. Thus, if an outside supply is under a system of inspection in its own State, for which it pays another health agency, it would be subject to dual assessment and frequently feels that it cannot afford to enter the market.

Data is available which shows that milk inspectors from St. Louis, when making inspections in Illinois of Illinois shippers, are more severe in applying rating procedures than they do for their own shippers. This data indicates that debits of from 9 to 19 points in excess of those required by the PHS method of surveying milksheds have been inflicted on Illinois shippers. Accordingly, St. Louis is provided with the convenient excuse for refusing permits since, by this technique their inspections show that the milk supply in Illinois is of inferior quality. PHS surveys of some of these same Illinois supplies have shown that they rate at least 90 percent compliance with the milk ordinance and code.

2. District of Columbia

The District of Columbia has for many years operated under a closed market system of administration. Milk has been admitted only during periods of extreme shortage, and only until such time as the local milkshed could be expanded to meet local needs. This situation has arisen as a result of an interpretation, by the Corporation Counsel of the 1925 District of Columbia milk code to the effect

that the District of Columbia Health Department must inspect all milk sold in the District. Such inspections are not usually made except under a milk shortage condition.

Over the years, the District of Columbia milk regulations have contained many restrictive provisions, which producers outside the local milkshed found expensive to meet when their permit applications were considered. Examples of such restrictive provisions were: (1) insistence for many years that milk equipment and utensils on the farm must be subjected to steam sterilization, which can only be done through the installation of expensive steam chests and steam boilers; (2) insistence on two-room milkhouses for producer dairies; and (3) inclusion in the regulations of specific distances and dimensions for such items as barn gutters, cow platforms, location of cowyard, etc. Recently, the District of Columbia regulations were changed in such manner as to bring them into closer conformity with the milk ordinance and code; however, section II of the milk ordinance and code, which permits acceptance of milk from outside areas under specific conditions, was not included in the revised regulations. It has also been reported though not proven, that when a new producer applies for a permit, the restrictive features, such as dimensions and distances, are still being applied in "scoring" the applicant's farm.

Two years ago, during the local milk squabble, milk from sources in States outside the local milkshed was processed in District of Columbia plants for sale in nearby Maryland communities. The District of Columbia Health Department required that this milk be handled separately, and not commingled with D.C.-inspected milk; however, it was processed in the same plants and equipment. Although the milk was accepted by the State Health Department in Maryland, the District of Columbia Health Department would not permit it to be sold to District of Columbia consumers. This appears to be a clear illustration of the unwarranted use of health regulations as an economic trade barrier since the milk sold in Maryland in no way endangered the public health.

3. Ardmore, Pa.

For many years this community has required that all milk sold within its jurisdiction be under direct inspection of its own milk sanitation officer. Although sufficient funds are reported to be appropriated for the inspection of the amount of milk which is consumed in the community, plants which also distribute elsewhere are required to pay the inspection costs of their total supply. Since this is a suburban community (Philadelphia), and sales would be small, several Philadelphia plants have not found it economical to pay the inspection costs, and do not sell in this market. In addition, this township enforces highly specific sanitation requirements which have been carried to the extent that farm tanks and other dairy equipment meeting 3–A sanitary standards, which are recognized by most health jurisdictions, are not permitted on farms and plants supplying this market, unless they meet additional requirements. Thus, the trade barrier is not limited to milk alone, but extends to milk equipment as well, and results in higher equipment costs to dairy farmers and milk processors.

4. State of Nevada

The State of Nevada passed a law in April 1955 which requires the State department of health to investigate and inspect all out-of-State sources of milk (both farm and plants). Only in those instances where full compliance with Nevada regulations exists are permits issued. Initially, the Nevada State Department of Health had been willing to accept out-of-State milk which had been certified under the voluntary State-PHS program for certification of interstate milk shippers, but after the passage of this law, it was no longer able to do so.

Nevada regulations require a two-room milkhouse, which is not considered necessary for the production of clean, safe milk by most States or the Public Health Service. In order to comply with Nevada law, all out-of-State producers must construct two-room milkhouses. This requirement imposes a heavy burden on out-of-State dairy farm producers and their processors who wish to market a portion of their product in Nevada. An Idaho milk plant operator described the effects of this requirement as follows:

"* * * with interstate trade barriers such as they are, there is no incentive to increase our supply over and above local market requirements. Short supply States cannot expect others to carry a year-round surplus in order to give them a supply during a few fall months when they happen to be short, and

shut out these shipments by means of arbitrary standards the balance of the year."

Utah shippers have been seriously affected by this provision of Nevada regulations. It has been reported that Nevada has requested each Utah producer selling milk in Nevada to submit a plan indicating the changes they will make to comply with Nevada regulations. Upon receipt of such a plan, Nevada authorities will grant 1 year to achieve compliance.

5. Kansas City, Kans.

Kansas City, Kans., has adopted regulations that no milk can be received in the city unless inspected by the Kansas City Health Department. In this connection, Kansas City has arbitrarily established the limit of its inspection to 45 miles, and charges an inspection fee based on 50 cents per cow.

6. General restrictions imposed by various States and municipalities which have the effect of obstructing the free movement of milk in interstate commerce

A number of States, including Alabama, California, Connecticut, Florida, Maine, Massachusetts, Michigan, Nevada, New Jersey, and New York, have included in their sanitary laws or regulations requirements that all out-of-State sources of milk and milk products be inspected by their own personnel before permits are issued. Frequently this provision of State law, and identical provisions in the sanitary regulations of many municipalities, are utilized to close the market against outside competition, which is a use of health regulations as economic trade barriers.

Various techniques are employed, such as, (1) charging exorbitant inspection fees, which outside shippers feel they do not wish to pay considering the volume of milk likely to be sold; (2) inclusion of detailed specifications in the regulations which have little or no public health significance, such as specific distances and dimensions for gutters, etc., and which are not required by the State in which the supply is located; (3) modification of label requirements; (4) lowering of bacterial counts specified in their regulations, and then refusing to accept the milk from an outside source because the jurisdiction in which it is produced does not have an identical regulation (in several such cases the bacterial count of the milk being received in the community has not been in question); and (5) refusal or unwillingness to inspect dairy farms or milk plants located beyond an arbitrarily fixed distance.

Frequently, inspectors from one State, when inspecting supplies in another State, will apply standards more stringently than they are enforced at home. Recently, an official of a large dairy cooperative in one of the Eastern States advised a representative of the Public Health Service that when inspectors from his State check sources located in a neighboring State, the standards of compliance insisted upon were much more rigid than those with which producers in his own State had to comply.

Many small communities, and in some cases health districts, also use the "direct inspection provisions" of their sanitary regulations to protect local distributors from competition. As indicated above, this is sometimes done by assessment of high fees, refusals to make such inspections because of staff limitations, or by insisting upon requirements, which their own sheds are not meeting, when inspections of outside sources are made. Therefore even though the regulation in itself does not constitute a trade barrier, the net result of this administration practice is to close the market. A number of small Missouri and Kansas communities are known to follow this practice.

According to Market Research Report No. 98 of the U.S. Department of Agriculture (p. 25), the shortage of approved milk was reported as affecting the policies with regard to the acceptance of outside milk supplies in 89 out of 286 jurisdictions. This same study also showed that practical difficulties in inspection of farms were a factor effecting policy in 75 out of 274 jurisdictions, and that legal limitations or other considerations affected policy on acceptance of outside milk in 100 out of 254 reporting jurisdictions.

Mr. THOMSON. I am a little disturbed, Mr. Secretary, that while you support this bill very vigorously, you seem to be unwilling to assume an added responsibility in the area of the milk marketing orders. Is this

because of your conviction that it is properly the area for the Public Health Service, or because of your conviction that the passage of this act would eliminate the discriminatory types of ordinances and regulations as a result of the passage of this bill?

Secretary FREEMAN. Well, I just feel that the goal would be much more successfully reached through the medium of this bill, with the proper jurisdiction and administration in the Public Health Service, than by commingling the question of sanitation with what is fundamentally a question of economics, which is what we get into in a milk marketing order. Of course, the milk marketing order, as you well know, does not cover all of the United States and therefore, even if we had sanitation provisions in them, why, it would not meet the question we deal with here.

Mr. THOMSON. If this bill is enacted you would, of course, take judicial notice of that fact, and would you then feel that you had the authority to see that it became a part of the milk marketing orders?

Secretary FREEMAN. I expect that it would be automatically—that the orders would probably take this code into account as a matter of course. I really have not considered what the precise measures would be that would be taken to that end.

The purpose of this bill is, fundamentally, to establish a uniform milk sanitation standard but it is couched in negative terms, in the sense that it says that milk which does meet requirements of the USPHS code cannot be excluded. It does not say any State cannot for its own intrastate purposes have higher or different requirements in such State. It is to permit the movement of milk that meets these standards, as you well know.

Mr. THOMSON. Well, we had a witness the other day from Nashville, Tenn., who said their requirements were superior to those of the Public Health Service and that they required 3.5 butterfat in milk; they required a little higher degree of milk solids in the milk.

Now, are those legitimately health or sanitation standards?

Secretary FREEMAN. Well, again, I do not speak with any degree of expertise, but off the top of my head I would say they are not valid—there are quality quesitons and not sanitation questions. It would appear so to me.

Mr. THOMSON. On page 9 of your statement, you say:

> Federal milk marketing orders now operating in 80 markets throughout the country would furnish full protection to producers in those market areas against the loss of any justified price or income protection they may now be receiving through trade barriers.

Could you elaborate on what justified price and income protection there is through trade barriers?

Secretary FREEMAN. I think that sentence is not very well written, Congressman. You have interpreted it the same way I did the last time that I read it. I overlooked it when I first went through it.

Actually, what it says is, if you will reread the sentence, Federal milk marketing orders now operating would furnish full protection against loss of justified price or income protection they may now be receiving through trade barriers, to wit, sanitary restrictions; in other words, what I mean by this is that the milk marketing order structure

is adequate economic legislation and is designed to protect the producer in connection with his economic position, and sanitary regulations used for that purpose are not necessary. That is what I meant to say. It is not well written, I admit.

Mr. THOMSON. Then you go on to say:

Similar protection is available in milk markets that are not now regulated under Federal orders if such protection is needed and desired by local producers.

Secretary FREEMAN. That refers to local milk control laws like in California that Mr. Younger referred to a moment ago.

Pennsylvania has a local milk control law. It has been before the Wisconsin Legislature for many years, as it has in the State of Minnesota.

Mr. THOMSON. Well, that is available where the laws exist.

Secretary FREEMAN. If the legislature seeks to set it up, they can. And it has been upheld in the courts.

Mr. THOMSON. But that is in a relatively small part of the marketing area.

Secretary FREEMAN. Well, I expect that is true.

Mr. THOMSON. I am pleased that you eventually arrived, Mr. Secretary.

Secretary FREEMAN. I appreciate your cordial welcome.

Mr. THOMSON. My invitation is one of long standing.

Secretary FREEMAN. I realize that you have been inviting me all over the State of Wisconsin to come here. [Laughter.]

Mr. THOMSON. That is correct, and I was a little bit sorry that you did not include some of the eloquence of your appearance last year in which you said:

I think the enactment of this legislation would be like a breath of fresh air across the Nation.

You want to repeat that, do you not?

Secretary FREEMAN. You have repeated it for me. If I said it before, I surely stand by it now.

Mr. THOMSON. That is all, Mr. Chairman. Thank you.

The CHAIRMAN. Mr. Secretary, I also wish, on behalf of the committee, to thank you for your coming here. The additions to your statement will be very helpful.

Mr. Hemphill.

Mr. HEMPHILL. I apologize for missing part of your testimony.

Secretary FREEMAN. I understand.

Mr. HEMPHILL. I would like to ask you this question:

Where is the demand coming from for this legislation, so far as the people are concerned?

Secretary FREEMAN. This is a little difficult to answer. I have been interested in this for some time. I have talked with many people in connection with it. I think there is, in terms of people who have concerned themselves in this area, a strong movement in support of it. Consumer groups, generally, are in support of it. I think that most, although I hesitate to use the word—people who have studied this area feel that this would be a constructive step forward for the total dairy industry across the Nation.

I do not know whether you read the testimony, Congressman, but I have noticed some of your questions and your feeling on this before,

and I might just say, if I may, that I approach this from the standpoint of economics. Fundamentally, there are a series of varying kinds of sanitary regulations around the country, of which we have a multitude, that tend in the overall to be a costly matter. Economic factors are involved here in local situations where there is concern as to the invasion from outside producers disrupting local markets, but I do not think this presents a real problem, both for physical reasons that flow from transportation differentials involved, and the fundamental economic problem which is one we are trying to wrestle with now through strengthening and improvement of our total dairy program and our milk marketing orders and, generally, the economics of the dairy industry. The sanitary question is one which I think can properly, in my judgment, be considered apart from the economic question. And I am here to say I hope it would be approached in that light. And that is what we are doing in the Department.

Mr. HEMPHILL. It occurs to me that what is being done here is using the sanitation angle as a vehicle, either for economic pressure or otherwise, and in the meantime we are going to sacrifice quality—we are going to sacrifice the integrity of those States and communities which have acted, for the purpose of promoting quality and for the purpose of giving the consumer the best milk. I do not want that sacrificed.

I am satisfied, because I have talked to some of the people who are concerned, that if this legislation passes you are going to sacrifice, insofar as the consumers are concerned, the quality of the milk in many areas of this country.

In answer to the question from my friend from Wisconsin, as to the State of Tennessee, you said that was a matter of the quality of the milk, the butterfat content.

Are you willing to sacrifice the quality and leave out the sanitation, and say that this is a vehicle for economics?

Secretary FREEMAN. There would be no reason why any local area—any local producer—could not produce a specialty product that might have more butterfat and might have a lower bacterial count and might have a number of other factors which were different, and put it on the market as such and charge more money for it. There would be no reason why this could not be done.

Mr. HEMPHILL. But in the meantime the Government's obligation to him has been disregarded and you are allowed to throw in on his man, who has been a producer or a marketer, this milk which does not meet the standards of the particular State, and you disregard him economically—you would sacrifice him—and that is my concern; you are sacrificing the people who have done the best job.

Secretary FREEMAN. I must say very honestly that this is not the conclusion I have reached. I think the quality and the sanitary levels generally, would be raised around the country. We have tried to study this. And one of the reasons we have been delayed is because of the precise point you make.

I have studied this carefully and have not appeared before this committee before because I did not want to come here with any sectional biases in connection with the nominally surplus-producing area from which I come. It has been my position that no one is going to suffer economically, that milk quality, by and large, is going to be

improved. And in terms of special quality products, there is no prohibition whatsoever against their production and distribution.

The basic question in such areas and to its producers is, fundamentally, one that goes to the question of the economics of milk marketing orders, whether they are local milk control provisions, economic in origin, or whether they are one of our national milk marketing orders which we are now carefully eviewing, but I do not honestly believe that either quality or the level of sanitation is going to be lessened—quite the contrary—by the acceptance of this code.

Mr. HEMPHILL. What consumer groups did you find that made a demand for this?

Secretary FREEMAN. I would really need to go and take a look at the hearing record, frankly. I did not come here prepared to cite the people who have been for this. There has been the Consumers League—a number of them who have brought it up to me at a number of times who have had correspondence with me in connection with it.

Mr. HEMPHILL. The question came up in a previous hearing whether there had been any polls taken. A witness first said that there had been a poll taken, and then said that there had not been any poll taken. I do not know what he said finally.

Are you aware of any polls that have been taken on this?

Secretary FREEMAN. No, sir. I do not think that there is any great burning public awareness of this problem per se. I do not think that it is a political issue in the sense that anybody needs to jump up and down from the weight of the exercise of public opinion. I think it is in essence a very complicated technical question in a very critical industry, and I think that adoption of this bill would constitute a step forward both economically and from the milk sanitation standpoint.

Mr. HEMPHILL. From your endorsement I gather that the Department of Agriculture feels an obligation to those who are proponents of this particular measure to support it?

Secretary FREEMAN. No, sir. I do not feel an obligation to anybody to support it, but, rather, my obligation when I am asked to testify as Secretary of Agriculture, is to express my honest opinions, and to make a very careful review and judgment before I come here and testify before you gentlemen.

Mr. HEMPHILL. From the study that was pioneered in this field—I know about that—the pioneering came from the producers themselves—they insisted on not only the sanitation, but on the quality. It is not a sectional matter at all, because we accept milk from Wisconsin, as has been pointed out here, and was the other day, and from other parts of the country, providing the milk meets our standards. There has been no demands that I can determine from the consuming public as a whole for this sort of legislation. I am afraid what you are trying to do is to lower the standards all over the Nation. You will wipe out these people who have prepared their industry on the basis of a very fine code which the U.S. Public Health Service has endorsed. You will flood them in their areas with milk which does not meet the requirements.

I think that economic sword is two-edged. It concerns me greatly that the Government of the United States would be so forgetful in its consideration of that particular economic factor.

That is not criticism. It is a matter which is of concern to me. In my part of the country we have a very fine industry, and this would tend to wipe out that dairy industry in my part of the country.

I do not know where we are getting. I think I have a great obligation as a Congressman to these people I represent. I think the Department of Agriculture has a terrific obligation to these people, too.

Secretary FREEMAN. I feel that obligation. I can assure you about that. I have tried to review it very carefully. We have made some very thorough studies in connection with it. If I had reached the same conclusions as you have I would be testifying just the opposite.

Mr. HEMPHILL. I appreciate that.

Secretary FREEMAN. Thank you.

Mr. HEMPHILL. I am aware of and salute your great interest in agriculture. I have found among the consumers of my part of the country and in some other places, which are opposed to this legislation, that they want the quality which you seek to destroy—these people want the quality. Why should you destroy it by legislation? They have to compete economically. There is not any question about the fact that if somebody is shipping in milk from some other State, and some of it has grade A classification, and the U.S. Public Health Service endorsement, it will sell just as well in the stores, and the little fellow who, perhaps, is being disregarded today, is going to suffer because he cannot compete—he cannot get it down there, because he is not prepared to do so.

Secretary FREEMAN. I would submit respectfully to you, sir, that this is a very, very real problem and one of which I am deeply conscious, in connection with the dairy industry as a whole, and the small producer, and the maintenance of the integrity of their operation.

It would be my conclusion that we move in that direction to economic measures that would involve, I think, some new recommendations related to our milk marketing order structure, which would protect the integrity of such local producers serving local markets.

I do not think that the device of sanitation codes is the way to accomplish this purpose. I think it represents additional costs on both producers and consumers, and as such it is not the real answer to what I would surely concur is a very grave and serious problem, one with which I am most concerned.

Mr. HEMPHILL. I, certainly, thank you for your patience with my questions.

Secretary FREEMAN. Thank you.

The CHAIRMAN. Mr. Dingell, any questions?

Mr. DINGELL. No questions.

The CHAIRMAN. Mr. Secretary, you said at the outset something about marketing orders. Your Department does administer the marketing order programs?

Secretary FREEMAN. Yes, sir.

The CHAIRMAN. Could you give us a description of a marketing order, how it operates?

Secretary FREEMAN. Well, every marketing order is different, Mr. Chairman, as you know. They are tailored in part to local circumstances and the nature of the area in which the order is promulgated. They originated, as you well know—and I would guess that you probably voted for the legislation way back in 1937.

The CHAIRMAN. If I had been here I probably would have. That has been a good while ago.

Secretary FREEMAN. And they were designed to bring some order out of what was then chaos in relation to both the producer and the market, with price wars and extremely low producer prices and, also, to assure an adequate supply for the consumer, because the dairy industry tends to have its peaks and valleys, its points of heavy production and of low production. Milk marketing orders have been designed to bring order into the marketing of milk, and to assure to the consumer an adequate supply, and to the producer a decent return.

They are unique among marketing orders, in the sense that they establish minimum prices, rather than establishing a quantity or providing for various quality standards and diversions as other marketing orders do. Milk orders establish minimum prices that must be paid to producers for milk sold in a given area, and what that price shall be, will depend upon the provisions of the order. There are a number of factors that enter into the prices established—the cost of production, various kinds of indexes, standards of living in the area, the cost of living, and a whole variety of factors.

When an order is proposed a hearing is held in connection with it. It is, of course, reviewed, and finally, confirmed by the Department. It is administered by an administrator of that order who becomes a highly skilled technician because it is a very complex matter.

There are some 80 such orders, and no 2 are quite alike anywhere around the country, except that in each case they have been the product of the same general procedure, and in that they establish minimum prices to producers. In part, prices are set so as to seek to bring about a balance between supply and demand.

The CHAIRMAN. I am not familiar with the details of these orders. How do you determine a given area for establishing a marketing order?

