

AGRICULTURE COMMITTEE - 56TH ASSEMBLY SESSION

MINUTES OF FEBRUARY 18, 1971 - DAIRY COMMISSION HEARING, ROOM 214

PRESENT: Chairman, Virgil Getto, Roy Torvinen, Frances Hawkins,  
William Swackhamer, Roy Young.

ABSENT: ~~Norman Glaser~~, Melvin Howard

GUESTS: (AS NOTED WITH TESTIMONY)

The hearing was called to order by the chairman, Mr. Getto.

The following testimony was given regarding the Dairy Commission.

Assemblyman, Eileen Brookman

I would like to give some testimony here today. I feel that I am a consumer. I object very strongly to the way the Dairy Commission is set up, to the membership of it. I believe that, in this day and age, all over the universe, people are trying to get more consumers to try to help some of the injustices that are now going on.

I feel that it should be increased to add two more consumers to the commission. I feel that it would be a great asset to the commission to have a few more consumers put on the board. They could get all kinds of knowledge and all kinds of help from the consumers and I think that they should be from maybe the northern and southern part of the State.

(At this point Mrs. Brookman had to leave)

Mr. Richard Bryan, Assemblyman, was next to give testimony on the bill.

May the record show I am Mrs. Brookman's replacement. I will try to do justice to her presentation, very briefly, because I know there are a number of persons that want to be heard on the bill.<sup>\*</sup> The purpose of my introduction of this bill was to increase the consumer representation. You will see that the bill does give the consumer under the proposed bill a weighted advantage of 5 to 4 on the opposition to the commission, it would reduce, for example, the producers representation from 2; the retailers representation from 2 to 1; the distributors representation from

2 to 1; and retain the 1 on the producer-distributor, which is the present

\* A. B. 118

makeup of the board in that classification. My only interest in the bill stems from a hearing which was held in Las Vegas, at the Landmark Hotel about a year ago.

At that time there was a ground swell of public protest in Clark County on the Southern Nevada marketing area; as I am sure this committee knows the price fixing districts are not uniform throughout the State. There are various marketing areas, and I am referring now to the Southern Nevada marketing area, which as I recall includes Clark County and Lincoln County.

To give you an indication of what occurred at the time, effective April 1, 1971, a new price schedule was published by the Dairy Commission which, at the retail store carryout price (and that's a fixed classification, Mr. Chairman, as I know that you know,) the milk was increased. The extra rich milk, which is one classification, was increased by 3 cents a half gallon, at the retail store carryout price, or 4.6% increase. Homogenized-pasteurized milk was increased 3 cents a half gallon at the retail store carryout price to 61 cents a half gallon or 5.2% increase; and the 2% low-fat milk was increased to 59 cents a half gallon or 10 cents increase on the price per half gallon at the retail store carryout price or 20% in price increase. Low-fat or 1% milk was increased 12 cents a half gallon at the retail store carry out price or 25.5% increase. Within the framework of this Southern Nevada marketing area, there were a number of housewives that became interested and quite concerned, and this hearing was held in Las Vegas in which the Dairy Commission presented its views.

Thereafter, a lawsuit was filed and I was responsible for filing that lawsuit and the Dairy Commission did rescind some of the price increases.

Now my purpose here today is not to tell you that there is no justification for price increases of any kind, because I think that we have to realistically take into consideration the increased cost of doing business today; but my point is that - is there any justification at all for price fixing? And that is exactly what the Dairy Commission does. The justification must be that it is in the public interest, and I do not believe, Mr.

Chairman, and members of this committee, that the public interest is best served when you have a regulatory body, such as the State Dairy Commission which is dominated by an industry by a vote of 7 to 2, as it presently is. I do not appear here today to impugn the integrity of anybody that serves on the board but I do not believe that the board is fairly composed at the present time. There have been proposals made and some requests to me to introduce legislation which would abolish the Dairy Commission.

Perhaps that proposal ought to be considered. I think that it might go too far. I believe that the public interest, at least we should experiment with this, is to see that the public interest is properly protected by increasing the consumer representation. I would hope that by increasing the consumer representation on the Dairy Commission, that we might get into a more competitive pricing at the retail-consumer level.

My concern is not in any way to deprive the producer a fair and equitable price for his product. But, as you know, with a minimum price fixing schedule at the retail store carryout level, it is impossible, for example, for retailers to engage in competitive practices. Many retailers, I believe, would be interested in advertising milk on a loss-leader basis thereby making those prices available to the consumer at substantially less than today's prices.

Mr. Bryan was then questioned by the committee.