Secretary FREEMAN. It would be determined in connection with the hearing which would have been held and public testimony would have been taken and reviewed—all interested parties would have been heard—and then, based upon the economic factors involved, in terms of the market and the supply and the distances, why, this particular order would be established to regulate all sales within the marketing area. Supplies of milk are not restricted particularly to the geographical area within which sales of milk are regulated under the order—people from outside of that area very often ship into that market, but there are a number of adjustments that are made before they can ship into the market to make sure uniform minimum prices will be paid to all producers for milk sold in that market, so it will not be flooded with consequent negative economic effects on the handlers and the processors and the consumers alike.

The CHAIRMAN. Say that you establish a marketing order in a given area "A", does that establish a price within that given area?

Secretary FREEMAN. Yes, sir.

The CHAIRMAN. Do all producers and processors in that area find the price applicable to them, or is it just applicable to the producers?

Secretary FREEMAN. There is a fixed minimum price that would apply that must be paid to producers on all milk sold within the marketing area.

The CHAIRMAN. To the producers?

Secertary FREEMAN. To all producers, whether inside the marketing area or beyond it.

The CHAIRMAN. It is not applicable to the processors?

Secretary FREEMAN. You mean in relation to how much he should pay?

The CHAIRMAN. Of course, he has to pay the price.

Secretary FREEMAN. You mean as to the market?

The CHAIRMAN. But beyond that it does not apply?

Secretary FREEMAN. In most instances it would not—in some it might. Again, this would be a matter of difference.

The CHAIRMAN. Sometimes it does go to the sale by the processor?

Secretary FREEMAN. You direct your question now to the retail end?

The CHAIRMAN. Yes.

Secretary FREEMAN. To the retail price and to the fixing of the retail price?

The CHAIRMAN. That is right.

Secretary FREEMAN. As a practical matter, the order would not specify the retail price, but as a practical matter the price would become in an area rather uniform, depending upon the kind of outlet it might be, because all handlers selling milk in the marketing area would be required to pay uniform minimum prices for milk.

The CHAIRMAN. That would be the normal result?

Secretary FREEMAN. That is right.

The CHAIRMAN. You might have some conditions which might present a different problem within the area where some firm does not follow that price—like in one of my own areas somebody has moved in and cut the price and just about put some other people out of business. However, what I was getting at was this: You establish a marketing order in a given area, and all producers in that area will receive the given price that has been established?

Secretary FREEMAN. For all practical purposes, yes.

The CHAIRMAN. Now, can anyone outside of that area ship milk into that particular area?

Secretary FREEMAN. Yes. The producers very, very frequently from outside can ship into a given milk marketing area.

The CHAIRMAN. There is no restriction whatsoever on someone from outside bringing milk in and competing with those who must comply with the marketing order?

Secretary FREEMAN. There may very well be a variety of what might be called restrictions or what might be called conditions; for example, a given order might require that any handler who would ship into a milk marketing order area would be regulated to the extent that he would have to pay his producers as much as the handlers who are regulated under the order must pay their producers and under those circumstances they could ship in. Some orders might provide that an unregulated handler shipping into a pool or milk marketing order would have to pay into that pool the difference between the amount he paid his producers and the amount paid to producers by regulated handlers within the milk marketing order area. This is sometimes called a compensatory payment device.

There are a variety of such matters. There is some litigation underway right now in connection with this, but, as a practical matter, if I may say so, Mr. Chairman—and I am not a great expert on milk mar-

keting orders—and if I should be summoned here to discuss then I will be better prepared than I am at this moment——

The CHAIRMAN. I appreciate that. I might suggest that I am not familiar with it, either. What goes through my mind is how the Department of Agriculture, on the one hand, can set up an order regulating the requirements within that area, and on the other hand we would have the Public Health Service setting up standards that would require the area to receive milk from anywhere in the United States. I cannot see how they are consistent.

Secretary FREEMAN. I would respond to that, if I may, sir, or try to in this way: Suppose we had as Congressman Hemphill spoke about Tennessee, and some areas in South Carolina—perhaps we could have an example that would also include his question; suppose we had a milk marketing order in this area and someone wished to ship milk into the area—suppose that in this instance the requirement would be that there would have to be paid into the pool the difference between the amount paid to the producer by the outside handler and the minimum price that must be paid to producers by the inside handler. Obviously, if you did not have some kind of balancing requirement here, you would start the very kind of cutthroat warfare which brought about milk marketing orders in the first place, because the outside handler might be able to get his milk for less than the inside handler is required to pay.

So in this instance, the outside handler would be able to ship in, subject to this requirement. However, there could be an additional requirement superimposed upon it, and that might be a requirement in relation to zero bacteria count. There could not be any bacteria whatsoever in the milk from outside so as to be permitted to be shipped into this area.

This, then, becomes, fundamentally, a quality question, and, in this instance, regardless of what the milk marketing order might say, and the handler's willingness to pay into the pool and his legal right to do so, if he did not have milk that measured zero in terms of its bacteria count, he could not come into that milk marketing order area.

At this point, we would tend to say that that question ought to be resolved and not have a requirement of zero, but have a requirement that was consistent with public health considerations, and whatever was required for public health ought to be applied uniformly, as we do in the case of meat. We inspect meat all over the United States, and define a quality product with minimum standards.

In this instance, under this law, such an extreme requirement could not be used to keep milk out of the market which meets the USPHS code. But what it would not do, however, is to prevent a handler in Tennessee or South Carolina who wished to produce such milk—and someone came to my office the other day with canned milk which had a zero bacteria count—if people wanted this and if someone can produce it economically, they are perfectly free to do so; it does nothing to prevent this.

And so the three are really not contradictory. The milk-marketing order is, in essence, a device to bring order to the market, and to insure some reasonable return to the producer, and to insure an adequate and even flow to the consumer. To do this there are some restrictions; there are some requirements handlers must meet to get in.

It is not "open sesame." We are not going to be able to make this kind of order work if we just turn it loose and said that any handler can sell milk regardless of whether he pays the minimum price to producers. This is an economic program, to take care of the producers and the consumers.

The second question of sanitation ought to be, I think, one that is really going to protect the public health, and, as such, it ought to be nationwide.

I think the overall effect of this bill is going to be to upgrade the standard of sanitation in most places—not only to those that you refer to, but in most places.

And the third point would be, if you wish to produce, locally, a special quality product, or to have a local economic device, such as a local producer operating under a State control law in South Carolina, South Carolina can have it. Basically, we ought not to confuse and intermingle these three things—quality, sanitation and purity, and economics.

The CHAIRMAN. We cannot overlook the fact, however, that this proposed legislation provides, of course, that localities can have their own limitations so long as they are not contrary to the national code established by the Federal Government.

Secretary FREEMAN. Correct.

The CHAIRMAN. But there is no need to argue about that now. That is a matter of fact, admitted by everybody.

Secretary FREEMAN. Yes.

The CHAIRMAN. That is the reason I also noted, in your statement on page 5, which states:

> Furthermore, the adoption of this legislation will, in no way, interfere with the rights and opportunities of local handlers, if they wish, to produce and sell milk under requirements more exacting than those deemed adequate by the Public Health Service.

Secretary FREEMAN. Yes, sir.

The CHAIRMAN. Well, that certainly would not be practical, because anyone operating under restrictions would require higher prices. That simply would mean that they would not be able to compete with somebody else who was operating under less restriction whose product might come from some other locality.

Secretary FREEMAN. Fundamentally, it would be my judgment that, economically, in almost all instances—and I think this would apply to South Carolina—the transportation differential involved would be concerned, and that there would be very little, if any, economic consequences, because by the time you ship milk from your normal surplus areas in Wisconsin or Minnesota, and pay the freight on it down to South Carolina, why, it would only be in seasons where there would be shortages locally that it would be economically feasible.

I do not think the economic impact is going to be a very strong one.

Mr. DINGELL. At that point, Mr. Secretary, where will the milk be shipped to—in other words, it will be to the adjacent market, as in my instance, the State of Michigan—are we going to be the recipients of surplus milk under this proposal. In other words will this bill dump surplus milk in Michigan?

Secretary FREEMAN. I do not think that this bill would have an effect on that, really, one way or the other. That is exactly the point I am making, that the application of a uniform sanitary code, which would potentially open some areas that might be closed—but given the economics of this, I do not think that it is going to have a really significant effect.

The economic consideration in connection with it is that with the multiplicity of differences in milk sanitation and inspection requirements, that the overall cost on the dairy industry is one which we could well do without.

Mr. DINGELL. I am certainly in agreement with you on that. We have heard many people say that this is going to have an impact on the farmers in the areas in which this milk comes to. If that is true, that milk, then, does have an impact on the economy of the farmers in the dairy areas.

You say it is not going to affect the State of South Carolina because it is far distant. Michigan is, however, a matter of 300 miles from the State of Wisconsin. Are we going to be the recipients, then, of an increased amount of excess milk, say, in the city of Detroit?

Secretary FREEMAN. Certainly not.

Mr. DINGELL. And in some other areas of the State?

Secretary FREEMAN. Not any more than you would be now.

Mr. DINGELL. Why is that?

Secretary FREEMAN. The only point I am making is that this is one of degree. I was down in the South recently, talking to the agricultural commissioners in Georgia and in Florida, for example, and when you really take out your pencil, the cost of transportation is pretty impressive.

The CHAIRMAN. Thank you very much. Again, let me thank you for your appearance here.

I have observed this copy entitled, "Regulations Affecting the Movement and Merchandising of Milk," which you have presented to us, being Marketing Research Report No. 98 of the U.S. Department of Agriculture, dated June 1955. We will receive this for the files for our reference.

Secretary FREEMAN. Thank you for your courtesy.

The CHAIRMAN. Thank you again very much for your appearance.

At this point in the record, we will insert several statements and letters the committee has received on this proposed legislation.

(The matter referred to follows:)

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 10, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
New House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Two years ago, when your committee was considering legislation embodying the aims of the national milk sanitation bill, I had the privilege of introducing representatives of the Connecticut Milk Consumers Association, Inc., so that they might present their views.

This year it has been impossible for the members of the board of directors to come to Washington to testify in person. As housewives and homemakers, they find that time just does not permit such a trip. They have, however, prepared testimony and included two magazine articles which describe what they have done and the serious, responsible way in which they have acted to improve the lot of the Connecticut consumer.

It seems to me, from a close study of this material and their arguments, that the questions they raise in calling for passage of H.R. 50 deserve careful consideration. I recognize that the milk price structure is one of the most complex in our agricultural economy, but I also believe that we must be fully cognizant of changing patterns of life in an increasingly metropolitan area which demand a modern approach to the supply of food to our people.

Sincerely,

EMILIO Q. DADDARIO, *Member of Congress.*

STATEMENT OF THE CONNECTICUT MILK CONSUMERS ASSOCIATION, INC., EAST HARTFORD, CONN., SUBMITTED BY MRS. LAURA M. POPE

In the past, consumers in general have been accused of apathy regarding public hearings. We are consumers of milk who have no financial investment in the dairy industry beyond the payment of our milk bills. Concern over the size of these bills motivated the formation of the Connecticut Milk Consumers Association in August of 1957. For details of the hectic birth and calmer growth of our organization we offer copies of a reprint of an article written by our board of directors which appeared in The American Milk Review in May 1958 entitled "Connecticut Consumers React to Prices." We also offer a more recent article about our group which appeared in Redbook magazine in February 1961, and then was condensed for the April issue of the Reader's Digest. This article by Ruth and Edward Brecher is entitled "Are We Paying Too Much for Milk?" and has a direct bearing upon the problem of economic barriers created by local health regulations.

The simplest way to define the philosophy of our group is to quote the preamble of our constitution. "The principles of the Connecticut Milk Consumers Association, Inc., are based on a belief of all members in the American system of free enterprise and the need of an alert citizenship to assure a continuation of such." It is because of this belief in the free enterprise system that we support this bill.

We have fought hard for our beliefs in Connecticut and have succeeded in having archaic restrictions lifted on container sizes by our State legislature, thus enabling milk to be sold in the more economical one-half gallon and gallon jugs. This has partially been responsible for a strongly competitive situation in our State and has brought the price of milk to the consumers more nearly in line with our surrounding areas for the first time in many years. Passage of this legislation will be but another balancing factor to keep the situation reasonable.

We are not trying to drive Connectcut farmers or dealers out of business. We believe that as long as a healthy dairy industry is justified in Connecticut and is economically feasible, the consumers can and will support it. However, when premiums are demanded for local milk, the consumer should have the opportunity to choose lower priced, high quality out-of-State milk.

The national milk sanitation bill provides that milk which meets the standards set forth in the U.S. public health milk ordinance and code as certified by State authorities in cooperation with the U.S. Surgeon General cannot be discriminated against by States or municipalities when such milk is involved in interstate commerce.

We favor passage of H.R. 50 for the following reasons:

1. Competition sets more effective standards of sanitation than health ordinances alone can do. The United States Code sets high standards, and the competition of milk which meets these standards will tend to raise sanitary levels everywhere

In the long run, we believe that the health standards in the milk industry on a nationwide basis would improve, not only because the United States code sets relatively high standards, but because all milk sold in the United States would be potentially in competition with milk that meets these standards. We are convinced that competition sets the standards more effectively than health regulations. This is contrary to popular notion, but we can find no other explanation for the fact that quite often the actual standards achieved by the milk industry are higher than those set by law.

It is difficult for consumers to procure such information in Connecticut because section 1737d of the dairy laws of the State of Connecticut prohibit publishing the results of laboratory findings if the dealer is named. However, one informant who asked to remain anonymous did furnish us with some sample information from State tests, but did not include the names of the

dairies involved. Connecticut requires that a bacteria count of not more than 30,000 per milliliter remain when pasteurized. The informant claims, "Percentage of compliance of dealers with bacteria standards has been excellent. Good milk runs less than 3,000 per milliliter. Some may run 10,000 to 20,000 but rarely does one go over 30,000 per milliliter."

There is no way a Connecticut consumer can find out the butterfat content or baterial content of milk from a specific source of supply short of having it privately tested. In spite of the lack of consumer knowledge, the industry maintains higher than minimum standards. Much of this is due to the fact that they test each other's milk, and none of them can afford to be found wanting by a competitor.

2. The U.S. code sets as high or higher standards than Connecticut State dairy laws do

A few examples follow:

The U.S. code requires pasteurization of all milk. The State of Connecticut does not, although a few cities do.

The U.S. code requires the application of the phosphatase and coliform tests to milk samples. Connecticut law does not. The phosphatase test determines the efficiency of pasteurization and the coliform test can determine whether milk is being contaminated after pasteurization.

The U.S. code requires the testing of four samples of milk from each farm and plant a minimum of twice a year. Connecticut law simply states that it must be inspected regularly and as frequently as possible, but there is no legal minimum. At present the cost of inspection of all fluid milk farms and plants supplying Connecticut whether in Connecticut or not is borne by the taxpayers of Connecticut.

The U.S. code requires inspecting the water supply a minimum of twice a year. In Connecticut the legal minimum is once a year.

"Cream" is defined in the U.S. code as "a portion of milk which contains not less than 18 percent milkfat." In Connecticut "cream" is defined as containing "not less than 12 percent of butterfats."

The U.S. code requires listing on the label the amount of nonfat solids added to fluid skim milk. This addition is desirable in that it makes the skim milk more palatable and richer in protein and B vitamins. Connecticut law approaches it by limiting the addition of nonfat solids, and consumers have no way of knowing whether only a little has been added or an amount equal to the limit.

3. We do not anticipate a flood of midwestern milk because under a Federal milk order, dealers would have no incentive to buy milk so far from the market as long as suppliers are plentiful in the Northeast

However, the class I prices set by the U.S. Department of Agriculture would have to remain competitive to prevent uneconomic shifts in supplies.

The cost of transportation will always give an advantage to producers who are closest to the market. However, if milk from reserve supply areas were truly competitive, nearby milk would not command premiums about what consumers are really willing to pay for local milk.

4. Opening the closed New York cream market would benefit 13 million consumers in that area

The closed cream market in New York would be lost with passage of this legislation. The extent of economic advantage enjoyed by New York producers is described in material sent to us by Dr. Roland W. Bartlett, professor of agricultural economics, College of Agriculture, University of Illinois. He stated:

"Assuming the operation of the law of comparative advantage, cream as well as milk should be produced in the areas where cost of getting it produced plus transport costs are the lowest. Costs for transporting 100 pounds of milk as cream are roughly one-tenth of those of whole milk. Hence, this makes it possible to transport cream economically for long distances and accounts for the fact that both Boston and Philadelphia regularly buy cream from midwestern surplus-producing States such as Michigan, Wisconsin, and Minnesota. Therefore, prices for cream in Boston and Philadelphia are competitive with prices of midwestern cream.

"New York in contrast to Boston and Philadelphia has tended to limit its source of cream to areas closer to the market with the result that during the past 16 years New York cream prices have averaged over 20 percent higher than those of Philadelphia or Boston.

"From 1937 to 1955 the New York price per 10-gallon can of 40-percent cream averaged $30.11 or 24.4 percent more than the Philadelphia price ($24.41) and 23.2 percent more than the Boston price ($26.66). In 1955 the New York cream price averaged $33.72, the Philadelphia price $25.31, and the Boston price, $26.38 per 10-gallon can.

"Questions which logically can be raised are: Is it in line with public interest of some 13 million consumers in the New York market to limit the inspection area from which cream can be secured in order to enhance the cream price above its competitive level? Are midwestern cream producers being deprived of a market because of restriction of inspection areas?"

5. Connecticut, like many other States, has long used health regulations for economic ends. However, justice can best be served through equality of opportunity for producers and dealers capable of serving the market

Examples:

Sections 1758d, 1759d, 3217, 3218, 1760d, 3220, 3221, 3223, 3224, 3225, 3226, and 3227 of the dairy laws of the State of Connecticut and rules and regulations of the milk regulation board, revised to May 1, 1956. These sections require State inspection of out-of-State sources of supply and give the commissioner of agriculture the right to refuse to inspect when the supply reaches 110 percent of demand during shortage months and 125 percent of demand at other times. Dr. Stewart Johnson of the University of Connecticut estimates that a supply of 120 percent of demand during the shortage months would not be considered burdensome to the market.[1] In times of shortage in Connecticut, temporary permits are issued. Therefore, up until the advent of marketwide pooling under a Federal milk-marketing order, producers in Connecticut did not always have to carry the full burden of the necessary surplus.

In addition to maintaining higher class I utilization, this restriction of supply was conductive to maintaining a quasi-monopolistic class I price. In the 8 years from 1950 through 1957, the Connecticut class I prices averaged 36 cents more than the New York price.[2] Even so, Connecticut class I utilization remained substantially higher than in surrounding markets. Obviously, health regulations were an effective economic barrier. Federal regulation has brought class I prices down to competitive levels.

Section 1767d of the dairy laws of the State of Connecticut prohibits importation of pasteurized milk except when a plant is in a town, city or borough adjacent to the Connecticut border.

Whether this law would stand up in a Federal court is questionable considering the decision in the case of the *Dean Milk Company* v. *City of Madison*.

Oddly enough, it is quite legal to bottle raw milk outside the State and sell it in Connecticut, but milk pasteurized in Springfield, Mass., cannot be sold in Hartford—only 30 miles distant. Restriction of competition is the obvious intent since by far the majority of people buy pasteurized milk.

This concludes our statement. We regret that we cannot testify again in person but all of us have children who are out of school now which compounds the problem of leaving home. We trust the committee members will consider our views in this matter.

[From American Milk Review, May 1958]

CONNECTICUT CONSUMERS REACT TO PRICES

The milk business is a triangle composed of producers, distributors, and consumers. No one side or combination of two sides can be altered without affecting the other parts of the figure. This story of how Connecticut consumers reacted to an effort by producers and distributors to create a stable market is a reiteration of the fact that a triangle has three sides. It was written by the board of directors of the Connecticut Milk Consumers Association, Inc.

The dairy farmers of the country may well be envious of the farmers in the State of Connetcicut and the dealers of Connecticut. The dairy industry in Connecticut has quite effectively superintended the erection of a fence around

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[1] USDA promulgation hearing record for the State of Connecticut, p. 1110.
[2] Ibid., exhibit 51, p. 6a.

the 371-mile border of the State. The fence contains the market they serve and gates open only wide enough to allow the entry of the fluid milk required to meet the market's need above the amount produced within the State. Careful regulation is intended to obtain the highest possible class I utilization of milk from Connecticut.

There has been relatively little opposition to this program in the past. Now, however, a growing group of consumers is challenging the wisdom of the industry in the course it pursues. While members of the Connecticut dairy groups may fail to recognize them as such, the members of the newly formed Connecticut Milk Consumers Association, Inc., believe they are truly the industry's good friend. Their efforts may well help to save the Connecticut fluid milk industry from a prolonged decline.

What might cause decline in a protected market such as that enjoyed by the Connecticut dairy industry? The answer: consumer resistance. Yes, no matter how elementary one may consider the need for the product of an industry, when its customers show dissatisfaction with the product, with the cost of the product, with the availability of the product, then it's time to take notice. It's time to make careful study of past methods. It's time to plan changes to bring the industry once again into favorable rapport with its customers.

There can be no doubt that Connecticut milk consumers are dissatisfied and are searching for a substitute for fresh milk (Connecticut fresh milk). Per capita consumption of powdered milk in Connecticut is the highest in the Nation.[1] The fluid milk industry must realize that these consumers, once weaned, settle into an entirely different consumption pattern. Is it not plain, then, that the fluid milk industry's only hope for full potential expansion lies in the satisfaction of its consumers?

WE LIKE FRESH MILK

The reason for our concern is not altruistic. We like fresh milk. We want it available at a price we can afford. If the Connecticut milk industry is faced with losses in volume, then we, the consumers, can expect an even higher priced product. We are convinced that under a free enterprise system (regulated perhaps, but certainly not controlled) both buyer and seller benefit.

The price of milk in Connecticut is high, both in dollars and cents and in the amount of labor involved to buy a quart of milk. It takes 8 minutes of work to earn a quart of milk here, as against 4.1 minutes in Akron, Ohio; 5.1 minutes in Chicago, Ill.; and 6 minutes in nearby Springfield, Mass.[2]

The hindrance to free enterprise is evidenced by the following facts: The price of milk drops drastically at the State border. Savings in delivery costs attending three-times-a-week delivery versus every-other-day delivery are not shared with consumers. The store differentials do not reflect the savings in labor. Volume discounts do not compare favorably with free market areas. Producers in Connecticut have enjoyed an unusually high class I utilization in fluid sales at a time of high surpluses in neighboring States. Consumers cannot choose the size glass container they want.

A penny increase in the price of milk in August 1957 set off a chain reaction resulting in consumer explosion. It began with letters to the newspapers by housewives whose food budgets were battered by high milk bills. They listed their phone numbers and invited interested consumers to help form a Connecticut Milk Consumers Association. A dozen or so calls were expected but the chain reaction gathered speed with hectic results. The housewives took turns leaving their telephones off the hook in order to care for their children and homes as the number of calls mounted into the hundreds.

The general demand to hit the dairy industry resulted in an unplanned but widely publicized boycott. Just 4 days after the first letter appeared, an executive committee was chosen. The committee urged consumers to stop the boycott in favor of a factfinding move to be followed by recommendations for legislative action.

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[1] Conway & Conway, Business Research Institute; Institute of Business Planning. Report as of June 30, 1957.

[2] Computations based on U.S. Department of Agriculture, "Fluid Milk and Cream Report," December 1957; and U.S. Department of Labor, "Employment and Earnings," February issue, based on December 1957 figures.

PUBLIC MEETING HELD

In the following week, the committee arranged for a public meeting with a panel of speakers answering consumers' questions. The speakers were D. O. Hammerburg, State milk administrator; Kenneth Geyer, general manager of the Connecticut Milk Producers Association, Inc.; Lyman Hall, Connecticut Milk Dealers Association, Inc.; and Henry Dauphinais, business agent for the Teamsters Union.

Consumer demands for action were channeled into a hard-hitting campaign in September for the legalization of one-half gallon and gallon glass milk containers. A bill permitting the use of half gallon containers as of September 1958, was passed by the special session of the legislature.

Since incorporating the GMCA (Connecticut Milk Consumers Association) has gathered over 100 publications on milk production, distribution, and controls. Cooperation from the dairy industry, agencies of both the State and Federal Governments, and agricultural departments of universities has helped immeasurably in our quest for knowledge. The facts uncovered by our investigation, tempered by our consumer perspective, have led us to the following beliefs:

CONCERNING PRODUCERS

We support Secretary of Agriculture Ezra T. Benson in his efforts to move agriculture toward more self-sufficiency. The technological advances in the last few years have created both an immediate problem of too much production and a hope for future freedom from famine the world over. We consumers, as taxpayers, cannot hope to continue subsidizing our farm communities in view of their increased productivity. Especially during this period of economic stress in our urban communities, we find it incredible that producers would demand a guaranteed income at 1957 levels. Such a guarantee would mean billions added to consumers' food budgets and tax bills.

We believe that the Federal marketing orders for the most part have done a good job of insuring equal returns to producers supplying a given market subject to quality differentials. We favor a Federal marketing order for Connecticut provided that all producers, whether from Connecticut or not, are free to compete for our business if their milk meets the proper health standards.

Pricing by a formula which gives sufficient recognition to supply and demand factors and which is periodically reviewed via public hearings would give consumers more peace of mind. Pricing via public hearings alone puts consumers at a decided disadvantage for three reasons: (1) Being producers and sellers of goods and services themselves, it is often not economically wise for consumers to publicly criticize or testify against a major industry; (2) laymen don't want to look foolish before the expert; (3) consumers find it costly in both time and money to neglect their usual occupations to protect their interests at public hearings. However, their right to be heard should be protected.

Regulation can be used by the "vested interests"[3] to discriminate against new products such as the newer forms of sterile concentrated milk. We cannot tolerate such efforts if free competition and the public interest are to be preserved.

We have no objections to producer advertising through the Connecticut Milk for Health, Inc., which is chartered as a voluntary, nonprofit corporation. A State statute puts a limit of 5 cents per hundredweight on contributions and the State milk administrator, after a public hearing, sets the rate each year at which dealers shall make automatic deductions to be turned over to Connecticut Milk for Health, Inc. This makes a public official, an agent of the State, a judge of private corporate finances. The producers themselves should determine the rate. Only the producer should have the right to allow deductions from his check by his dealer for these purposes. Producers should make this type of business decision.

We do not subscribe to an oft-repeated theory that we must encourage milk production in Connecticut as a precaution against a national emergency. Nuclear warfare makes cow's milk useless within a short time even if a few of them survive in an industrial target area. A case of sterile milk concentrate or 50 pounds of dried skim milk stored in the basement of each home would be a more

[3] Roland W. Bartlett, "Will Sterile Concentrated Milk Become a Billion Dollar Industry?" paper presented at Dairy Marketing Day, Jan. 28, 1958, University of Illinois, p. 10.

practical precaution, from the standpoint of economics and survival. We hope that Connecticut producers can compete successfully, but they have no right to make us captive consumers through restrictive State inspection policies.

CONCERNING DEALERS

The Connecticut Milk Marketing Act of 1949 makes it illegal for a dealer to dispose of his milk at a price which endangers his or any other dealers' ability to pay his (or their) producers. This is similar to gearing the progress of the class to the slowest student. The result is little or no progress. This law has been aptly described as the "revolver in the drawer" in restraining price cutting.[4] Connecticut has another general statute concerning unfair sales practices which makes it unlawful to sell below cost. Therefore the above provision is unnecessary and simply encourages inefficiency at the expense of the consumer.

In the interests of more economical practices, we strongly favor good wholesale and retail volume discounts. "Charging each customer the same amount for a delivery, is a much more accurate reflection of the costs involved than charging a given amount for each chart and concealing the charge in a uniform delivered price."[5]

Consumers want half-gallon and 1-gallon glass containers available because of the savings in time, space, and money attendant with their use. Industry usually tries to meet consumer desires. Opposition to these containers can be construed only as misguided self-interest or fear of free enterprise.

CONCERNING LABOR

Unions have the right to bargain for as good a deal for their members as possible, but they also should be subject to the competitive pressures of do-it-yourself consumers who are not willing to pay the price of delivery beyond a certain point. Upping the salaries of wholesale deliverymen or other practices designed to keep the store price high is intolerable.

We offer these capsule opinions in the hope that they will inspire thought-provoking discussion and broader perspective. Producers, dealers, labor, and consumers are all interdependent. A prosperous future depends upon our mutual trust and endeavor toward progress. Fear of free enterprise is the first step toward socialism, yet markets free from all regulation have been historically chaotic. The members of the CMCA believe the best solution lies in a balance between individual freedom and needed regulation.

[From Redbook magazine, February 1961]

ARE WE PAYING TOO MUCH FOR MILK?

(By Ruth and Edward Brecher)

Are you paying too much for milk? That depends on where you live—and how you buy. In New York City and Chicago, for example, some families are paying 32 or 33 cents a quart. But other families in these same cities are paying only 24 cents—and in Indianapolis many families are buying milk for as little as 17¾ cents a quart.

You'd be surprised at how quickly those pennies per quart add up. At 30 cents a quart, for example, a family using a gallon of milk a day spends $438 a year. If such a family could buy milk at 20 cents a quart, the saving would be $146 a year. In Hartford, Conn., many families are actually enjoying that big a saving. Back in September 1959, the price of a quart of homogenized vitamin D milk delivered to homes in Hartford and its nearby suburbs rose to an alltime high of 31 cents a quart. Only three American cities reported higher prices. Just 1 year later, in September 1960, Greater Hartford residents could buy fresh milk for as little as 19 cents a quart. Only a dozen American cities reported lower prices.

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[4] Leland Spencer and S. Kent Christensen, "Milk Control Programs of the Northeastern States," pt. I, p. 120, Bulletin 908, November 1954, Cornell University.

[5] John D. Helmberger and E. Fred Koller, "Quantity Discount Pricing of Fluid Milk," Station Bulletin 433, March 1956, University of Minnesota, p. 5.

What happened to produce such a remarkable reduction in the price of milk in one city? Can consumers in other cities and towns learn from Hartford's experience? Redbook sent us to Hartford to find out.

What we found was an alert, competently organized group of young women, most of them with pleasant homes in Hartford suburbs, who banded together back in 1957 to try to do something about the high cost of milk. They called themselves the Connecticut Milk Consumers Association; and despite three, four, and even five children apiece to care for, they managed somehow to find time to make a thorough study of milk pricing. After checking and double-checking their facts, they mapped out a program of action. Then, month after month, they urged their program on State milk control officials, State legislators, and the Governor of their State.

To appreciate just what these young women were up against and how much they have accomplished, let's take a quick look at the American milk industry.

The traditional method of producing and distributing milk in the United States delivers right to your door fresh milk of excellent quality, meeting very high sanitary standards, in whatever quantity you desire, at frequent intervals. It is a wonderfully convenient system—and a very expensive one for consumers.

Much of the milk is produced on farms located near the cities where the milk is consumed. In the days before refrigeration, production on nearby farms was essential to assure fresh milk. But land near the cities is now very expensive and taxes and labor costs are high. As a result, it may cost the nearby farmer as much as 12 or 14 cents to produce a quart of raw milk.

It also costs several cents a quart to transport milk from the farm to the dairy, to pasteurize it, refrigerate it, homogenize it, add vitamin D, and to package it.

And it costs 7 cents a quart, on the average, to deliver the milk from the dairy to your doorstep. That familiar visitor to so many millions of American homes, the cheery milkman, is a carefully selected, highly trained, hard-working public-relations representative of his company. If he leaves one dairy to work for another, he is likely to take many of his customers with him. Because of this, as well as the job he does, he is able to demand good pay, and in almost every city he gets it.

The result in a city like Hartford is quite likely to be that milk delivered to your home is priced at 30 cents a quart or even more.

From the nutritional point of view, of course, milk is an essential food no matter what it costs. Children need it; adults benefit from it; nutritionists would no doubt continue to recommend a quart of milk daily for all children and two glasses a day for adults even though the price rose to 40 or 50 cents a quart. Fortunately, that isn't likely to happen. For as the cost of the traditional system of distributing quart milk bottles from door to door has risen, two ways have been found to cut the cost of milk.

One way is to sell milk by the gallon or half gallon instead of by the quart. It makes little difference actually whether the milk is sold in quart, half-gallon or gallon containers. The saving arises largely from the fact that you buy two or more quarts at a time.

The second way in which milk can be sold more cheaply—either by the quart or by the gallon—is by selling it in stores instead of through door-to-door deliveries.

When you buy at the store, of course, you are not getting your saving for nothing. You must invest your own time and labor—and perhaps gasoline and wear and tear on your car—to take the milk home. Whether or not it is worth the trouble usually depends on how much you can save.

In some cities, when you combine the saving through buying milk by the gallon and through buying it at the store really starling economies can be achieved. The extreme example is Boston, where a housewife may pay as much as 30 cents for one quart of milk delivered. If she buys a gallon delivered, she can save as much as 16 cents on the gallon. And if she buys a gallon at some stores, she can save an additional 29 cents. Thus her total "storegallon" saving may run as high as 45 cents a gallon.

If your own store-gallon saving is considerably smaller than this, or even nonexistent, it doesn't necessarily mean that your milk dealer is profiteering. It may be that he is pricing his milk in such a way that all his customers pay some of the cost of home deliveries and quart deliveries, instead of just those who benefit from these more expensive services. Or, as often happens, the contracts between the dairies and the milk drivers' unions make it virtually impossible to pass along store-gallon savings to the consumer.

What the young housewives of the Greater Hartford area accomplished through their Connecticut Milk Consumers Association was to convert Hartford from a market where only a small fraction of the "store-gallon saving" was being passed along to consumers into a market where an astonishingly large saving is now possible. When the young women of Hartford first organized their association, the store-gallon saving—that is, the difference between the price of milk delivered to homes 1 quart at a time and the price of store purchases in gallon lots—was only 8 cents a gallon. Today a housewife can save 21 cents a gallon by having her milk delivered in gallon jugs, and an additional 13 to 15 cents a gallon if she buys at the store, making a total store-gallon saving of 34 to 36 cents.

Why are store-gallon savings so small in so many cities and nonexistent in others?

The answer lies primarily in Government regulation of the milk industry. Few industries in the United States are as strictly regulated as milk.

First of all, the minimum price which the dairy must pay the farmer for raw milk is usually set by Government decision—by Federal orders in 77 large milk-marketing areas and by State commissions in many additional areas.

This fixing of raw-milk prices has some advantages for consumers as well as for dairy farmers. It encourages an adequate year-round supply of fresh milk, prevents wild raw-milk price fluctuations and assures orderly marketing. Moreover, the regulations are reasonably well administered by the U.S. Department of Agriculture and by some State commissions. In most cities and towns, consumers can expect to benefit relatively little by trying to cut a cent or two off the price of raw milk paid to farmers.

In the following 14 States, however, the State milk commissions also regulate the price at which dairies and stores are permitted to sell milk at retail to consumers: Alabama, California, Florida, Georgia, Maine, Montana, Nevada, New Hampshire, New Jersey, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia (except Arlington and Alexandria).

In these States, with the possible exception of California, the State commissions rarely permit consumers to receive more than a fraction of the savings available elsewhere through gallon deliveries and through store distribution.

Pittsburgh is a case in point. There, by order of the State milk commission, the housewife who has milk delivered a gallon at a time saves only 2 cents per gallon. And the housewife who buys a gallon at the store is allowed, by milk commission decree, to save only an additional 4 cents per gallon.

In Philadelphia at least one dairy last year was eager to sell milk in gallon jugs for less than the current price; it accordingly petitioned the Pennsylvania Milk Commission for permission to do so. Early in 1960 the commission held lengthy hearings on this petition and other Philadelphia milk-price problems. Since the record of the hearings could determine the price structure of milk sold in Philadelphia for months—or even years—to come, the commission invited testimony from consumers and all other interested parties. In answer to the invitation the dairy farmers' association and milk dealers' association appeared en masse at the hearings, and their lawyers examined and cross-examined scores of witnesses. However, despite the importance of milk prices to almost every family in the Philadelphia area, not a single consumer or representative of consumers bothered to appear or testify.

The same has been true of milk hearings in many other cities.

"It used to be that way in Hartford too," reports Laura Pope, a founder of the Connecticut Milk Consumers Association. "But since our group was organized we have presented the consumer's point of view at every milk hearing in our area. Four of us even drove all the way to Washington, D.C., and spent two days attending congressional hearings and testifying in favor of a new national milk bill which we think will benefit consumers."

How effective public protest can be in lowering the retail price of milk in States where the price is set by State commissions is clear in the case of two suburbs of Washington, D.C.—Arlington and Alexandria, Va. Washington has long been the home of High's Dairy, an extremely efficient milk dealer which sells milk through stores in gallon jugs at a low price. Following the success of its Washington operations, High's also opened a few stores across the line in Arlington and Alexandria. But there, by decree of the Virginia Milk Commission, High's was required to sell milk at 18 or 20 cents a gallon more than they were charging for the same milk a few miles away in the District of Columbia.

High's Dairy countered the Virginia Milk Commission's price regulations in several highly effective ways. For example, the dairy took big adverstisements in the Washington newspapers stressing its 80-cents-a-gallon price. Conspicuously featured in each ad was this additional information: "Price 98 cents in Virginia by order of the State commission." The dairy also placed three boxes on Virginia store counters, labeled with the names of popular charities. When anyone purchased a gallon of milk, the clerk collected the full price required by the Virginia Milk Commission, and then placed 20 cents of this in the charity box the customer selected.

Aroused by these dramatic tactics, voters in Arlington and Alexandria deluged the State commission and State legislators with so many complaints and protests that in July 1959, State controls over the retail price of milk in these communities were abolished. In the stores of Arlington and Alexandria you can now buy a gallon of milk as cheaply as in nearby Washington—26 to 30 cents per gallon less than if it were delivered to you one quart at a time.

The moral is simple. If you live in a State where retail milk prices are fixed by a State commission, urge the commission to permit lower prices for milk sold a gallon at a time. More important, urge your legislators to abolish State control of retail milk prices altogether.

But store-gallon savings are also small in many cities where the retail price of milk is not controlled by State commissions. What holds up the price in such cities?

"In almost every case," one milk expert told us, "the high price is caused by some quirk in a city ordinance, county regulation or State law. The quirk may be deeply hidden, but it's there. If it weren't, some enterprising dairy would have come along by now to offer milk by the gallon at a saving of 15, 20 or 30 cents."

The first step for consumers seeking lower milk prices, then, is to find out what quirk in the law is holding up local store prices or gallon prices. The Connecticut Milk Consumers Association was organized almost by accident to study precisely this problem.

The association arose out of a letter Joan Cunningham, a redheaded mother of three children, wrote to a Hartford newspaper complaining about high milk prices. Soon the Hartford papers were publishing similar letters from other housewives, and that gave Barbara Sanzo, mother of five small children, her big idea. Why shouldn't all the letterwriters get together?

"It's time for consumers to organize and speak out against these high prices," she wrote in a letter to the editor. "All in favor of organizing a Connecticut Milk Consumers Association call the following numbers. * * *"

Barbara Sanzo and Laura Pope, who had offered to help in the organizing, hoped for 15 or 20 calls in response. Instead they got hundreds. They had to take turns leaving their receivers off the hook in order to get their housework done. Calls came in day after day from 50 miles around, and the organization quickly became page 1 news. "Housewives declare war on rising milk prices," announced the biggest headline of a Hartford newspaper.

Old hands in the milk industry groaned when they read that headline. They had heard about "consumer rebellions" in other cities. All too often such movements begin with a tremendous fanfare: attack the farmers, attack the dairies, turn out a stream of angry press releases, generate sensational headlines and get the facts so badly snarled that nobody knows what the truth is. Finally and gradually they disappear from the scene, having accomplished little or nothing.

But the Connecticut movement was different. The young women of Greater Hartford decided that their first chore was to get their facts exactly right. They accordingly invited the dairy farmers' association, the milk dealers' association, the milkmen's union and the State milk administrator to present their points of view at a mass meeting held in the Hartford Public Library. Hundreds of consumers listened courteously while the milk experts explained why prices were as high as they were. Then the consumers asked pointed questions. Was milk really selling in gallon jugs at stores for 17 cents a quart just across the State line in Massachusetts while in Hartford the usual delivered price was 27 cents a quart? (Yes.) Was it true that farmers were getting precisely as much for that 17-cent milk in Massachusetts as for the 27-cent milk in Hartford? (It was.)

Following this meeting, the Hartford housewives consulted individually with farm leaders, milk dealers, university professors and Federal officials; they even called in several husbands—a lawyer, a statistician and a public-relations

expert—to advise them on technical problems. Then they decided to concentrate their fire on one major objective—opening the door to retail price competition.

To accomplish this, changes were needed in two Connecticut milk laws. Both had served a useful purpose 20 or more years before when they were enacted, but they were now outmoded. One law specified that milk could only be sold in half-pint, pint and quart bottles. Though originally passed to protect consumers from short measures, the effect of these laws was to forbid the sale of milk in economical half-gallon and gallon jugs.

When the Connecticut Legislature next met, the young women of Hartford demanded that half-gallon and gallon milk jugs be legalized.

The battle that followed rocked the State. Day after day, the milk-jug law was debated in committee rooms and caucauses. One newspaper reported:

"Housewives, who have formed a consumers' organization, patrol the corridors of the State Capitol daily carrying gallon and half-gallon milk jugs, stopping legislators and asking for their support.

"The housewives also have flooded the legislature with literature concerning the larger containers."

Newspaper editorials too began descending on legislators who opposed the bill.

"We might just as well have a law forbidding retail merchants from selling suits with two pairs of trousers," one newspaper commented. "The hairs are sliced pretty thin when a State government tells you that you cannot buy milk in a larger container. It shows how cockeyed our thinking has become. If this same proviso were extended to cover orange juice, or if we were told that corned beef or pastrami could be bought only in four-ounce tins, we would yell that our constitutional rights are being invaded. Why isn't it the same with milk bottles?"