Mr. Bryan lodged a telegram from Chuck Crawford, Chairman of the Southern Nevada Consumers League as part of the record (Attachment No. 1)

Mr. Bryan said "Let me make this comment, if I may". In answer to your first question, the last increase that I am familiar with, prior to April 1, 1970, was marked in plant order #26, which was effective in July 1, 1966. I am embarrassed to say, Mr. Chairman, I do not know what increases that produced. Let me say that my objection is not to an increase. I think that some increase is justified, but I do not believe that you can justify a 25.5% increase.

Let me clarify my testimony in this respect. Prior to April 1, 1970, in the Southern Nevada marketing area, there was no minimum price fixed by the commission. All you did at that time was to file your price and to give some justification for it and it was approved. So that when I am making the comparison, and I don't want to mislead the committee in this respect, the retail store carry-out price, prior to April 1, 1970, on the low-fat products, namely the 2%, 1% and skim, were as follows: at the retail store carry-out price they were 49 cents, 47 cents, and 42 cents respectively. So I wouldn't want to mislead the committee and I think my testimony may have tended to do that. There was no minimum price fixed by the commission or those were the accepted marketed prices at that time. So that is what I am basing the 25% increase on the 1%, the 20% increase on the 2% and 24% on skim milk. Mr. Chairman, and I believe that you cannot justify an increase at that level on the basis of the cost of living or inflation. Certainly, some increase was in order. Now I do not suggest to the committee that that was not the case.

Mr. Getto: Mr. Bryan, you mentioned that you were aware of the purpose of the Dairy Commission.

Mr. Bryan: Yes

Mr. Getto: Then, from your testimony, in other words, you are advocating instead of marketing stabilization commission, that it become a consumer protection commission. Is this what you are advocating?

Mr. Bryan: Well, I believe that the composition of the commission expanded so that the consumer interest is the dominant voice, that's correct. I think, in any regulatory agency, I wouldn't limit it to just the Dairy Commission, although that is the only matter before your committee today. That is my feeling, there have been some proposals that have been made, in other regulatory agencies. I don't think that you have best regulation when you have those who are to be regulated. I really don't, and I think that certainly reasonable people, when they are presented with the evidence, to the increases that are necessary to justify staying in business are going to respond accordingly, at this point the consumer has very little voice in the commission, in my opinion, from my observation, and I am not saying anything against the two members of the commission who are consumers, but I don't feel that the consumer has an adequate voice. And as I say if there is any justification at all it must be that the public interest requires it, because we don't monopolize price fixing in other industries, as a matter of fact, as you know, the trend of the court decisions, is to strike down, for example, the fair trade acts. And Nevada has done so. Mr. Bryan gave a sample case. So I think that the only justification of keeping a dairy commission in the price fixing business, is that the consumer interest must somehow be higher, now I am not completely satisfied that is so;

Mr. Glaser: Mr. Chairman; I wonder if Mr. Bryan would have the sentiment of the two members that were on the commission who represent the consumer, how did they vote, when the proposal was made to increase these prices, particularly those on skim milk, were they satisfied that this increase was necessary, or did they follow an orderly report ?

## Assembly Committee on Agriculture

Page 6 February 16, 1971

Mr. Bryan: That's a very good question Mr. Chairman, when I indicated that I appeared before the commission the order had already been entered, as I recall at Lake Tahoe, I could be wrong, but the order had been entered effective April 1, 1970, in the meantime the hugen cry had come out, and I appeared at the commission hearing on that day. In other words the vote had already been taken, I do not know what the vote was . Mrs. Reed and a Mrs. Burch were the commission consumer members of the commission at that time

Mr. Getto: Mr. Cassidy, could you advise us of that vote.

Mr. Cassidy: I'm not certain, I think the vote was one and one, one for and one against. I would have to go back to the minutes, I think that's the way the vote was.

Chairman Getto thanked Mr. Bryan for his testimony.

Cherry Barnato; consumer was the next person to testify.

When Mr. Swackhamer mentioned that the retailers tend to side with the consumers I feel that is unrealistic, because milk is something that you have to have, you have to go to the store to buy it, even if it were \$1.00 a half gallon, because it is fixed I don't feel that that they have any real interest in reducing the price if it is going to be fixed and going to be the same for everybody. California is 10 cents lower a half gallon, now I don't know why, I'm sure this has to do with because it is cheaper for them to produce, or they are larger companies. I checked and I did find out that we are almost at the national average, so we are not out of line, but I still feel that milk is something so vital to all of us that everyday people if there were big descension within the community that the consumer should really have a say that would count. Now 2 to 7 , if there were 5 the consumer would just be in the closet, there is no reason for them to even be there. The producers are protecting themselves, I am sure

page 7, February 16, 1971

Mrs. Barnato cont'd

I'm sure they are fair, but I am sure they are going to look at their own interest pretty closely, I don't really know what to say but I am in favor of the bill, I think it makes sense.