On the very last day of the session, the bill legalizing gallon jugs was defeated but the one legalizing half-gallon jugs was passed. In their first political battle, the consumers' association had won at least a partial victory.

"Now you can go home and take care of your kiddies," one legislator condescendingly told Joan Cunningham, who had spent long hours lobbying in the capital.

"He should never have said that to a redhead," Joan told us recently. The young women of Greater Hartford did go home to their kiddies—but they also kept up their battle for the gallon milk jug.

So effective were their maneuvers that by the time the legislature met again, all opposition had collapsed. The gallon jug was legalized and authorized to go on sale on October 1, 1959.

In spite of this major victory, those were troubled days for the Connecticut Milk Consumers Association. In August 1957, when the association was first organized, milk prices stood at 28 cents a quart, delivered. By August 1959, they had risen to 30 cents, and a further increase to 31 cents was announced for September 1. This was an alltime high for Hartford.

The leaders of the Milk Consumers Association remained hopeful, however.

"It's always darkest just before the dawn," Laura Pope reminded association members. "This is just a seasonal increase, to be expected in September. Let's sit tight a little longer."

What happened soon thereafter can be quickly summarized:

October 1, 1959: Gallon jugs became legal. Many stores promptly offered milk at $1.08 a gallon. Mott's Supermarkets, a chain of five large Hartford stores, cut the price to 98 cents a gallon for milk in 1-quart paper cartons; some other stores followed suit.

October 15: Mott's Supermarkets cut its price to 89 cents a gallon in half-gallon jugs; several other stores matched their price.

December 8: Mott's Supermarkets found a more economical dairy and cut its price again—to 79 cents a gallon.

December 15: In an effort to hold customers, attracted by low store prices, dairies generally announced a cut in the delivered price from 31 to 28 cents and offered gallons delivered at 86 cents. Many other stores met Mott's 79-cents-per-gallon price.

Some dealers called this a price war, but both Laura Pope and Joe Mott of Mott's Supermarkets deny this charge. In a price war, they explain, stores or dairies sell milk for less than it costs. A Connecticut State law prohibits sales

below cost—and the consumers' association approves of this law. What has happened in Hartford, the association insists, isn't a price war at all; it is a shift in milk distribution designed to give the consumer the benefit of efficency, gallon sales, and store distribution.

In some communities outside Connecticut, it is true, disastrous price wars have developed. Last November, for example, when gallon jugs were introduced in Mineola, N.Y., some stores began selling milk for 5 cents a quart. Such conditions may please consumers for a brief period, but after the weaker dairies are bankrupted by the "war," the market is "stabilized" again—perhaps at a price even higher than prevailed before the price war began. The Hartford housewives were careful to avoid any steps that might encourage this kind of competition.

Since December 1959, the price of milk in Hartford has gone up and down in an orderly manner—chiefly in response to seasonal changes in the price of raw milk to farmers.

By August 1960, it became apparent that the pendulum had swung too far. Dairies accordingly raised their retail prices somewhat more than the increase in raw-milk prices warranted. To their amazement, the Connecticut Milk Consumers Association did not protest. "We don't want anybody to lose money on milk," Joan Cunningham told us. "All we want is to have each dairy free to sell milk as cheaply as it wants to."

The Hartford price cuts have not come out of the pockets of the dairy farmers. On the contrary, farmers were getting exactly as much per quart for milk in September 1960, when the lowest retail price was 76 cents a gallon, as in September 1959, when the lowest retail price was $1.10 a gallon.

Despite their achievement, the organized housewives of Hartford are not finished. Their next goal is the modernization of the so-called sanitary laws.

One such law, for example, provides that all pasteurized milk sold in Connecticut must be pasteurized inside the State or in nearby townships bordering on the State. This pasteurization law, when it was passed 40 years ago, was designed to protect Connecticut consumers from infected milk. But today, when milk can be transported safely and quickly, the law acts as a barrier to the free flow of milk. In fact, it was in large part this law which just a year ago kept the price of milk in Hartford at $1.10 or more a gallon while 25 miles away, in Massachusetts, milk could be bought for 78 cents a gallon. The Hartford housewives are therefore lobbying for a new law which will require that all milk be pasteurized but will eliminate the geographical limitation on where this must be done.

Another project of the Hartford housewives is to support the bill sponsored by Senator Hubert Humphrey, which is pending before Congress. This bill provides that any milk, meeting the high standards of sanitation set by the U.S. Public Health Service, cannot be barred from any part of the country on sanitary grounds. If enacted, the Hartford group believes, the bill will permit milk from States where the cost of production is low to flow more freely into States where the cost is high.

Local, county, and State regulations vary widely from one part of the country to another. Despite these differences, what can you learn from Hartford's experience?

We put that question recently to Laura Pope and Joan Cunningham. From their 3 years of experience with the Connecticut Milk Consumers' Association they offer the following advice:

Don't go off halfcocked. Make a thorough study of your local milk-price structure before issuing public statements about milk prices. Get your facts straight.

Compare the price of milk for 1 quart delivered in your city with the price per gallon delivered and the price per gallon sold at stores. If you can't save at least 15 or 20 cents per gallon, find out why. Then organize a campaign to eliminate whatever law or regulation is blocking lower gallon prices and store prices.

Compare the price of milk in your community with the price in nearby communities, especially those just across the nearest State line. Don't make the comparison with places where price wars are raging, but with places where a stable low-price level has been established. If you are paying significantly more than neighboring communities where prices are stable, find out why. Then organize a campaign to eliminate whatever law or regulation is barring the flow of the more reasonably priced milk into your community.

WHERE MILK SAVINGS ARE GREATEST

Sometimes milk is cheaper by the gallon than when you buy it a quart at a time. And sometimes it costs less to buy milk in stores than to have it delivered to your door. The combined saving through gallon purchases and store buying is known as the store-gallon saving. In Cincinnati, for example, the store-gallon saving is as much as 35 cents a gallon. In many cities, however, because of conditions you can help to correct, you may save only a few cents—or nothing at all—when you buy a store gallon. The chart below shows the maximum price for 1 quart of milk delivered, and the maximum saving if you buy by the gallon at stores, for the 20 American cities where the store-gallon saving is greatest. If the saving in your city is not substantial, the accompanying article suggests why—and what you can do about it.

City	Cents per quart		Maximum saving per year through buying a gallon a day at stores
	Delivered to your home	When bought by the gallon at stores	
Boston, Mass.	[1] 30	[2] 18¾	$164.25
Springfield, Mass.	31½	21	153.30
Chicago, Ill.	[1] 32½	[2] 22¼	149.65
New York, N.Y.	33½	24	138.70
Worcester, Mass.	[1] 30½	21	138.70
Albany, N.Y.	29	[2] 19¾	135.05
Schenectady, N.Y.	29	[2] 19¾	135.05
Hartford, Conn.	28	[2] 19	131.40
Cincinnati, Ohio	26	[2] 17½	127.75
Gary, Ind.	31	22¼	127.75
Peoria, Ill.	26	[2] 17½	127.75
Dayton, Ohio	25	[2] 17¼	113.15
Indianapolis, Ind.	25	[2] 17¼	113.15
Alexandria-Arlington, Va.	[1] 29	21½	109.50
Buffalo, N.Y.	31½	[2] 24	109.50
Grand Rapids, Mich.	25	17½	109.50
Washington, D.C.	[1] 29	21½	109.50
Cleveland, Ohio	24	17½	94.90
Houston, Tex.	28	[2] 21½	94.90
Toledo, Ohio	24	[2] 17½	94.90

[1] Some dairies charge slightly less.
[2] Some stores charge slightly more.

NOTE.—Prices above and in the accompanying article are based on the U.S. Department of Agriculture publication "Fluid Milk and Cream Prices" for October 1960.

STATEMENT OF PERRY R. ELLSWORTH, ASSOCIATE DIRECTOR, MILK INDUSTRY FOUNDATION

This statement in support of H.R. 50 is filed on behalf of the Milk Industry Foundation, a voluntary association of approximately 1,200 large and small fluid milk processors and distributors throughout the United States and the District of Columbia.

One of the essential strengths of our national trade and commerce is the fact that our country with its 50 States constitutes a large common market wherein the articles and commodities which constitute that trade and commerce move with relative freedom. In this common market, commodities of identical character—oranges, potatoes, wheat, petroleum, and lumber for example—compete freely without regard to area of origin within that market. Their area of competition is limited—other than for regulations regarding public health and safety—only by the cost of providing time and place competition.

Thus it may be properly said that there is within our national boundaries a free flow of commerce. H.R. 50, the proposed National Milk Sanitation Act, is, we believe, in consonance with this "one market" concept upon which the economy of the United States has been built and upon which it is today operating.

We believe this principle has demonstrated its worth beyond dispute. Indeed, the sheer necessity to provide an unimpeded national commerce was one of the underlying purposes which gave rise to the creation of our Federal Union through the adoption of our Constitution. Even now the efforts to create a European Common Market accent the recognition of the worth of the common market principle. We endorse H.R. 50, first because it applies the common market principle to commerce in milk, a product of which we are justifiably proud and which is recognized as an essential part of our national diet and food supply.

Secondly we endorse the purpose of H.R. 50 as we understand that purpose; namely, freeing milk meeting acceptable standards of purity and wholesomeness from either the actuality or possibility of exclusion from any part of our common market because of technical, insignificant, and unnecessary differences between either the provisions or interpretations of a multiplicity of State or local sanitary jurisdictions.

Admittedly milk is a perishable commodity. Admittedly it is essential that adequate safeguards be established to protect it. Admittedly State and local sanitary authorities with significant help and encouragement from the U.S. Public Health Service have brought into being a national milk supply, available for use as fluid milk of unimpeachable quality and safety. Admittedly there was a time when milk of such quality and safety was confined to local areas because the means was not available by which it could be moved outside local areas and its safety and quality maintained. That time is past. Modern refrigeration and rapid transportation together with advances in processing make it now possible to move milk many hundreds of miles without in any way impairing either its safety or quality. In many instances this is now being done.

It may be claimed that this proposed legislation is an unnecessary encroachment by the Federal Government into an area of regulatory activity heretofore handled by the State and local sanitary authorities. We find nothing in H.R. 50 which would prevent such authorities from continuing to scrutinize the State or local milk supply. It would prevent the exclusion of safe and sanitary milk, irrespective of its point of origin, from entering those supplies because of idiosyncracies in either State or local milk codes or their interpretation. Nearly all foods now move freely in interstate commerce. Those for which standards of identity have been established pursuant to action of the Food and Drug Administration and which meet such standards cannot now be excluded from such commerce by any conflicting State or local jurisdiction. In a different situation meat, which constitutes, as does milk and its products, a major portion of our per capita food consumption, subjected to prior Federal inspection is not excludable from interstate movement. Without such prior inspection it cannot lawfully enter the stream of interstate commerce. There is a long history of satisfactory working relationship between State authorities and the Food and Drug Administration and the Meat Inspection Division of the U.S. Department of Agriculture. Thus, based on prior experience with respect to foods other than milk there appears no justifiable reason to oppose legislation which authorizes uniform and nationwide standards for milk which would permit it to move freely in interstate commerce. Especially is this true when State and local authorities would retain the right to inspect the product entering their jurisdiction to determine whether or not such a uniform standard is being met.

STATEMENT OF A. RAYMOND MARVEL ON BEHALF OF INTER-STATE MILK PRODUCERS' COOPERATIVE

My name is A. Raymond Marvel and I reside in Easton, Talbot County, Md. I am a diary farmer and a director of Inter-State Milk Producers' Cooperative, 401 North Broad Street, Philadelphia, Pa. Our organization represents over 4,500 dairy farmers supplying milk to markets in Pennsylvania, southern New Jersey, Delaware, and Maryland.

The legislation currently under consideration by this committee lists as its purpose "to amend the Public Health Service Act to protect the public from unsanitary milk and milk products shipped in interstate commerce, without duly burdening such commerce." If this statement purports to set forth the real purpose of this legislation, then an entirely new bill would have to be drafted.

This legislation, as presently worded, does not add any health features to protect the public from unsanitary milk and milk products. In fact, it is simply an amendment to the Public Health Service Act and makes the milk ordinance and code of the public health service the guide or maximum sanitation standard

on milk moving in interstate commerce. In other words, rather than establishing any minimum sanitary requirements to protect the public from unsanitary milk, this legislation only requires that milk meet 90 percent compliance with U.S. Public Health standards and by meeting such compliance the milk or milk products must be accepted anywhere in the country.

In reality, the bill is an economic one, traveling under the guise of a health bill. Its real purpose is based on the premise that midwestern milk is kept out of eastern markets and excessive sanitary requirements are blamed for this.

Local sanitary requirements are avoided by the bill, with the thought or purpose that midwestern milk will thus come into eastern markets.

Not only is the premise untrue, but the result sought will not be accomplished by the bill. No midwestern milk has been kept out of eastern markets by excessive sanitary requirements. Nor has there been any discrimination against midwestern milk in this respect. The true facts are that costs of transportation and deterioration make it uneconomic to ship midwestern milk to eastern markets on a year-round basis.

Three well-known experts in milk marketing from the States of Minnesota and Wisconsin have, within recent years, published analyses which clearly demonstrate that prices in eastern cities of the United States, which at the present time are all under Federal milk marketing regulations from Washington, D.C., to Boston, Mass., are not unduly high and, in fact, are not high enough to encourage or draw milk from Midwestern States. In other words, producers in the midwestern production areas could not enhance their incomes by shipping milk to eastern markets under present price levels in the East. In addition, the U.S. Department of Agriculture in Marketing Research Report No. 98, "Regulations Affecting the Moving and Merchandising of Milk," published in 1955, came to the same conclusions as these three midwestern economists. These three economists were Willard Cochrane, Assistant Secretary of Agriculture, and Hugh Cook and Truman Graf, both professors of agricultural economics at the University of Wisconsin. All of these men concluded that prices are not high enough under Federal orders to induce milk to move from midwestern production areas to eastern cities.

The appropriation section in a former bill provided that a sum not over $1½ million be appropriated to permit the Surgeon General to carry out his functions under this act. The present bill carries no specific sum but gives a blank check. Insofar as we can determine, since the bill does not protect the public health, will not result in any savings to consumers or reduce food bills and does not really help producers who are supporting it, any money spent under it is taxpayers' money being wasted.

To refer to the legislation itself briefly, as we interpret it, it would provide that States, which so desired, submit or follow a plan agreeable to the Surgeon General for the inspection of milk plans located within such States. It is presumed that the State inspectors, of course, would come under or would have to meet some minimum standards set by the Surgeon General. All inspection would be done by State inspectors. These States would submit a list of plants to the Surgeon General, thus making it possible for milk from these plants to be shipped into any community in the United States without regard to health programs or standards in effect in such communities into which the milk would be shipped. The bill states that a plant need only meet 90-percent compliance under the Public Health Service standards and by only meeting 90-percent compliance, this plant would be certified for interstate milk shipments. Any milk shipped from a certified plant, that is, a plant approved for interstate milk shipments, is free to move, subject only to laboratory or screening tests by the receiving State and the laboratory and screening tests must be in accordance with standard methods provided for in the U.S. milk sanitation code.

In addition, this bill would establish a converse type of health barrier since enforcement of U.S. public health standards would prevent manufacturing grade milk from moving in fluid form in interstate commerce. The vast majority of milk in the Midwest is manufacturing grade.

One of the objectionable features of the bill is the method of getting plant approval. The initiative for approving plants lies with the State. That is, the State must submit a plan to the Surgeon General listing such plants after rating the plants. After the submission and subsequent approval by the Surgeon General, the list of plants is then published. If a plant is not in a State that is party to such an agreement with the Surgeon General, regardless of the quality of the milk received and handled by the plant, this plant could not get on the list of interstate plants.

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Furthermore, once a State would get approval for plants located within that State, by following plans of the Surgeon General, that State would, no doubt, finally substitute the entire U.S. public health code for any code currently in existence within the State. At present there are many States that have health standards that are superior to the U.S. public health code, since the U.S. code has only been offered as a minimum standard of compliance, not an ideal code to follow. Therefore, this bill would eliminate the programs of producing quality milk in many of our Eastern States and would retard years of progress. This would not be in the public interest.

The second drawback is that the State itself submits a plan with ratings of plants and the Surgeon General approves or disapproves the plan. In this process, all the plants are either approved or disapproved in accordance with the State plan. Then, and only then, does the Surgeon General have the right to inspect specified plants or to remove a plant from the list. This is a case of locking the barn after the horse is stolen as far as I am concerned. In other words, the Surgeon General first takes the approval of the State as the determining factor and then he must reverse the State, if the State was in error. This could lead to dissatisfaction and bickering between States and between a State and the Surgeon General.

The argument that the law would not be applicable to milk in intrastate commerce is obviously unrealistic. Most large cities and States have milk moving in interstate commerce as well as obtaining milk from intrastate sources. Under these conditions, economic necessity would force the adoption of one code, the Federal code.

For these reasons and the following, we are opposed to this legislation and do not believe it is in the public interest. If any plant in one State wants to ship milk to another State and can economically do so, I am sure that at the present time, if such a plant were being discriminated against by any local health authority it would be able to get relief through the courts. The Supreme Court of the State of Nebraska has ruled that "* * * if it becomes apparent that the statute, under the guise of a police regulation, does not tend to preserve the public health, safety, or welfare but tends more to stifle legitimate business by creating a monopoly or trade barrier, it is unconstitutional as an invasion of the property rights of the individual."[1]

We can, therefore, see no reason for spending the public's money on legislation which is neither in the public interest nor will benefit any of the citizens of this great land.

STATEMENT OF MARYLAND & VIRGINIA MILK PRODUCERS ASSOCIATION, SUBMITTED BY CHESTER BLETCH

My name is Chester Bletch. I am employed by the Maryland & Virginia Milk Producers Association as director of quality control and field services. The association's address is 1530 Wilson Boulevard, Arlington, Va.

I have worked for the association since 1921. My duties have been largely in the field of procurement, quality control, and membership relations.

The Maryland & Virginia Milk Producers Association is a cooperative association of dairy farmers. It has approximately 1,700 members delivering milk from farms located in Virginia, Maryland, West Virginia, and Pennsylvania. The association supplies about 75 percent of all milk handled by bottling plants in the Washington metropolitan area and approximately 85 percent of all the milk produced for the area. The association operates a manufacturing plant at Laurel, Md.

The manufacturing plant receives milk that is surplus to the fluid milk requirements of the Washington metropolitan area and Baltimore. Dairy products made at the Laurel plant are distributed throughout the eastern seaboard from New England to Florida and some are shipped abroad.

The members of the Maryland & Virginia Milk Producers Association produce milk in compliance with the milk code of the District of Columbia, or under the grade A law of the Commonwealth of Virginia. Our milk supply carries a USPH grade A rating in excess of 90.

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[1] Nebraska Supreme Court, *Lincoln Dairy Co.* v. *Finigan*, July 15, 1960.

The Maryland & Virginia Milk Producers Association is opposed to H.R. 50 for five principal reasons:

1. There is no need for legislation of this type.
2. The passage of such legislation would lower the milk sanitation standards of many States and other health units.
3. The passage of such legislation would prevent a State or local regulatory agency from exercising supervision over milk inspection practices on shipments originating in other markets. Nevertheless, neither the Federal Government nor the regulatory agencies of areas from which the milk is shipped would assume responsibility for protecting the health of the public within the area receiving the milk.
4. The passage of this legislation would deny States and municipalities the freedom to exercise police powers over milk sanitation produced under the jurisdiction of another health authority.
5. The legislation, if passed, would use the powers of the Federal Government to force States and municipalities to accept milk inspected by other States and municipalities.

NO NEED FOR LEGISLATION

From a public health standpoint, or from an economic standpoint, no need can be shown for such legislation as proposed by H.R. 50.

The United States has the highest quality of fluid milk in the world. This has been developed through the enforcement of State and local sanitary regulations with officials cooperating with each other and with the U.S. Public Health Service. The record of milk quality and the absence of epidemics traceable to milk is conclusive proof that the State and local health units have efficiently performed their duties of insuring pure and wholesome milk supplies for citizens to whom they are responsible.

The milk price structure, as evolved through the process of competition, and as augmented by Federal and State milk marketing orders, is such that prices paid farmers for comparable milk do not vary from area to area by more than transportation and handling costs.

Initial efforts to improve milk quality and to make it safe for human consumption were made by individual city councils, State legislatures and other governing bodies. These first efforts were made 40 to 70 years ago when milk procurement and distribution was largely centered around individual markets. Under these conditions, it could be expected that milk regulations would not be uniform from area to area, or State to State. As early as World War I, however, the milk procurement and distribution pattern began to change. Developments in the industry made it necessary that there be more coordination between health units. Consequently, in 1921, the U.S. Public Health Service published its first recommended milk ordinance and code.