Questions of Mrs. Barnato by the committee.

Mr. Getto thanked Mrs. Barnato for appearing.

Mr. Donald Ream, Las Vegas Nevada, a consumer and a businessman and probably the foremost advocate of the abolishment of the Dairy Commission for this purpose, and I want to ask a question; Mr. Chairman, do you believe, when you were asking the young lady if she believed that the dairymen should make a profit and producers should make a profit, do you believe that the groceryman should make a profit, and the meat man should make a profit and the clothing store should make a profit, Mr. Getto replied; yessir. Mr. Ream, o.k. then why don't we fix the price that goes through these various markets, if we feel that we should make a profit, then we should fix the price, is that correct? Now this is the situation that exists now, we guarantee the profit, which is fine, this is the original intent of the bill, then we guarantee the processor a profit, and we guarantee the retailer a profit at the expense of the consumer, and Mr. Swackhamer's comment on the retailer being on the side of the consumer is right, these retail stores, if this was a free marketing program, the retail stores would use milk as a loss leader to bring people into their store because people cannot buy 2 weeks or 3 weeks supply of this product, they have to come in very often to get their merchandise to get their milk. Therefore, if their price is down competitive with some other store it's going to bring them in, if it's lower it's going to bring them in. You don't restrict loss leaders in any other products, I happen to be in the meat business, and there is nothing that restricts me from selling my meat below cost, to bring customers in, and as a result of bringing these customers in 70 % of shopping is impulse buying, so I realize on 70% of the merchandise that people buy is going to be priced high enough that the loss leaders and the other merchandise they buy is going to bring me a profit. Now I can't see controlling prices at the distributor level or the retail level, because it is in fact, price fixing, and any time that they want to present before the board their problems of increased wages or increased operation of any kind the board considers this and being industry oriented, naturally they are going to go that way. If we were able to have free enterprise in the marketing of milk products we would find that the production of milk is going to increase. At the present time we are restricting production, because only so much milk can be sold at a given level, price level. A lot of people who cannot afford to buy for their children, the milk is being supplied through the school program, and we are even having problems there with the parents committees wanting more free milk and more free lunches.

Mr. Ream cont'd

The local people are going to Utah and buying milk, the only thing that I can see is that by bringing in milk at a cheaper price from Utah they make more profit, they create a surplus condition within our state and thereby the milk that, the overload of milk in the state is purchased at a surplus price, which again, gives them the opportunity to make more money. So I feel that the commission should be consumer oriented and I like Mr. Swackhamer's observation there, suggestion that we have the retailer and the consumer to be the dominant force on this.

Question by the committee:

Mr. Howard: What in fact does the Federal marketing area have do to leveling the prices of Nevada Milk? Utah as I understand it is under the Federal marketing law.

Mr. Ream: They have no price control. It sets standards, but no control, no price control.

Miss Hawkins: Mr. Chairman I just want to question this, you said Mr. Ream, that you didn't see any difference between milk, food or clothes, but as the lady in the back pointed out (Mrs. Barnato) We are so indoctrinated in this country that milk is the most healthful food, although some doctors disagree with that point of view, It is a rare family that doesn't have milk in it's home, but a lot of them don't have bread, they don't worry about those other things.

Mr. Ream: It would seem to me that we should encourage production, so that we can give the milk, if it is that basic to all those that need it and not restrict it because of price.

Miss Hawkins: I am not disagreeing with some of your other points, but I do think that milk is a little different than the other, because it is considered our American homes an essential commodity.

Mr. REam: I am talking about it from a business standpoint, I'm not talking from the essential commodity of life. And as far as I'm concerned it doesn't have any difference from gasoline or whiskey or anything, and we don't fix the price on it, it's part of our food program and we don't fix the price anything else except milk

Mr. Glaser: Mr. Ream you stated you were in the meat business, I'm just interested in what phase of the meat business you might be in, because I am in the producer end of the meat business.

Mr. Ream: Well, I'm in the wholesale end of the meat business.

Mr. Glaser: you buy your carcasses from the slaughter house.

Mr. Ream: that's correct.



Mr. Glaser: Then do you break them down.

Mr. Ream: sometime, and sometime we buy the cuts already prepared.

Mr. Glaser: and you distribute them to the meat markets.

Mr. Ream: that's correct.

Mr. Glaser: what's the name of you firm.

Mr. Ream: Great Western Meat Brokers, and Nevada Sales Service.

Mr. Getto: Mr. Ream I am a little bit confused in your testimony first you said that the Dairy Commission should be abolished then you turned around and said that the Dairy Commission should be weighted with consumers and retailers.