Since that time, the U.S. Public Health Service ordinance and code has served as the basis for drafting most local and State regulations. The U.S. Public Health Service ordinance and code, however, has been amended from time to time; the last major revision being made in 1953.

Since most State and local sanitary regulations are based upon the recommendations of USPHS, it follows that the requirements for farms and for milk plants do not vary significantly from one market to another.

Although we hear some complaints of barriers to milk delivery through restrictive provisions of milk ordinances, those who complain are always content to speak in generalities. They cannot pinpoint the name of the market or the specific rquirement that they contend bars the milk, unless, of course, they are thinking of substituting the requirements of the local sanitary code with inferior standards.

Now, it is also true that even though the wording of health ordinances may be identical, there are wide variations in the enforcement practices from area to area. Consequently, if the market is short of milk, regulatory agencies cannot be blamed for wanting to obtain a supplemental supply from a health jurisdiction which uses enforcement practices comparable to its own.

The widening of sales areas from which milk is distributed from individual milk plants has meant the distribution of milk into more than one health jurisdiction in many cases. The distribution of milk in more than one health jurisdiction has been accomplished through the cooperation of the various

agencies involved. To illustrate this point, milk from Washington plants is distributed daily within the District of Columbia, Virginia, Maryland, and to outlets for which milk sanitation is the responsibility of one of the several branches of the Armed Forces and other Federal agencies.

Not only is packaged milk being successfully distributed in areas of more than one health jurisdiction, but bulk shipments also are being transferred from area to area to the satisfaction of the health authorities at the point where the milk is received.

Arrangements for receiving milk from, or shipping milk into other health jurisdictions have been worked out on a cooperative and voluntary basis through the interstate milk shippers agreement.

This agreement was worked out several years ago by the National Conference on Interstate Milk Shipments and the Association of State & Territorial Health Officers, in cooperation with the U.S. Public Health Service. Use of the interstate shippers agreement is voluntary, but widespread. The present voluntary agreement gives the industry an opportunity to procure milk as economically as possible, while at the same time, enabling the health official in the receiving area to carry out his responsibilities

The local health official, on his own initiative, can accept or reject milk, depending upon his knowledge of the enforcement practices in the shipping area, and on the basis of the rating published by the USPHS on behalf of plants whose milk is subject to the jurisdiction of States or municipalities and which may have milk to sell.

The interstate milk shippers list is very helpful to regulatory agencies, but the list in itself does not safeguard the public health in the receiving area. The USPHS does not guarantee quality of milk.

The passage of H.R. 50 would make it mandatory that milk from plants on the interstate list be admitted to any health jurisdiction, subject to certain laboratory tests, even though the USPHS did not inspect the farms or the plants.

Further than that, since there is no audit involved, the USPHS could not assure that milk received from a plant whose name appeared on the list was milk that was properly inspected and certified. Many plants have facilities for handling both grade A and manufacturing grade milk. There is nothing in the proposed legislation that would guarantee that milk purchased from the grade A side of a plant was not actually received from its manufacturing side of the operation.

The regulatory agencies of individual States or municipalities are responsible for the safety of the milk supply distributed within the limits of their jurisdiction. This legislation would not change that basic fact. The local regulatory agencies, however, would be required to accept milk listed by USPHS even though it was certified by a regulatory agency in the shipping State and not by USPHS. Neither the USPHS, however, nor the regulatory official in the shipping State would be liable for the safety of the public in the area where the milk was received.

Proponents of the legislation point to the laboratory tests which regulatory officials in receiving markets can rely upon. This, however, is not sufficient protection of the public health. In each instance, States and municipalities, as well as the USPHS itself, have found that physical requirements for farms and milk plants, and phsyical inspection of such facilities, is a prerequisite to quality control. Such physical requirements and inspections are not made obsolete by laboratory screening of milk.

Although the proposed legislation is called the National Milk Sanitation Act, it does not call for inspection of milk by the USPHS, and it provides that the survey work be done by health officials in the shipping States. Under these conditions, health officials in receiving States could hardly be blamed for not wanting to accept compulsory certification of milk supplies with the surveys being made in the shipping States by persons whose interest may be more commercial than that of the protection of the public health in the receiving markets.

As pointed out earlier, the National Milk Sanitation Act was introduced and is being supported as an economic matter. If its purpose is to expedite the free transfer of comparable milk throughout the United States, we submit that this is being accomplished at the present time on a sound and voluntary basis and that the enactment of this legislation would deteriorate the present standards of milk sanitation.

Also, as we pointed out earlier in the statement, the milk price structure throughout the United States is such that the price differences from market to market are closely alined by the cost of transportation and handling, and

this would not be changed by the passage of the National Milk Sanitation Act. We can see no benefit to the dairy farmer in any part of the United States through the passage of this bill, and it could react to the detriment of consumers.

There is no need for the National Milk Sanitation Act, from the viewpoint of public health or of economics. Its passage would serve to lower the enforcement practices of milk sanitation to the lowest common denominator; local regulatory officials would be stymied in their attempts to safeguard public health; local police powers would be set aside by Federal law; and the Federal Government would be called upon to enforce State and local legislation in shipping areas.

What this bill amounts to is absentee ownership of local health inspection, with no responsibility of the distant inspectors to local consumers. It is the most extreme instance of the icecap of Federal control which would crush local self-government in the sensitive area of our children's milk. No present Federal statute compares with this bill in its sweeping impact on the police powers of the State and the counties and cities.

Our conclusion is that the present bill would turn back the clock and hazard the dearly bought gains secured by local inspection closely supervised by local citizens. No real need can be shown for it.

STATEMENT OF WALTER F. MONDALE, ATTORNEY GENERAL OF THE STATE OF MINNESOTA

The free interstate movement of the wholesome dairy products of midwestern farms is of particular importance to the agricultural economy of Minnesota. The prosperity of the Minnesota dairy farmer depends on his ability and—I might add—his right to reach markets in other areas of the country where lives the great mass of our urban population who are his customers.

In the interest of improved nutrition, it is important, too, that consumers in the large urban centers be encouraged to increase their use of milk and other dairy products. Barriers to trade have never resulted in increased consumption of any commodity.

The elimination of trade barriers in dairy products would, therefore, have a twofold beneficial effect: (1) It would improve the nutritional level of all our citizens; (2) the increase in consumption would totally wipe out the 3- or 4-percent milk surplus that now burdens our national economy.

Minnesota's presence at these hearings represents part of a continuing program aimed at the ultimate elimination of artificial barriers to the interstate sale of milk and milk products. Minnesota ranks second among the States in milk production. The annual farm value of milk produced amounts to approximately $300 million. Since 85 percent of its milk production must be marketed in interstate trade, unwarranted exclusion from the Nation's markets constitutes a serious and continuing injury to Minnesota's total economy.

Advancements in dairy technology during the past quarter-century have improved the quality and reduced the perishability of milk. With the introduction and universal use of modern methods of handling and pasteurization, milk has ceased, virtually, to present a public health problem. In fact, according to a U.S. Department of Agriculture report, our Nation's milk supply is now less of a health problem than our water supply. Improvements in refrigeration and transportation now permit the regular distribution of high quality fluid milk to markets 1,500 miles or more from the point of production. The discovery of new and improved methods of marketing milk and other dairy products in forms which reduce handling and transportation costs promises to bring midwestern milk even closer to the large urban markets.

But the benefits of this technology—the benefits to producers and consumers ordinarily expected as one of the byproducts of research—is seriously threatened by an assortment of health regulations designed, primarily, to protect the producer's market rather than the public's health.

Concern over this problem is not new. In 1937 the Federal Trade Commission reported:[1]

"Uniform inspection requirements * * * with respect to milk flowing in * * * interstate commerce, would react to the benefit of the dairy industry, reduce costs, and should reflect savings to the consumer."

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[1] FTC report, "Sale and Distribution of Milk and Milk Products in the New York Milk Sales Area," H. Doc. 95, 75th Cong., 1st sess.

Another study reports that subsequent to 1929 much of the legislative activity involving State and municipal milk laws has been directed primarily to the maintenance of a market rather than improving the quality of the milk supply.[2]

In a review of this trade barrier problem,[3] the U.S. Department of Agriculture listed the following as the most commonly used devices of market exclusion: (1) prohibitive or multiple license requirements, (2) unique construction standards, (3) grade A standards that limited the place of pasteurization to a certain distance from the point of sale, (4) refusal to inspect beyond a limited radius.

Unlawful market exclusion results when each State or municipality insists upon compliance with its own unique regulatory standards; when each State or municipality refuses to accept another jurisdiction's certification of wholesomeness.

In an authoritative study of the milk supply of eight cities across the country, it was reported:[4]

"Each of the eight cities had a healthful milk supply of good sanitary quality. The milk sanitation regulations of the several cities varied considerably, especially with regard to the extent and detail of requirements. The findings of this study indicate the need for only a limited number of basic requirements to insure a wholesome milk supply * * *."

The most commonly used plan for the regulation of our milk supply is the model ordinance and code recommended by the U.S. Public Health Service. It has been adopted by 36 States and over 2,000 separate municipalities. Eighty million Americans live in jurisdictions producing milk in accordance with the USPHS model code recommendations. It is the standard adopted by the Federal agencies for the procurement of milk at all Federal installations—including the Armed Forces. In 1958 the Association of State and Territorial Health Officers, a professional society of public health scientists and administrators, recommended it as the uniform standard for the rating of milk supplies moving in interstate commerce.

The U.S. Public Health Service has stated flatly that "milk produced in accordance with the Public Health Service * * * code is safe and of high quality."

H.R. 50, the bill now before this commitee, provides simply, that milk produced and handled in accordance with the high standards of the Public Health Service model ordinance and code cannot be excluded from any interstate market on health grounds.

Under the bill, responsibilities for the supervision of the production and handling of milk would continue in the State and local authorities now charged with those duties. The bill provides for a system of "compliance ratings" to assure the receiving State or municipality that milk and milk products shipped from an approved plant have been produced, handled and transported in conformity with the requirements of the Public Health Service code.

The system is not new or untried. It has been in operation, on a voluntary basis, for over 15 years. Under the guidance of the U.S. Public Health Service and in cooperation with the Association of State and Territorial Health Officers, uniformity in enforcement procedure has been achieved through the instruction and training of local personnel. By achieving uniformity in the interpretation and application of the code standards, it becomes possible to rate the percentage or degree of compliance with the code requirements and thus establish meaningful comparisons among milksheds or milk plants located in any part of the country. To assure continual uniformity in rating procedures, the U.S. Public Health Service, through its regional laboratories, periodically spot checks the inspection and survey work of the local enforcement agencies.

The results of this nationwide rating program are published every 6 months by the Public Health Service in a document called Sanitation Compliance Ratings of Interstate Milk Shippers. Included therein is a listing of milk plants located in 36 States and the District of Columbia who are engaged in the shipping of milk in interstate commerce. For each plant listed there is a numerical rating evaluating the raw milk source and the degree of compliance with the provisions of the USPHS model ordinance and code.

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[2] Rada and DeLoach, "State Laws Designed To Effect Economic Control of the Milk Market," Oregon State Monograph Studies in Economics No. 2, 1941.

[3] "Regulations Affecting the Movement and Merchandising of Milk," USDA Market Research Report No. 98 (1955).

[4] Dahlberg, Adams, and Held, "Sanitary Milk Control and Its Relation to the Sanitary, Nutritive, and Other Qualities of Milk," National Academy of Sciences, National Research Council Publication 250, Washington, D.C. (1953).

But while the system has operated successfully to facilitate the interstate movement of milk and milk products, it has not solved the problem of interstate barriers to the free movement of milk. It is a voluntary arrangement, and many large service areas have not chosen to avail themselves of its benefits.

H.R. 50 would, in effect, enact into law the compliance rating system worked out over the past 15 years by the Public Health Service and the Association of State and Territorial Health Officers.

The wisdom and political genius of our Founding Fathers has made America the greatest free trade area in the world. I urge the extension of that freedom to the midwestern dairy farmer by the enactment of H.R. 50.

STATEMENT OF W. TED OSBORNE, SECRETARY-TREASURER, THE CINCINNATI MILK SALES ASSOCIATION, INC.

I have read the proposed National Milk Sanitation Act, and the following are some of my reactions to it:

Sanitary regulations of milk can be expected to have several important effects on milk marketing. The two most important are (a) the quality of the products and (b) in making a determination of acceptable quality, some milk will be approved and other milk will not be approved for human consumption. Regardless of who sets the sanitary standards, there will be aspects of supply control involved.

Referring to the quality standards, I am not a technician, and therefore will not comment upon what constitutes safe milk. Among the groups set up to make such determinations there are a multiplicity of opinions as to the best regulations or methods of enforcement to insure any given population a safe milk supply. Whether anything might be gained or lost by assigning this task to a small group at the Federal level is a debatable point. It would seem that acceptable health regulations and enforcement could be written at the Federal level. However, under present arrangements, as they relate to milk quality, it is an accepted fact that in most cities of this country the milk supply is as safe as the water supply. Arriving at this position was not an easy task, considering the numerous supply points for milk. The very high quality of this product has also enhanced sales to a considerable extent. The maintenance of such high levels of quality would appear to be necessary to maintain and stimulate sales.

The question might be raised as to whether the quality of milk would be as high under the proposed bill as is presently the case. In theory, it would seem that a continuance of the present high quality standards would be possible under either local or Federal inspection. The present bill, however, fails to assure the general public that such inspection will be carried out. Several important points do not seem to be covered by the proposed legislation.

(a) The Surgeon General will have the authority to approve interstate shipment, and such authority would be binding upon local health departments. Even though this authority is vested with the Federal authorities, they, in turn, do not assume the responsibilities for public health and farm inspection now assumed by local health departments. Producers have invested heavily in the interests of public health, and cannot sit idly by and see the quality of their product, a quality the consuming public has grown to expect and to respect, jeopardized by a piece of legislation that does nothing to strengthen the public health aspects of the dairy industry. Producers recognize the need for continuous inspection and supervision by the certifying authority. The limited budget suggested in this bill would not permit such activities.

(b) This bill assumes that local boards of health would continue to function as they do now. Some question might be raised as to whether this is a logical assumption. Why would local boards of health continue their farm and plant inspection programs if any processor is free to transport milk into the market with no permit except the loose blessing of the Surgeon General? Also, in many markets, if not all markets, producers are charged inspection fees that cover all or a large part of the costs of milk inspection in the city market. A question would certainly be raised regarding the collection of such fees from one group of producers when any other group of producers could acquire all or a substantial portion of the market without payment of fees. A reevaluation of the current fee-collection systems would seem to be necessary if this type of legislation were passed.

There is not sufficient evidence to show that health regulations have been unduly restrictive and go beyond a reasonable interpretation of assuring a safe supply of milk.

As was stated previously, any health regulations have some supply-control features associated with them. In our present systems of marketing, health regulations and supply control are inextricably intermingled. The real problem is then one of assuring the public a safe milk supply and not unduly burdening the free flow of milk. It is evident that the reason for proposing such legislation as this is not to improve quality but to effectuate an increased movement of milk. Having raised some of the problems dealing with quality maintenance, let us now examine the effects of a freer flow of milk.

The laws of economics indicate that a product should be produced where its cost of production is least, including cost of transportation. This general concept is in effect for the production of most foods and has performed for the good of society. Many shifts in production areas have been brought about in most food commodities (including milk) as the result of the operation of this principle. For many foods, however, a restriction is placed upon this principle in that the products must be "safe" for human consumption. The fact that the term "safe" has different meanings in terms of enforcement, time period, responsibility, etc., has led to interest on the part of some to seek this type of legislation.

Some of the major effects on marketing might be:

(1) In some areas where quality regulations exist that are at or near the levels recommended by U.S. Public Health Service, markets would experience competition from milk of lower quality.

(2) Prices of milk to producers, in any event, are almost exclusively based upon the price in a surplus producing area plus transportation. Consequently, the passage of the legislation would not change existing marketing patterns.

(3) It would be doubtful if producers in surplus producing areas would experience additional markets or a higher price, in the long run, through the effect of this proposed legislation. The usual practice of a market, when invaded by outside supplies, would be to lower prices to such an extent as to make it an unattractive market. Health restrictions are not preventing certain surplus production area producers from participating in midwestern and southern markets. The reason is simply that the price in surplus producing areas, plus transportation equals or exceeds the price prevailing in the local market. On the other hand, when it is economically feasible for milk to move, it moves. And when milk moves under existing applicable rules, the interests of public health are served by and through a system of ratings supervised by the Public Health Service. The present voluntary cooperative State-Public Health Service program has effectively laid the specter of health barriers. Milk, once subject to properly enforced production regulations, moves according to economic laws.

The proposed legislation cannot increase the movement of milk, except at the expense of public health, and can only result in lowering of health standards everywhere.

(4) The elimination of a local health permit might also put an unwarranted amount of bargaining power into the hands of some processors. Because of the nature of the product and the distribution systems, the sudden addition or removal of milk in large quantities in a market would result in seriously disrupting orderly marketing. With the larger national chain dairy processors this could be of major concern to the general public. In other words, the necessity of obtaining a local permit might be more desirable than its alternative. Should the proposed National Milk Sanitation Act become law, additional legislation would be required to prevent processors and/or distributors from playing one group of producers against another in such a manner as to completely destroy milk markets as we know them today.

Gentlemen, the National Milk Sanitation Act is not needed. It takes to its bosom the strawman of health barriers and attempts to pawn off these figmental things as real threats to an industry and as an excuse to grab the weapon of police power to bludgeon its way into a purely commercial affair.

STATEMENT OF JOHN C. YORK, EXECUTIVE SECRETARY, EASTERN MILK PRODUCERS COOPERATIVE ASSOCIATION

My name is John C. York. I am executive secretary of Eastern Milk Producers Cooperative Association, whose offices are located at East Syracuse, N.Y. I am appearing at this time in opposition to H.R. 50, and to the other similar bills,

at the direction of the board of directors of our cooperative association. Eastern Milk Producers also opposed a similar group of bills at previous hearings.

Our association has a membership of approximately 9,000 dairy farmers, and is the largest bargaining cooperative in the United States. The farms of our member-producers are located in New York State, in Pennsylvania, and in Vermont. Our milk is sold in the New York-New Jersey market, in the Boston market, and in some of the secondary markets of the Northeast, such as Connecticut and Rhode Island.

Eastern Milk Producers Cooperative Association is opposed to the enactment of H.R. 50 and to all similar bills, because these measures would create a situation where the sanitary quality of the supply of fluid milk would be endangered. At the very least, these measures would raise serious doubts among consumers as to the safety and purity of the fluid milk supply. This would in turn have detrimental effects on the consumption of fluid milk, on incomes of fluid milk producers, and on the economic welfare of agriculture.

Milk suitable for fluid consumption is a vital food, important in the diet of young and old alike. At the same time, the production of milk for fluid consumption, as distinguished from the production of milk for manufacturing uses, is a significant agricultural industry.

In the New York-New Jersey market alone, where most of our members' milk is sold, 48,000 dairy farmers supplied milk to that area in June of this year. The farm value of their output in that month was $42 million.

The quality and purity of milk produced for fluid consumption is dependent upon the system of sanitation control which has been developed in the course of the last hundred years. The basis of this system has been local responsibility and local administration.

Milk is a carrier of disease-producing bacteria. Local health authorities, whether State, county, or city, recognized at an early date the need of adopting measures for the safeguarding of the public health against the dangers of an unsanitary and unsafe supply of milk.

It is generally recognized that these local agencies have done a good job, and that the present system of sanitation control has worked satisfactorily. Epidemics due to milk-borne diseases are a thing of the past, and we now have in the United States one of the safest milk supplies of any country in the world. There are fewer disease outbreaks now attributable to milk than to water, and of all the outbreaks attributable to food, only a small fraction are attributable to milk.

This eminently satisfactory state of affairs would now be changed by H.R. 50 and the other similar bills. This would be done not because there is any dissatisfaction with present methods, or because the new methods are considered to be superior, but simply because of the hope of some nebulous economic gain which is entertained by some people. To achieve this, the health of the milk consuming public would be placed in jeopardy.

There are two aspects to any system of milk sanitation: (1) The formulation and adoption of appropriate regulations; and (2) the enforcement of these regulations.

The proposed bill would force the adoption of a Federal Milk Sanitation Code. Any milk meeting the requirements of this code, as determined by the local agencies having jurisdiction in the area of production, would be eligible for sale anywhere in the United States.

The provisions of the proposed bill are such that the enforcement of adequate sanitary measures on farms would no longer rest exclusively with the health agencies exercising jurisdiction in the consumption areas, as, for example, with the New York City Health Department with respect to farms supplying New York City, but would be shared with some distant and anonymous agencies who may be totally indifferent to their work or may be totally unequipped for it.

In other words, responsibility for the safety and sanitary quality of the milk supply would be, at least partly, placed in the hands of total strangers situated in a distant production area, who would have no concern for the health and welfare of the consumers using the milk, and who would not be called to account by them for any wrongdoing.

The consequence of such a state of affairs would be, at the very least, that consumers, once they get wind of what has happened, would lose confidence in the safety and purity of the fluid milk supply. But there are even greater risks. Carelessness and incompetence in the supervision of dairy farms by inspectors having no sense of responsibility toward the ultimate consumers may result in the sale of contaminated milk, leading to milk-borne epidemics.

Even under the best of circumstances, the bill under consideration is likely to affect adversely consumers' attitudes toward fluid milk. This bill, if enacted into law, would encourage the sale for fluid use of milk from distant sources, while milk from sources near the market would be utilized for manufacturing purposes. This sort of development can have but one consequence, namely, to reduce the quality and wholesomeness of the milk consumed.

Milk transported over long distances must be older than nearby milk, and everyone knows that milk does not improve with age. As the quality and flavor of the milk deteriorates, consumers will tend to buy less of it. Thus markets would be shrunk, to the detriment of all concerned.

A great deal is being said about the duplication of milk inspections. In our opinion this is considerably exaggerated. By and large, most dairy farmers producing milk for fluid consumption are subject to inspection by only a single agency. However, to the extent that some duplication does exist, it represents a small price for assuring a safe and pure supply of milk.

Finally, it should be pointed out that the proposed bill would inflict an injustice on our producers. These producers have made substantial investments in equipping their farms so as to comply with the requirements of the Department of Health of New York City, or of the health department of one of the other cities or towns to which we supply milk. Our producers have done this because of a belief that they would have a nearby market for their milk.

The proposed bill, by forcing these communities to accept milk from anywhere, would destroy the investments of our producers. The economic gains which the pending bill seeks to confer on certain segments of the industry could only be achieved by sacrificing the economic interests of producers closest to the city markets. The very introduction of H.R. 50, aside from the innate objections to it, is an unfortunate event. Dairy farmers the country over are faced with important tasks, and need to work together to bring some degree of improvement in the very inadequate returns they receive. H.R. 50 has brought division and discord among dairy farmers at the very time when they should stand together and work for the common good.

Furthermore, H.R. 50 is a mirage. It is based on the assumption, wrongly we believe, that midwestern producers could sell their surplus milk, or possibly all of their supplies, in eastern markets at the fluid price. This, of course, reflects a lack of realism. Midwestern producers should know that, even if H.R. 50 became law, they would not be able to do this. They certainly would not permit eastern-market shippers to sell surplus milk in midwestern areas at the fluid price. Eastern market producers themselves must sell at the blend price in their own markets.

There is a lot of shadowboxing around H.R. 50, and it is important that this committee come to grips with reality in considering the bill. The bill states that "the sanitary control of fluid milk and certain milk products is necessary to secure the public health." But the real objective of the bill, as everyone knows, is neither to achieve the sanitary control of the fluid milk supply, nor to protect the public health. Supporters of the bill are interested in only one objective, namely, to sell surplus milk from their own areas in other markets.

It is a disservice to this committee and to Congress for the supporters of this bill to come here and talk about improving the quality of the milk supply or protecting the public health when these goals are the furthest thing from their mind. Supporters of H.R. 50 are motivated by purely economic considerations. Rather than strengthen the sanitary regulations affecting milk, and thus assure the provision of a pure and wholesome supply of milk, they would like to ease these regulations so that, generally speaking, midwestern producers could sell their milk in other markets without meeting the established health requirements.

Supporters of H.R. 50 have alleged that this legislation is necessary in order to remove trade barriers against the movement of milk in interstate commerce. In our opinion this is more shadowboxing. About 3 years ago, on April 17, 1958, Mr. Theodore Ellenbogen, legislative attorney of the Food and Drug Administration had this to say regarding the allegation of trade barriers against the interstate movement of milk:

"According to a report of the Department of Agriculture, a majority of cities and municipalities are not causing trade barriers through sanitary regulations. Also, there are considerable limits to the kind of trade barrier that a city, or a county or State, could erect through exclusionary provisions in sanitary ordinances."

Insofar as there is a problem at all, it should be noted that it exists in midwestern areas themselves. It is there that some trade barriers have been found to prevail. The most prominent case to reach the Supreme Court on

this question has been a case involving the city of Madison, Wis., and is known as *Dean Milk Co.* v. *City of Madison* (340 U.S. 349). As the Hon. Lester Johnson, author of H.R. 50, said 3 years ago in hearings before this committee: "We have even had trouble in Wisconsin. We are not lily-pure. We have had trouble when the city of Madison tried to keep out milk from Illinois."

The situation in Wisconsin raises the interesting question as to why those States, like Wisconsin, which are interested in this legislation do not clean house first. Instead of coming here and asking for Federal assistance, it would seem to be more logical for them and more expeditious to enact State legislation and remove the barriers within their own areas of jurisdiction.

In these days of ever-mounting Federal expenditures, Congress needs to think twice before it enters new fields of activity. The state of the Federal budget certainly does not warrant intervention by the Federal Government in activities heretofore left to the States and local communities.

For these reasons, Mr. Chairman, we ask that the committee reject H.R. 50, and all similar bills.

JULY 31, 1961.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE,
U.S. House of Representatives,
Washington, D.C.

GENTLEMEN: The board of directors of the Virginia State Dairymen's Association, assembled in Lynchburg, Va., July 25, 1961, instructed me, Thomas Stark, Jr., president, to submit this statement to the House Committee on Interstate and Foreign Commerce in opposition to House bill 50 and similar legislation known as the National Milk Sanitation Act.

Why quality milk? Milk is a highly perishable product, capable of carrying disease-causing bacteria. For these reasons, milk has long been subject to sanitary regulations to protect the health of the consumer. The interest of governmental agencies in the protection of public health has kept milk regulations prominently in the news.

Sanitary standards for the production of grade A milk today are considerably higher than they were years ago. These standards have not been raised to make the production of grade A milk more difficult. Neither have these standards been raised because consumers were not adequately protected in the past. In the past, fluid milk moved from the farm to the consumer in a very short period of time. Much milk was sold directly to the consumer by the producing dairyman.

Methods of marketing grade A milk, however, have changed considerably over the past few years. It is because of these changes that sanitary requirements have been made more exacting. Our present marketing system requires higher quality milk. Why?

Let us look at some of the changes in marketing milk and its relation to milk quality.

Today, most grade A milk is cooled and stored on the farm in bulk tanks. This milk is picked up every other day. If this milk goes directly to the bottling plant, some of it is 2 days old when it is bottled. Often, however, this milk goes from the farm to storage tanks of producer marketing associations, where it is held for another day before it goes to the bottling plant. From the marketing associations and proprietary storage plants, milk moves to distant markets—often it is in transit for another day.

After milk is bottled, it moves either directly to the home or to retail grocery stores. Milk may be in the store for a day before it is picked up by the consumer. Many housewives keep this milk in the home refrigerator several days.

Therefore, milk is from 4 to 7 days old when it reaches the consumer today. Whereas, only a few years ago, it was at most 2 days old.

If we are to have high quality milk at the retail level, it is necessary that milk be of exceptional quality when it leaves the farm. Because many milk marketing associations market milk over wide areas of our country, they insist that sanitary requirements be high and strictly enforced. They realize that if they are to do a good job of selling milk, and to keep the consumer satisfied, they must have high quality milk to start with. It is changes in our marketing system which have created the need for higher quality milk at the farm. However, it is necessary that quality be maintained throughout the marketing system. Quality milk concerns the entire dairy industry. It cannot be overlooked at any point as milk goes from the producer to the consumer. The dairy industry cannot afford to offer consumers an inferior product.

Gentlemen, I submit this brief statement that may appear to be opposed to interstate commerce, but as to commerce in the dairy industry, quality and

economics cannot be separated. Therefore, the Virginia State Dairymen's Association is opposed to H.R. 50 and all of its companion bills.

Respectfully yours,

THOMAS STARK, Jr.,
President, Virginia State Dairymen's Association.

STATEMENT OF W. L. BENDIX, D.V.M., STATE VETERINARIAN, VIRGINIA DEPARTMENT OF AGRICULTURE

Mr. Chairman and gentlemen, my name is Wilmer L. Bendix. I am the State veterinarian of Virginia, and as the enforcement of the sanitary codes dealing with milk and milk products is considered in my State as the proper responsibility of regulatory veterinary medicine, the various laws dealing with this subject enacted by our legislature have been entrusted to me for enforcement. In the proposed legislation here under consideration, the term "State milk-sanitation agency" would apply to the Virginia Department of Agriculture, as this department is now and has for many years been assigned this responsibility by legislative act.

I speak here in opposition to this legislation, and I would like to make briefly two or three points in support of this position.

First, the bill states that this act may be cited as the "National Milk Sanitation Act." Gentlemen, national it may be; but a sanitation act it is not. The bill states that the sanitary control of milk and milk products is necessary to protect the public health, and the bill further recognizes that the exercise of such control is primarily the responsibility of State and local government. After taking this position, the bill then proceeds in some 20 pages to methodically tear down State and local responsibility and to make the Surgeon General of the United States the milk-marketing czar of the Nation. This gives the Nation two such officials, because the agricultural marketing acts enacted by the Congress some years ago have already assigned this responsibility and authority to the Secretary of Agriculture.

Consider for a moment, gentlemen, just exactly what this bill claims to be and how it goes about it. It claims to be the National Milk Sanitation Act. Its aim, we are told, is to protect the public health by providing the Nation with fluid milk and milk products of a high degree of sanitation, purity, and wholesomeness. This is a laudable aim indeed. If this be the real purpose of this legislation, then why the radical departure from the very sound and effective pattern the Congress has again and again established for the same purpose with other foods? The pattern is a simple one and eminently successful in achieving the aims desired. To cite but two examples, let us refer to the Meat Inspection Act of 1906, with amendments, and the Poultry Products Inspection Act of more recent vintage, as yet unamended. There are others, but these two will suffice for illustration. When the need became apparent for legislation of this kind, the Congress after full and free debate first prohibited in interstate commerce uninspected meat and meat products of all descriptions and poultry and poultry products, also of all descriptions. It then created the Federal inspectional staffs to provide that degree of inspection and supervision it deemed desirable to allow these products in interstate commerce. The soundness of this approach and the success of the inspectional services established are amply attested to by the fact that no State attempts in any way to interfere with the sale of meat and poultry and their products moving in interstate commerce and bearing the Federal inspection legend—and this in spite of the fact that there is no compulsion in either act requiring their acceptance.

The approach in this so-called National Milk Sanitation Act departs radically from this pattern. It directly and brutally prohibits any State, or political subdivision thereof, from interfering with the receipt, distribution, processing, sale, or serving of any milk having the approval of the Surgeon General; but it says nothing about milk and milk products not having this gentleman's approval, nor does it in any way prohibit such products a free flow across State lines. If it is your intent to make the Surgeon General the lord and master of the milk industry, then certainly you should give him authority to work both sides of the street.

Secondly, I have stated to you gentlemen that this bill is not a sanitation act. It isn't. It is a marketing act. Without so stating specifically, it deals with the economics of the dairy industry; and if enacted, its principal effect will be economic—and I might add, disastrous—to large segments of the Nation's dairymen.

I do not know what position the Department of Health, Education, and Welfare or the Surgeon General himself has taken on this measure; but if it has their approval, here again is a reversal of the longstanding position of both the U.S. Public Health Service and the various State and local health agencies across the Nation. Time and again they have stated that their interest is solely in consumer health and welfare, that milk ordinances and codes are designed exclusively to serve this end and are in no way connected with the economics of the dairy industry or concerned with the welfare of those who are a part of it. Across this Nation, State legislatures in approximately 50 percent of our States have assigned the responsibility for milk sanitation to their respective State departments of agriculture. Time and again health officials have deplored this philosophy. Their criticism has been, and for that matter still is, that State departments of agriculture are too taken up with the economics of the dairy industry and with the profitable marketing of milk and milk products to be sufficiently or effectively concerned with sanitation and wholesomeness as a protection for the consumer. Nowhere in the record will you find evidence that in any way justifies an attitude of this kind, and yet it persists. In my own experience, which is considerable in this field, just the contrary is true. Professionally trained agricultural workers do a superior job in safeguarding the public health in the area of milk sanitation, because they regulate an industry that they thoroughly understand.

Here now in this bill, every State, every locality would be required to accept without question milk from an interstate milk plant as defined currently on the Surgeon General's approved list. To get on this approved list, a plant must operate within the requirements of the Federal milk sanitation code. The Surgeon General is not going to supply the inspectional services. This is left up to the States and the localities. Even the surveying and rating on which the Surgeon General's approval is based are done by these agencies, although he may if he wishes from time to time check their activities. Do you, gentlemen, find nothing odd in a man rating his own work, even though it may be subject from time to time to casual review by another? Frankly, I find it extremely odd and certainly again a departure from the accepted pattern.

This bill provides absolutely nothing that is new in sanitation standards, in how they are enforced, in how they are rated, in compliance percentages acceptable. It is identical with the sanitary ordinance and code and its enforcement procedure that has been in effect and been promoted by the U.S. Public Health Service for 20-odd years. All of those provisions of this act dealing with sanitary requirements would appear to be completely superfluous, because if the Surgeon General of the U.S. Public Health Service have been promoting and advocating these standards as official requirements of the Public Health Service, it must be assumed that they have had all these years authority so to do.

If this be true, then we have left a bill that simply requires the acceptance of a specific food product that has met certain public health standards. It prohibits any interference with the sale or dispensing of this product—and this, gentlemen, is marketing pure and simple. It is economics, and it is a bad bill.

Thirdly, in conclusion let me state that the problems of the milk industry stem from the fact that the dairy cow has always been lacking in a sense of economics. Gentle, she is, but economically cooperative, hardly ever. It is a fact that the dairy cow, left to her own devices, does not produce the most milk at the time of year when people drink milk in the greatest quantities. This failure of cows and milk drinkers to get together causes a certain amount of economic trouble. The supply is there, the demand is there, but normally they are moving away from each other. As a bulletin of the U.S. Department of Agriculture so quaintly puts it, "Price is imperfectly effective in bringing production and consumption into balance seasonally." What this means in simple terms is this: It is surprising how much the price of milk sometimes can be cut before anyone is moved to go out and buy an extra quart.

It is this fact coupled with the fact that the dairy industry has accepted the responsibility of furnishing our people with an adequate supply of milk and all milk products 12 months of the year that has created the principal problems affecting dairying. During the fall and winter months when children are in school and the demand for milk is at its peak, the dairy cow is producing well below her maximum. In the spring and summer months when school is out and iced tea, iced coffee, soft drinks, and lemonade again become popular, the dairy cow is producing at her maximum rate, as nature intended her to do. It is this basic fact that has created the necessity for milk-law agencies, both State and Federal, to control the flow and to establish price structures, supply areas, and the like. In order to supply the great fall and winter demands, the dairy industry is forced to operate in spring and summer with the burden of great surpluses. Herein is the great inequality and unfairness of this proposed bill.

It not only allows, but requires, any market in the Nation not in great surplus to take and absorb any volume of milk approved by the Surgeon General that may be a burdensome surplus in another market. This milk is offered at a very attractive price, which is usually considerably below the current established price at the receiving end. This would tend to wreck any industry, having to contend with and absorb another market's surplus. This would also without doubt work to the ultimate harm of the industry that was dumping their surplus on another market, because in periods of shortage the market that had been broken would be competing actively with the market that had broken it for whatever supply was available, which would greatly increase the price and drive the consumer to seek substitutes that he could perhaps better afford.

No, gentlemen, this won't work. It has been tried on an intrastate level in more than one State. It did not work, and everybody suffered. It will not work nationally either. Kill this bill, gentlemen. Let the U.S. Public Health Service continue in the future as it has in the past to assist us with their ordinance and code to strive for uniformity, and let us handle our surplus problem and our marketing problem in a manner that will serve the best interests of all our people and not wreck our dairy industry in the process.

I want to expess my appreciation to the committee for their kindness in giving me this opportunity to be heard. Thank you very much.

[Telegram]

ST. PAUL, MINN., *July 31, 1961.*

HON. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce,
House Office Building, Washington, D.C.

DEAR CHAIRMAN HARRIS: Herewith I am submitting a statement which I hope will be studied by members of the committee as they hold hearings on the National Milk Sanitation Act. I would appreciate the statement appearing in the copy of the hearings, and if I can supply any additional information to the committee I would be happy to do so.

Statement of Hon. Elmer L. Anderson, Governor of the State of Minnesota to the House Committee on Interstate and Foreign Commerce:

"Governor ANDERSON. Mr. Chairman and members of the committee, I am grateful for this opportunity to express my support for legislation now before this committee which would establish national milk sanitation standards.

"I am privileged to speak for the great number of Minnesotans who have called attention to the need of a National Milk Sanitation Standards Act.

"For many years, Minnesotans and Midwesterners have been keenly aware of the existence of State and local regulations—a patchwork which, in the eastern and southern portions of the United States, have discriminated against Minnesota and Midwest milk and milk products. These regulations have been set up in the guise of 'sanitary regulations'—but their intent is clear.

"They exist as arbitrary little blockades that prevent the free flow of Minnesota milk to all parts of the Nation.

"Stemming from the sense of injustice comes the realization that this act should be approved by the committee. But it is important to note that this legislation should be passed because it is in the interest of the entire country—and not just a section of it. Removal of unnecessary blockades is in line with the

traditional view of government as a protector against discrimination of any type.

"To my view, passage of the National Milk Sanitation Act would achieve three clear-cut gains for our country.

"First, it would replace the patchwork of contradictory and confusing rules which prevent free flow of milk with a uniform pattern of sanitation regulations.

"Secondly, it would increase dairy income in Minnesota and the Midwest, thus bolstering the national farm economy as a whole, by simply instituting a rule of fairplay and equal treatment for what is now a clear-cut discrimination.

"Thirdly, it would benefit the American consumer by cutting through a maze of duplications which make necessary higher prices. One system of inspection would result in economy and a resultant benefit to the consumer.

"Mr. Chairman, I can cite no more eloquent testimony for approval of this bill than to quote the words of the man I succeeded as Governor of Minnesota, the man who now occupies the important post of Secretary of Agriculture.

"It was on April 28, 1960, before this committee that Orville Freeman postulated his case against milk barriers. He said 'discriminatory trade barriers and economic reprisals have no place in America. The prosperity of the midwestern dairy farmer depends on his right to reach markets in those areas of the country where live the great mass of urban population who are his customers * * * we ought to be able to sell and not be stopped by phony sanitary regulations and that is the final step in clearing up the whole mess.'

"It seems to me that nothing has intervened in the past year to change the effect of these words. I urge the committee to give this legislation the consideration it deserves and to approve it. The well-being of the national farm economy and that of the State of Minnesota depends on the action taken by this committee and its subsequent ratification by the Congress.

"I am proud of the conscientious work on the part of all Minnesota Congressmen to call public attention to the need for this legislation. In particular, I note that similar bills on the National Milk Sanitation Act have been authored by Representatives Albert H. Quie, Ancher Nelsen, Clark MacGregor, and John Blatnik, of Minnesota, and that the continuing interest and support of the other Members, Representatives Walter Judd, Joseph Karth, Fred Marshall, H. Carl Andersen and Odin Langen has been effectively demonstrated."

Cordially yours,

ELMER L. ANDERSEN,
Governor of Minnesota.

[Telegram]

RALEIGH, N.C., *August 3, 1961.*

Hon. DAVID N. HENDERSON,
Hon. HAROLD D. COOLEY,
Congressional Office Building, Washington, D.C.:

I understand the national milk sanitation bill introduced by Congressman Johnson is now up for hearing. This legislation if passed would make the Surgeon General a virtual czar of the milk industry in the Nation and would seriously damage the milk industry in North Carolina, particularly the dairy farmers and the intrastate plants. I hope you will use the full force of your office to defeat this bill and all others purporting to accomplish the same end. There are many reasons why the sanitary control of milk should be left to the States and local governments. Our State, county, and municipal governments have cooperated in doing an excellent job for the consumers and the industry.

L. Y. BALLENTINE.

STATE OF NEW YORK,
DEPARTMENT OF AGRICULTURE AND MARKETS,
Albany, November 29, 1962.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House Office Building, Washington, D.C.

DEAR MR. HARRIS: I am replying to your letter addressed to Commissioner Dalrymple, as he will be out of the office the rest of this week. I know that you must have an immediate reply concerning any statement we might care

to have incorporated in the hearing record in regard to the National Milk Sanitation Act.

At the present time we would have nothing to offer in regard to this matter. However, I wish to inform you that this department presently has under study various aspects of milk sanitation including the proposed National Sanitation Act. Should legislation be introduced in the next Congress, we would appreciate being notified of any hearing that might be held and having an opportunity to present statements at that time.

I wish to thank you for your consideration of our interest in the matter.

Sincerely,

JOHN H. STONE, *Assistant Commissioner.*

CITY OF SPRINGFIELD,
DEPARTMENT OF PUBLIC HEALTH AND WELFARE,
Springfield, Mo., July 28, 1961.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House Office Building, Washington, D.C.

DEAR REPRESENTATIVE HARRIS: We favor the passage of H.R. 50, known as the National Milk Sanitation Act. We believe its passage will be helpful to all health departments as well as our own.

H.R. 50 helps make uniform the definitions and standards of milk sanitation and at the same time places adequate sanitation control in the hands of each State.

Without this type of public law there is the chance that personal interest groups in some State will cause legislation to block the free movement of interstate shipment of milk. Even though such State legislation would likely be found unconstitutional nevertheless it could take months in court and therefore cause much inefficiency through duplicating sanitary inspections of milk.

Your committee's favorable approval of H.R. 50 will be very much appreciated.

Sincerely,

JAMES R. AMOS, M.D., *Director.*

DAIRY FARMERS' ASSOCIATION,
Las Cruces, N. Mex., July 26, 1961.

THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

GENTLEMEN: The Dairy Farmers' Association, which is composed of a substantial majority of the dairy producers in New Mexico, wishes to go on record as being opposed to the enactment of the National Milk Sanitation Act.

Very truly yours,

E. E. ANDERSON, *Executive Secretary.*

STATE OF WASHINGTON,
DEPARTMENT OF HEALTH,
Seattle, Wash., July 20, 1961.

Hon. THOMAS M. PELLY,
Member of Congress,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN PELLY: We would appreciate your consideration of H.R. 50 introduced by Congressman Lester Johnson of Wisconsin on January 3, 1961. This is known as the milk sanitation bill.

It is our understanding that there will be a hearing on this proposed legislation July 31 and August 1 by the House Interstate and Foreign Commerce Committee.

A similar bill known as H.R. 3840 was introduced during the 86th Congress, 1st session. We corresponded with our congressional delegation shortly after the introduction of H.R. 3840 in regard to suggested modifications and note that appropriate changes have been made in H.R. 50.

We have reviewed the provisions of H.R. 50 and it is our opinion that its passage would establish an orderly method for the interstate movement of milk and milk products, while at the same time providing safeguards to protect the public health. We would prefer that section 805 be modified to state in the parentheses "(but not less than each 2 years)" rather than requiring a yearly rating. The presently suggested requirement would seem to us to impose a greater burden on rating agencies than is warranted in our area. However, we do not consider this preference to be sufficiently important to alter our opinion of the bill, which we believe to be basically sound. We therefore recommend that you support H.R. 50.

Sincerely,

BERNARD BUCOVE, M.D., D.P.H.,
State Director of Health.

DEPARTMENT OF AGRICULTURE,
Atlanta, Ga., August 4, 1961.

Hon. ROBERT G. STEPHENS, Jr.,
House Office Building,
Washington, D.C.

DEAR BOB: H.R. 50 (National Milk Sanitation Act) and 13 identical and related bills presently before Chairman Oren Harris' House Committee on Interstate and Foreign Commerce have as their design the takeover of the milk industry of the United States by the 8 major chains, mentioned in the attached clipping, who receive $120 million of the $138 million profit netted by the 6,000 dairies in the United States.

These bills are not designed to give additional protection to the consuming public, as presently State and local government authorities enforce much stricter sanitation on the production and distribution of milk than has ever been anticipated by the National Government under the provisions of any of these bills.

I personally began attending conferences on intertsate shipments of milk 10 or more years ago and in every instance, at every conference, one of the big chain representatives would be directing the conference and the committees attending.

This is another illustration of where a Federal law is sought for Wall Street to break Main Street with less protection for the consuming public as to a wholesome product.

Milk is in a category separate from all other farm commodities and cannot be understood by anyone who has not actually engaged in some phase of the milk industry.

I certainly hope that you will use every effort to see that none of these proposed bills, or one similar to them, become law.

Yours truly,

PHIL CAMPBELL.

THE BOARD OF HEALTH,
Mobile, Ala., March 29, 1962.

Hon. FRANK W. BOYKIN,
House of Representatives,
Washington, D.C.

DEAR MR. BOYKIN: Yesterday I received from the American Public Health Association the communication regarding a proposed National Milk Sanitation Act of which I am sending you herewith a copy. You will remember that in a letter of March 14, 1962, I stated my opposition to that bill, and a few reasons. In the face of the organized support of its enactment I shall comment now upon some specific factors mentioned in the APHA communication.

As a citizen I accept the constitutional prohibition of spurious barriers to interstate commerce, realize that exceptions to "open doors" have specific purposes of public interest, and rely upon the regularly and properly established means of decision, "checks and balances," and enforcement. As a health officer I have no more right to promote enactment of laws or regulations ostensibly or allegedly of public health purpose as a means of forcing open the portals of other States for the products of mine than I have of promoting incorporation in our laws or regulations of provisions of no public health value with purpose to

exclude products of other States—or, in broader terms, public health legislation employed and interpreted by public health personnel should be purely of public health purpose. The fact that they do, often and in various applications, open and maintain broader markets, routes of travel, and areas of development, is a proper and perhaps too little recognized benefit of valid public health laws and programs; but the integrity of those laws and programs can be assured and respected only if their purpose is pure and direct public health protection and promotion.

The implication in this matter is that some States, local governmental units, or both, do or may in fact adopt and enforce provisions of milk regulations thought by some others to be unnecessary or of unproved value to milk safety and quality, and with the improper purpose of preventing milk shipments and sales from jurisdictions lacking those specific requirements. I do not doubt that such things have occurred and may exist now to some extent. I am sure, however, that such ulterior and improper purpose is suspected and charged sometimes when the questioned requirements have actual quality maintenance values—better visualized as more attainable in some settings than in others—as I see it, the true and proper foundation of the rights and wisdom of local government. So long as the ultimate, highest attainable, safety-quality of milk has not been reached, efforts toward it are legitimate and laudable—and more practicable, and better supported, in some places than in others. The clamor for leveling comes loudest from the inferior sources.

I would do myself an injustice to create an impression that I am an extremist in milk sanitation. We have adhered fairly closely to the "standard milk ordinance and code" in local ordinances; though for good reason we have had a few additional and stricter provisions. For example, we prohibited handling lower grades of, or ungraded, milk in [the part of] plants from which grade A milk came, before that provision was in either our State regulations or the standard ordinance. Birmingham or Jefferson County seems to have been pointed at as Alabama's bad example of excessive and extreme milk regulations; but some 7 or 8 years ago I sat in a series of conferences of a purpose to bring about practical conformity of our State regulations and the Jefferson County regulations; and my predominant impression was the sincerity and high purpose of the Jefferson County health officer and chief inspector in their exceptional requirements, though I perceived little probability of significant value in some of the details, and in general differed with that administration regarding their old policy of sending their own inspectors into every milk source area. Some of their special ordinance provisions had unquestionable safety and quality increase value (as for example a lower permitted average bacterial count); and the practical question was whether the State as a whole could attain such requirements and quality. It may be called axiomatic that the broader the area of uniform coverage the more general and less strict must be the practicable provisions of milk regulations; and I respectfully solicit your attention to the certainty that an effect of the National Milk Sanitation Act would be to lower standards of milk safety and quality in an undetermined and indeterminate number of population units.

As I said earlier, I value the carefully and progressively formulated standard milk ordinance, and the exercise of authority by the U.S. Public Health Service in provision of information about milk regulations and enforcement in other areas; and I would approve that Federal agency's prohibiting interstate shipment of milk not conforming to standards in those respects or in quality tests; but I deny the right or propriety of any Federal agency's decision or enforcement, apart from prescribed legal procedure through the courts, requiring admission and sale freedom for average or "leveled" quality milk within local jurisdictions which have or believe that they have superior milk supplies. If the higher or more stringent requirements in effect in such places were as spurious or unnecessary as advocates of this National Milk Sanitation Act would have us believe, mandamus or injunction would have been employed widely. I surmise, as most who might have sought such means apparently have, that most such court hearings would end in admission by the visiting experts that the regulations, enforcement, and tested milk quality of the petitioners were not quite as high in every respect as those attempted and perhaps maintained locally, though as experts they considered the difference of little importance. If the courts probably would give more weight to the opinions of local authorities, or to efforts for better than ordinary quality, perhaps that is wise.

Only real national interest of significant importance can justify a legal device to reduce the higher qualities to an average quality attainable, in my opinion. I would be less than sufficiently perceptive and frank, however, if I should fail to call to your attention a motive in this bill which has purpose to improve some milk supplies, at least from the standpoint of the public health sponsors and supporters, though perhaps through another questionable coercion of State and local governments. Let me call your attention to the last paragraph of the first page of "Explanation of APHA position on H.R. 50 and S. 212."

In some of the leading dairy States public health organization and efforts to apply milk regulations developed after the milk industry had become politically strong, and resistant to such changes in structure, equipment, and procedures, as public health agencies would have required for Grade A milk. Urban markets, and probably most notably Chicago, induced great improvement in supplies granted their permits, but generally had to send out their own inspectors to enforce their own minimum standards. Some of those dairy States and dairymen saw broader sales fields, as in the East and Southeast, but felt that they might gain the requisite status and retain more industrial and establishment control by having the State department of agriculture established as the milk producer inspection and grading authority. That has caused some difficulties, of which I learned first during World War II. Naturally, the State health departments concerned, and the Public Health Service, have had agency objections, as well as those based on dairy and milk quality levels; and it appears that a purpose to set those intrastate conflicts and confusions right is a major incentive for this support of the proposed act by the APHA.

Probably I should tell you that I have consulted no one regarding my submission of the above opinions, because to me, and I hope to you, the principles and purposes involved seem most important. I am writing to Senators Sparkman and Hill and Representative Grant, also; and shall send a copy to our State health officer as well as to the APHA as requested.

Respectfully,

O. L. CHASON, M.D.,
Health Officer.

THE AMERICAN PUBLIC HEALTH ASSOCIATION, INC.,
New York, N.Y., March 26, 1962.

Memorandum to: Members of the engineering and sanitation section, members of the health officers section.
From: Berwyn F. Mattison, M.D.—Noble Swearingen.
Subject: Support of National Milk Sanitation Act.

The attached information is being sent to the individual members of the above listed sections at the request of both section councils. It is intended to provide a reasonably detailed explanation of (1) the legislation which has been proposed in the Federal Congress relative to the free flow of milk in interstate commerce, and (2) the APHA position relative to this matter. The council of the Engineering and Sanitation section has asked that this be made a priority legislative matter of APHA and is soliciting the support of individual section members. Because members of the health officers section are also inextricably involved, the cooperation of members of the health officers section is being asked by the officers of the health officers section.

Three days of hearings before the House Committee on Interstate and Foreign Commerce produced a wide variety of opinions relative to this legislative proposal. It was the conviction of APHA observers that the claims and opinions, in many instances, were not based on sound scientific and technical knowledge or data. It is hoped, therefore, that each member will study this explanation of H.R. 50 and S. 212, obtain a copy of either of the bills from his Congressman or Senator for purposes of verification if desired, and then forward to his individual Representative and Senators his views of this proposal. Members corresponding on this subject should send a copy of their letter or letters to the Washington office, American Public Health Association, 224 East Capitol Street, NE., Washington 3, D.C.

It should be emphasized that the sincere convictions of each member of both sections is being solicited. It is the opinion of most that public health laws or regulations should not be used as economic barriers. Should prohibitions be desired for economic reasons they should be so advertised.

National Milk Sanitation Act

PROVISIONS OF H.R. 50 AND S. 212

Intent: To prevent the use of unnecessary health regulations as a barrier to the free movement in interstate commerce of milk and milk products of high sanitary quality.

Provides for:

Promulgation of a Federal milk sanitation code containing standards and practices at least equal to the Public Health Service recommended milk ordinance and code as they pertain to inspection, laboratory examination, and supervision.

Promulgation of a rating method and criteria to measure compliance with the Federal milk sanitation code.

Testing and examination by control authorities in the receiving area to assure compliance with minimum requirements on bacterial, coliform, temperature, and composition standards.

Certification by States of interstate commerce shippers meeting the requirements of the Federal milk sanitation code.

Publication of a list of certified interstate shippers with compliance ratings of not less than 90 percent.

Prohibition against capricious seizure or exclusion by a receiving jurisdiction of the milk or milk products of a certified interstate shipper.

Authorizes:

Inspections, investigations, and laboratory examinations to assure validity of State certification when deemed advisable or upon complaint of a receiving State or locality.

The deletion, for cause, of a shipper from the list of certified shippers.

Studies, research, and training necessary to implement the program.

APHA.

MARCH 26, 1962.

National Milk Sanitation Act

EXPLANATION OF APHA POSITION ON H.R. 50 AND S. 212

The APHA, through action by its governing council, has endorsed the passage of H.R. 50 and S. 212, identical bills known as the National Milk Sanitation Act. The governing council action was taken on November 2, 1960, favoring "enactment of legislation embodying the principles of the National Milk Sanitation Act which was considered by the 86th Congress of the United States." H.R. 50 and S. 212 (hereinafter referred to as "these bills") are identical to the act referred to in the above-quoted resolution.

The APHA has always supported strong State and local health departments and believes that the primary responsibility for the protection of the public's health is legally vested in State and local health departments. These bills state that "the sanitary control of fluid milk and certain milk products is necessary to protect the public health and recognizes that the exercise of such sanitary control is primarily the responsibility of State and local governments."

The APHA is opposed, however, to unwarranted use of health regulations as trade barriers. It supports legislation which would eliminate unnecessary and unwarranted sanitation regulations or health laws so long as the rights of States and localities are not abridged. These bills state "that no State or local government has the right to obstruct the free movement in interstate commerce of milk and milk products of high sanitary quality by use of unnecessary sanitary requirements or other health regulations." However, these bills would protect the rights and privileges of localities to conduct necessary laboratory examinations and inspection procedures so as to protect local consumers from unsafe milk.

Another reason for supporting this legislation is the conviction of the APHA that the safety of milk supply is a public health responsibility, and that authority for assuring a high-quality milk supply should be vested in that agency which is legally responsible for protecting the public's health. In a resolution also adopted November 2, 1960, it was resolved by the governing council that "the APHA recommends that at all levels of government statutory provisions place in health agencies responsibility for the healthful quality and sanitary control of milk." H.R. 50 and S. 212 would place Federal responsibility and authority

for the sanitary control of milk and milk products within the PHS. It is the belief of the APHA that this is not only the proper place for this authority but that this action would establish a very significant precedent which might well be emulated by State and local political jurisdictions.

The APHA believes that enactment of this legislation would result in economy in that it would obviate the need for State or local jurisdictions sending inspectors to the source or sources of out-of-State milk supplies. With the requirement for at least 90 percent compliance with a Federal milk sanitation code, receiving jurisdictions would be guaranteed high-quality milk. The APHA further believes that the certification by States, based upon a nationwide standard, is a laudable example of Federal, State, and local cooperation which merits endorsement and support.

APHA.

MARCH 26, 1962.

HARVEY DAIRY, INC.,
Brentwood, Md., July 27, 1961.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As I understand the proposed bill, H.R. 50, the primary objective is to eliminate the many economic trade barriers around certain milk marketing areas in our country, that are fostered on the people in the disguise of health laws and regulations. These conditions do exist and I know to be a fact in my own State of Maryland in which the largest city within the State will allow no milk to be sold within the confines of the city limits, unless the milk is received and processed within the city limits.

Our overall U.S. Public Health rating as of October 6, 1960, was 93.56 and I am a citizen and resident of this fine State, yet my company is denied the right to sell this excellent milk within the city of Baltimore, Md.

Please give this matter every consideration.

JOSEPH W. COTTER

GRAVES COUNTY DEPARTMENT OF HEALTH,
Mayfield, Ky., December 21, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. HARRIS: I would like to take this means in expressing my feelings on H.R. 50.

I have worked as a public health official for Graves County, Ky., under the direction of the Kentucky State Department of Health for 20 years.

My most important work, in my opinion, has been milk work. I now have 107 grade A producers for which I am responsible. In the past and at present there have been and are trade barriers that have worked a hardship not only on the processors, but the farm producers, also.

In my opinion, this bill, H.R. 50, will eliminate most of these barriers without affecting the grade and quality of milk. We in the regulatory work, from a public health standpoint would like to see good, wholesome, grade A milk flow freely.

You will note Graves County, Ky., is very close to four other States, and I can speak with authority, when I mention the injustices passed on to the farm producer, the processor, and to employees of the health department due to trade barriers.

West Kentucky has a milk program of which we are very proud and with our survey ratings we feel our milk is good enough for any State regardless, but with trade barriers as they are this cannot happen.

Your fight and support of H.R. 50 will be appreciated and felt by lots of families that milk cows for a livelihood.

Would enjoy hearing from you.

Sincerely submitted, I remain,

Yours very truly,

HOMER E. DAVIS, R.S.,
Administrative Assistant and Milk Sanitarian.

Approved and forwarded by:

A. D. BUTTERWORTH, M.D.,
Health Officer.

GASTON COUNTY HEALTH DEPARTMENT,
Gastonia, N.C., August 17, 1961.

HON. OREN HARRIS,
Chairman, House of Representatives Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR SIR: I am writing in regard to the bill, H.R. 50, concerning the National Milk Sanitation Act. It is extremely gratifying to me that this bill has been introduced into Congress and I trust that it will be given favorable consideration by your committee. The principles embodied in this act are consistent with the public health practice and philosophy as has been carried out in North Carolina for many years in that it envisions teamwork between the Public Health Service, the State department of health, and the county health departments.

According to my interpretation, this bill would not work a hardship on any milk producer or processor unless he was attempting to market an unsanitary product.

It is also felt that the Congress is to be congratulated on recognizing the fact that the sanitary protection of milk is a health problem and not a commercial problem. As has been pointed out to your committee in hearings and surely by other people, public health efforts over the past three decades have reduced the amount of milk-borne disease in this country to a remarkable degree and it is felt that any relaxation of these standards by public health personnel would endanger the health of many innocent people throughout the country.

If the responsibility for this act should be placed in any other department of Government, it is feared that the standards would be lowered, and there would be a danger of reverting to the olden days when the standards were not what they are today.

Thanking you for your interest in this, I am,

Very sincerely yours,

BENJAMIN M. DRAKE, M.D., *Health Director.*

STATE OF CONNECTICUT,
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND NATURAL RESOURCES,
Hartford, Conn., May 5, 1961.

Re 87th Congress of the United States, House bill H.R. 50, Senate bill S. 212, National Milk Sanitation Act.

HON. EMILIO Q. DADDARIO,
House of Representatives,
Washington, D.C.

DEAR MIM: Several bills have been introduced into the 87th Congress covering milk sanitation control such as H.R. 50 and S. 212. I have discussed my viewpoint in which the Connecticut dairy industry concurs, and it may be of assistance to you when you consider your position on this type of legislation.

First I would like to review our present situation in Connecticut. We do not produce enough milk in Connecticut to supply the needs of its 2½ million people, and some of that which we produce is exported to Rhode Island, leaving us a deficit supply of about 40 percent of our needs. This milk is acquired in an area east of the Hudson River in New York State and the western part of Massachusetts, and four receiving stations located within a 100-mile distance from the Connecticut line, which is more than our present needs. All of this milk and all of the producers who supply milk to Connecticut are inspected by the Connecticut Department of Agriculture, whether located in Connecticut or outside of Connecticut, and the same inspection sheet and regulations are used by all of our inspectors.

1. These bills as introduced are an enabling act which would give power to the Surgeon General to make rules and regulations for the moving of interstate shipments of milk; thus removing from cities and State authorities the power to inspect and look at the sources of their local milk supplies, which have been so traditionally successful over the past 60 years. As a regulatory agency our job is controlling the quality of milk delivered to the Connecticut consumer.

2. In looking over the standards established in these two bills we do find that they have been lowered. It removed any restrictions of the time the milk may age before it is processed or pasteurized, and it has lowered the bacteria standard as is now used in Connecticut.

3. One is to suppose that if this bill was passed that it would use the standards now being practiced by the National Conference on Interstate Milk Shipments, which is a voluntary program and is available for any city or State who wishes

to use it today. With such a program in operation we do not think it necessary that a mandatory law should be imposed upon State regulatory people.

4. This bill exempts manufactured dairy products, while in Connecticut we feel that these products are as important to us as fluid milk.

5. This bill assumes that the Surgeon General of the Public Health Service can and will be assured without question, that all shipping States will apply in a uniform manner, acceptable methods in inspecting, testing, and rating all milk supplies to be shipped interstate.

6. The bill does not require a shipping State to exercise any surveillance over an interstate shipper, over and above the 1-year maximum between ratings.

7. The bill imposes upon receiving States and localities restrictions which can and will cause some to lower their standards for acceptability of milk.

8. The bill restricts the receiving States and localities to taking action against individual shipments, leaving them without authority to prohibit further shipments of milk from sources with bad or poor records.

9. Such action as may be taken against individual shipments can be based only upon tests which may require a minimum of 48 hours for completion. Thus, any receiving State or locality is caught in a squeeze between pressures to accept shipments without delay (on the basis of rather tenuous evidence of compliance with the "code") and its desire to assure its citizens that the shipment is of standard quality.

10. Action against nonconforming shippers can be taken only through channels (i.e., the Surgeon General) which are unnecessarily cumbersome and time consuming, a procedure which would be distinctly prejudicial to the public health if the source involved were under suspicion as a cause of illness.

11. The bill exempts from its provisions certain manufactured dairy products including frozen desserts and most types of cheese. This is inconsistent with the principle that these as well as milk require sanitary control.

12. With dairy farming not an in-and-out occupation, partly for biological reasons, and with milk production by most dairy farmers 365 days of the year, obtaining satisfactory milk quality is not so much a police job as a continuing educational job with producers. The methods, morale, and effectiveness of governmental quality specialists in this educational process are more likely to insure high-quality milk if operated from a city or State base, than from Washington, D.C.

13. Large milk companies, under a National Milk Sanitation Act, can use blocks of milk as threats to break prices to farmers in market after market. Dairy farmers are peculiarly susceptible to this danger, for they cannot store their product for another week or month, or, since it is bulky, send it for profitable disposal in another distant market. Statistics show us in the decade 1950–60 that the dollar sales values of products of large companies have increased proportionately faster than the dollar sales of the small companies. Passage of the National Sanitation Act would increase their power to obtain a monopoly, and use monopolistic powers to reduce prices paid dairy farmers for milk.

I realize this letter has been long in some detail and perhaps slightly technical, so if there is any phase of it that I have not explained clearly I will be happy to supplement this letter with more detail.

With kind personal regards.

Sincerely yours,

JOSEPH N. GILL, *Commissioner.*

THE DIVISION OF HEALTH OF MISSOURI OF THE
DEPARTMENT OF PUBLIC HEALTH AND WELFARE,
Jefferson City, Mo., July 28, 1961.

Hon. OREN HARRIS,
Chairman, House of Representatives Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. HARRIS: The Division of Health of Missouri desires to be placed on record as being in support of H.R. 50, an act to be known as the National Milk Sanitation Act.

The division of health has performed milk sanitation ratings for interstate and intrastate purposes for many years. The ratings have been made in the manner established by the Public Health Service. Since 1945 the dairy industry in the State of Missouri has expanded until now export milk has become a

major source of farm income. A great portion of exported milk is accepted under the voluntary interstate milk shippers agreement by receiving States.

H.R. 50, in our opinion, recognizes and provides a legal basis for continuing what is now a voluntary program. The interstate milk shippers agreement has, insofar as is possible, accomplished its purpose of discouraging the use of health regulations to restrict free trade. Recognition of this plan by the Congress will undoubtedly increase the scope and effectiveness of milk sanitation efforts.

We are appreciative that H.R. 50 provides for continuance of the milk sanitation coordinating activities of the U.S. Public Health Service. The public health significance of a sanitary milk supply cannot be overlooked since milk can be a carrier of disease if not produced and handled under sanitary methods.

The division of health would appreciate an opportunity to cooperate with the Department of Health, Education, and Welfare in expanding activities as proposed in your bill.

Very truly yours,

H. M. HARDWICKE, M.D.,
Acting Director, Division of Health of Missouri.

CITY OF CHARLOTTE, N.C.,
August 16, 1961.

Hon. OREN HARRIS,
Chairman, Interstate and Commerce Committee,
House of Representatives, Washington, D.C.

SIR: I would like to solicit your favorable consideration to pass the National Milk Sanitation Act, H.R. 50, now being considered by the House Committee on Interstate and Commerce.

The longstanding cooperative efforts of the U.S. Public Health Service and our State and local health departments to promulgate and carry out effective sanitary measures for the production and distribution of fluid milk and milk products have reached the stage where milkborne disease has practically disappeared. I strongly urge that the present method of milk sanitation control utilizing the supervision and counsel of the U.S. Public Health Service be continued. Constant public health vigilance is necessary if safe milk is to be provided in increasing quantities for an ever-expanding population. The strict health control of milk and milk products is of increasing importance in view of the newer virus diseases that can be spread by improperly produced and handled milk.

H.R. 50 would maintain the proper health supervision of milk products and not allow a useful public safety measure to be used commercially as an economic barrier to prevent the free interstate flow of safe milk.

I believe the passage of the National Milk Sanitation Act would be economical and provide the most efficient use of the tax dollar because it would take advantage of the excellent working relationships at the local, State and Federal levels and by the utilization of experienced personnel now available and on the job.

I am sure you will give this act much thought, and I hope you will find it possible to consider favorably its passage.

Very truly yours,

MAURICE KAMP, M.D.,
Director of Health.

NATIONAL CONSUMERS LEAGUE,
Washington, D.C., August 16, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. HARRIS: The National Consumers League has long supported legislation which will provide the consumer with pure products. For this reason, we are particularly concerned with the situation existing today in regards to the interstate distribution and sale of fluid milk.

Because of Congress' failure to enact legislation establishing a Federal standard for milk sanitation and quality, a hodgepodge of State laws has grown up which is detrimental to the consumer as well as to the producer seeking to ship milk interstate. We feel that the time is well upon us to correct this situation.

The variety of standards enacted into law by the various States makes it impossible for the consumer to know whether the milk he is buying today meets definite minimum sanitation standards. He feels that the variety of standards means that there is really no standard. The consumer himself has no way of testing the milk to determine its purity and quality. He is dependent on government regulations to do this for him. But when the laws themselves are so varied, the consumer cannot but lose confidence in the situation. This is particularly true when it is known that the U.S. Public Health Service has developed and tested a milk code which could be used as a yardstick for milk shipped interstate, but it is not in effect on a nationwide basis.

Consumer fears are intensified because many reports have stated that the State milk sanitary codes are economic barriers, used to keep out-of-State milk from competing with State-produced milk. Therefore, the consumer often concludes that milk sanitation is not the prime purpose of many of the State laws. Furthermore, in using milk sanitation codes as economic barriers, monopoly situations are created which deny the consumer a free choice among competing producers. This leaves the consumer at the mercy of one group of milk producers and their prices.

We feel that the milk distribution would be healthier from the physical and economic points of view if a national standard were adopted for the interstate distribution of milk. The fluid milk industry is one of the few areas where Congress has not exercised its constitutional authority to regulate the sanitation aspects of interstate commerce.

We strongly endorse and support H.R. 50 as a means of bringing orderly standards and procedures into this vital food industry. We feel that the consumer will benefit from being assured that the milk he purchases for his family meets a uniform national sanitary standard. We feel that the elimination of artificial economic barriers in the fluid milk industry would facilitate competitive pricing to the advantage of the consumer.

We therefore urge the committee to favorably report H.R. 50 and encourage its enactment into law.

We would like to request that this letter be made a part of the official hearing record on H.R. 50.

Sincerely yours,

VERA WALTMAN MAYER,
General Secretary.

CONFERENCE OF STATE SANITARY ENGINEERS,
Topeka, Kans., July 19, 1961.

Hon. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. HARRIS: This letter is to tell you of the interest of the Conference of State Sanitary Engineers in H.R. 50 which is before your committee, and to request an opportunity for Mr. J. M. Jarrett, State sanitary engineer of North Carolina and chairman of the conference committee on milk and food sanitation, to present the position of the conference to your committee for consideration.

At its annual meeting in 1958, the Conference of State Sanitary Engineers took cognizance of the bills establishing Federal control over milk shipped interstate, and transmitted its views to the Association of State & Territorial Health Officers and to the Congress. It has extended and refined the conclusions made in 1958 by subsequent statements and reports in 1959, 1960, and 1961. These statements represent the thinking of the public health authorities in the 50 States, and we hope that your committee will find them constructive and helpful.

Sincerely yours,

DWIGHT F. METZLER, *Chairman.*

WISCONSIN CONFERENCE ON INTRASTATE MILK SHIPMENTS,
Green Bay, Wis., July 31, 1961.

HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

GENTLEMEN: The Wisconsin Conference on Intrastate Milk Shipments respectfully requests that this deposition in regard to bill H.R. 50, entitled "A National Milk Santitation Act," and companion bills be considered by your committee.

The Wisconsin Conference on Intrastate Milk Shipments is composed of local health departments, who conduct grade A milk programs in Wisconsin, along with representatives of the producers and processor of grade A milk, the Wisconsin State Board of Health, the Wisconsin State Department of Agriculture, and the University of Wisconsin. It is patterned after the National Conference on Interstate Milk Shipments. Its purpose is to expedite the flow of grade A milk between the municipalities in Wisconsin and to eliminate the duplication of inspection on such milk supplies. The conference was formed in 1955, and at the present time, we can honestly say that there are no barriers to the free flow of qualified milk in Wisconsin. This, also, includes milk coming into Wisconsin from neighboring States.

All such milk supplies are accepted on the basis of survey rating made by the State of origin, under the procedure set forth by the Public Health Service. Public health officers in Wisconsin are just as concerned as health officers anywhere else are with protecting the health, not only of their own people, but also of the many tourists and vacationers who visit our State. Yet, to my knowledge, in no case are such supplies subjected to duplicate inspection by Wisconsin public health officers. Wisconsin health officers are confident that milk produced, processed, and handled under the provisions of the recommended milk ordinance and code of the Public Health Service, and certified as such under the rating and certification system set up by the Public Health Service in cooperation with the various States, is pure, safe, high-quality milk.

This system or idea of reciprocity, in many cases, seems to be a one-way street, which permits milk to come into Wisconsin, but prevents supplies moving from Wisconsin to other States. In some instances, Wisconsin milk is completely barred from these markets. In other cases, Wisconsin producers and processors are subjected to costly and confusing duplication of inspection in order to move their milk to out-of-State receivers. This is sometimes carried to the point where substantial segments of the Wisconsin dairy industry are dissected from their natural attachment to the Wisconsin dairy program and artificially attached to some other State through an inspection system.

We make our case for completely qualified grade A milk and that only. We have no desire to send to anyone, either within or without this State, any fluid milk for bottling purposes that does not meet or exceed the standards set forth in the model ordinance of the Public Health Service. Milk which meets these requirements is safe, high-quality milk.

This conference believes that the enactment of H.R. 50 and its companion bills will effectively aid in the more orderly and more economical distribution of high-quality milk supplies to all the people in our country. It will do away with artificial trade barriers which impede this movement of qualified milk at the present time. It will remove the duplication of cost and the confusion that plagues much of the dairy industry now engaged in interstate sales of milk. It will permit and encourage progressive dairy States, such as Wisconsin, to develop new and even better programs for the production of high-quality dairy products, and such programs would be available for all the dairy farmers and processors in such State.

On the other hand, this bill provides the machinery necessary to assure any receiving area that milk produced under its provisions will be safe, high-quality milk and will afford them the highest level of milk protection on their milk supply.

For these reasons, the Wisconsin Conference on Intrastate Milk Shipments respectfully urges favorable consideration of bill H.R. 50 by this committee.

Respectfully submitted.

KARL A. MOHR, *Chairman.*

NORTH CAROLINA STATE BOARD OF HEALTH,
Raleigh, August 16, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. HARRIS: Attached is a copy of a wire, in support of H.R. 50, which I sent on August 4, 1961, to all North Carolina Members of the House of Representatives.

I respectfully request that this wire be included in the record of the committee's hearings on H.R. 50.

Very truly yours,

J. W. R. NORTON, M.D.,
State Health Director.

COPY OF WIRE SENT ON AUGUST 4, 1961, TO NORTH CAROLINA'S DELEGATION, HOUSE OF REPRESENTATIVES, IN SUPPORT OF H.R. 50

We favor passage of H.R. 50, National Milk Sanitation Act, now being considered by the House Committee on Interstate and Foreign Commerce. Statements favoring passage have been filed wtih the committees by the Association of State and Territorial Health Officers, the American Public Health Association, and the Conference of State Sanitary Engineers. The proposed act prohibits the misuse of health requirements as trade barriers. Milk which complies with sanitary requirements that have proved adequate to protect the public health could not be barred by States or local jurisdictions on the basis of special requirements purported to be necessary for health protection but actually not necessary for health protection. The act would not prevent economic controls where these are necessary to benefit the industry, but would have the effect of making it clear that these controls are for economic reasons rather than for health protection. The act provides for policies and procedures that are practically identical with those we have been using since 1951 under the voluntary interstate milk shipper listing program, and many of which we have been using since 1926 in our milk sanitation survey work and other cooperation with and assistance to local health departments. The act would utilize existing staffs of State and local health departments and would give appropriate congressional recognition to the milk sanitation policies, procedures, and programs of both the U.S. Public Health Service and the State health departments that have proved effective in reducing milkborne disease in the United States to a minimum and would recognize that sanitary control of fluid milk and milk products is a public health matter that is primarily the responsibility of State and local health agencies.

J. W. R. NORTON, M.D.,
State Health Director.

FORSYTH COUNTY HEALTH DEPARTMENT,
Winston-Salem, N.C., August 17, 1961.

Hon. OREN HARRIS,
Chairman of the House Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN HARRIS: For many years the enforcement of regulations for the production of sanitary and wholesome milk has presented a problem to those of us in the field of public health. A copy of H.R. 50 has recently come to my attention, and I feel that it would be of considerable help to us in our efforts to have better milk and at the same time not have regulations that would interfere with interstate commerce.

I have discussed this bill with many others who are interested in this same problem and find that they too are in favor of it. I hope that you will use your influence in support of this bill since I feel that it is best type of regulations that can be devised at this time.

Sincerely yours,

FRED G. PEGG, M.D., *Health Director.*

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
DEPARTMENT OF AGRICULTURE AND CONSERVATION,
OFFICE OF THE DIRECTOR, VETERANS' MEMORIAL BUILDING,
Providence, R.I., February 14, 1962.

Hon. JOHN E. FOGARTY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FOGARTY: Attached is a copy of a letter written to the Secretary of Agriculture concerning erroneous testimony on Rhode Island regulations governing milk production. This testimony by the Secretary was given before the House Interstate and Foreign Commerce Committee in support of H.R. 50, the national milk sanitation bill.

Any assistance you may give us in having the Federal record corrected will certainly be appreciated.

Thanking you for your consideration in this matter and with kindest regards, I am,

Sincerely yours,

FRANCIS N. PERRY,
Director, Agriculture and Conservation.

FEBRUARY 12, 1962.

Hon. ORVILLE L. FREEMAN,
Secretary of Agriculture,
U.S. Department of Agriculture,
Washington, D.C.

DEAR SECRETARY FREEMAN: On August 30, 1961, you appeared before the House Interstate and Foreign Commerce Committee in support of H.R. 50, the national milk sanitation bill.

It is my understanding that the U.S. Public Health Service prepared a condensed comparison between various State regulations governing milk production and the regulations of the U.S. Public Health Service milk ordinance and code. On pages 4 and 5 of attachment No. 1 offered in your testimony, I find instances of error in reference to Rhode Island requirements. I am enclosing a corrected version of actual Rhode Island requirements. Those statements which were taken from your testimony are enclosed in quotations and are followed by the requirements of this State.

After you review the enclosure, I trust that you will make every effort to correct the record, which was given in your statement before the House Interstate and Foreign Commerce Committee.

Very truly yours,

FRANCIS N. PERRY,
Director, Agriculture and Conservation.

I

"*Health of cows.*—Rhode Island regulations require that dairy cattle be free from tuberculosis with no interval specified for testing, and the regulations make no reference to testing for brucellosis. USPHS Code specifies compliance with USDA programs for tuberculosis and brucellosis control."

Rhode Island TB requirements

Since the 1930's Rhode Island has conducted an annual tuberculin test on all dairy herds. Basis for this program is found in title 4, chapter 4, General Laws of 1956.

Rhode Island brucellosis regulations

Title 4, chapter 6, General Laws of 1956, originally passed by the general assembly in April 1952, used as the basis for Rhode Island brucellosis control program. Ring test program based on a minimum of four tests per year. USDA requires three ring tests per year. Rhode Island was the 19th State to be designated a certified brucellosis State.

In both instances, Rhode Island has fully conformed with the requirements and has been in full compliance with USDA disease eradication programs. In order to maintain a modified, accredited tuberculosis-free area and a certified brucellosis area, this compliance is required.

I recognize that tuberculosis and brucellosis regulations are contained in statutes other than those that apply to the sanitary production of milk. I feel, however, that persons representing the USPHS should have known of this fact while doing necessary research to prepare your statement.

II

"*Bacterial counts.*—The Rhode Island bacterial standard for raw milk for pasteurization is 100,000 per million and 25,000 per million after pasteurization. The USPHS code specified a maximum of 200,000 per million for raw milk for pasteurization and a maximum of 30,000 as delivered to the consumer."

The above standard of the USPHS code specifies 200,000 for grade A raw milk for pasteurization.

Rhode Island bacterial count standards

Grade A raw milk for pasteurization 50,000 per million and 10,000 after pasteurization. Raw milk for pasteurization other than grade A 100,000 per million and 25,000 per million after pasteurization.

III

"*Frequency of inspection and laboratory examination.*—Frequency of inspection of farms and plants not specified in Rhode Island regulations. The USPHS code specifies at least one inspection of each farm and each plant every 6 months, with followups on violations. Rhode Island regulations require that four samples be examined of raw and pasteurized milk and cream every 3 months. USPHS code requires laboratory examinations to be performed at a minimum frequency of at least four samples every 6 months for all types of other milk products sold."

Rhode Island requirements

It is my belief that a review of the hearings held in 1948 and 1949 relative to milk quality in Rhode Island will show that a recommendation was made to employ an added dairy farm inspector, in order that all registered dairy farms would then be inspected three times a year. This recommendation has been carried out.

AUGUST 21, 1961.

Hon. BASIL L. WHITENER,
House of Representatives,
Washington, D.C.

DEAR MR. WHITENER: I have read the proposed bill H.R. 50, National Milk Sanitation Act, and wish to voice my approval, and also that of the Western North Carolina Public Health Association. The Western North Carolina Public Health Association comprises an organization of public health workers from 22 western North Carolina counties.

After talking with many of the milk sanitarians, milk processors, and milk producers, of the western North Carolina district, I have not found one who voiced opposition to this bill. In fact, in every interview, hearty approval was expressed.

Therefore, we urgently urge you to lend your support to the passage of this measure.

Sincerely yours,

WALTER C. STALLINGS, R.S.,
Past President, WNCPHA, 1960, 1959, 1952.

SOUTHERN BRANCH OF
AMERICAN PUBLIC HEALTH ASSOCIATION,
Asheville, N.C., August 16, 1961.

Hon. OREN HARRIS,
Chairman, House Committee on Interstate and Foreign Commerce,
Washington, D.C.

DEAR CONGRESSMAN HARRIS: I have a very close association with many health directors from our southern 16 States which compose the southern branch of the American Public Health Association. It is our undivided opinion that your congressional bill "H.R. 50, National Milk Sanitation Act" should be approved.

Public health directors and other personnel in the field consider bulk fluid milk a definite responsibility. It can cause illness, epidemics and other tragedies if left unsupervised by trained public health personnel. Therefore, we feel that your National Milk Sanitation Act is a step in the right direction placing emphasis on the control and supervision of public consumption of fluid bulk milk.

Consumption of milk is now an interstate commodity. Here in the fair city of Asheville, the land of the sky, we ship milk into five different States and purchase milk from three different States. This again emphasizes the im-

portance of some type of Federal rule and regulation to eliminate confusion among different State rules and regulations. It is my opinion that your National Milk Sanitation Act will help promote fair trade and decrease those rules and regulations designed to restrain milk production and milk distribution throughout our country.

I appeal to you and your committee, as chairman of the House Committee on Interstate and Foreign Commerce, that you favorably approve this congressional bill, H.R. 50.

Sincerely yours,

H. W. STEVENS. M.D.,
President Elect.

CABARRUS COUNTY HEALTH DEPARTMENT,
Concord, N.C., August 18, 1961.

Re H.R. 50.

Hon. OREN HARRIS,
Chairman, Interstate and Foreign Commerce Committee,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We of the local health departments feel that this is a good and needed act, as it prevents the misuse of health requirements as trade barriers. Milk which complies with sanitary requirements that have proved adequate to protect the public health could not be barred by States or local jurisdictions on the basis of special requirements purported to be necessary for health protection, but not actually necessary for health protection.

We in Cabarrus County have U.S. grade A producers only. It is effective in the control of milkborne diseases. We feel that keeping our producers at the grade A level, as specified and approved by the U.S. Public Health Service, is our concern and the State health departments' concern.

The act would not prevent economic controls, where these are necessary to benefit the industry, but would have the effect of making it clear that these controls are for economic reasons rather than for health protection.

Sincerely,

J. DILLARD WORKMAN, M.D., M.P.H.,
Health Director.

The CHAIRMAN. The committee stands adjourned.

(Whereupon, at 12 noon, the committee adjourned.)

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