Mr. Ream: I required to the present bill, personally I would like to see it abolished.

Mr. Getto: Do you feel that if we go to the board with consumers and retailers that the retailers would not have an advantage on the board?

Mr. Ream: No I don't think so, the retailers I know could make a profit by bringing people into their store and selling at a discount than they can by bringing less people into their store and selling at a given markup, because of the volume of business that comes in.

Mr. Swackhamer: While Mr. Cassidy is here, I think we might be missing a very important point. Touching on the statistics on how much of the milk that is consumed in the state of Nevada is produced outside of the state.

Mr. Cassidy: I am sure that there is no less milk being produced in Nevada now, than there was 14 years ago when this law was enacted. We have increased in population and at that time we were importing milk from Utah, which has been a traditional milk shed for the Las Vegas area. Outside of that we have some milk coming in from Safeway in both Reno and Las Vegas. Now Safeway buys milk out of Nevada in equal proportions so really the big milk shed we have coming from out of state is in southern Nevada. Now we have milk being imported into, as you well know, Elko and Battlemountain coming from Salt Lake City, but all our land production is being shipped to the Salt Lake City plant, and there has been very little change of these ratios over the period of years. The Utah is on the Federal Marketing area in the northern end of the state. This means that all producer prices are fixed, there is no protection for distributors or retailers and the trend now in states is to go to fair trade control, in other words, so sale below cost. The southern area, I believe are not that much lower than is being paid in Nevada because if they were the southern counties of Utah would go into the Federal order and they just turned it down about a year and a half ago.

Mr. Cassidy cont'd:

Mr. Swackhamer: Mr. Cassidy, if there is no less milk being produced now than there was 14 years ago and the state has doubled in population the percentage of milk that is being imported has to be considerably higher than the percentage that was being imported 14 years ago.

Mr. Cassidy: What I meant to say was that the percentage ratio are about the same now as they were 14 years ago.

Mr. Swackhamer: The percentage of being produced and consumed

Mr. Cassidy: well yes, the in flow from out of state is more but also our home production is more and the percentage ratio between the two I believe are being constant.

Mr. Swackhamer; from off the top of your head do you know the what that percentage would be?

Mr. Cassidy: In the southern Nevada area about 50 %. Remember the producers in Utah have been the traditional suppliers. In Northern Nevada we have none because we export to Safeway and import from Safeway. In the Eastern Area, I think the production of the Lund people is under what is coming back to us but the Lund people can't sell their milk if they don't produce it.

Mr. Getto: Mr. Weaver, you represent the producers in the area

Mr. Fred Weaver: I am a producer and I think that if you had the opportunity to attend hearings and understand the problems that we had in the producing of milk, processing milk, delivering it selling it, Mr. Swackhamer's problems and etc. you could appreciate that we are very concerned about our market. That is the only reason that I am a dairyman, is because I want to sell my milk and I want to sell it and make a living, the same with the distributors and the store people, the consumer is our ultimate end, we must take care of these people with a high quality product with a even flow of milk, we can't have shortages of milk, we can't have children going without milk, etc. Let me say that these things are not done on the spur of the moment, The present makeup of the board it starts with the cow level with the producers and then the processor and then the store man and to the consumers, plus a producer distributor, now as a producer, we have always felt that producer-distributor probably leans toward the processing end of thing, more than he does on the production end of it. We have always felt this, now we may be wrong but, we sorta feel he is more knowlegable in these areas etc. I think that producers in the state at least in the western part of the state would look favorably on an additional consumer member to replace this part of the makeup of the commission.

Question by the committee:

Mr. Glaser: you stated that as your costs go up you can't run to the commission and plug in the costs on a year to year basis.

MR. Glaser cont'd

How often does the committee consider the price increases, Mr. Bryan thinks that 1966 was the last one.

Mr. Weaver: Let me cite just one little example; dairymen, in order to find out how efficient their cows are, they test them for production, and of course those that don't produce go down the road, and we replace her with one that can produce. The production level in our western Nevada testing unit is up over 500 pounds of fat, just a few short years ago 400 pounds was pretty decent, you could walk out among your fellow dairyman and say my herd produced 400 pounds of fat. But 500 pounds of fat anymore, they say so what else is new. I've got a dozen neighbors that are doing this. In these four years we have become more efficient, better breeding, better feeding, better management etc. We didn't render the consumer, but there are other costs. At this point Mr. Weaver cited a few, finally we had to come and ask, as a group of producers for a higher price.

Mr. Weaver is in favor of the commission.

Mr. Barry Brooks of the Model Dairy, representative for the Nevada State Dairy Commission.

Mr. Brooks gave testimony on the bill ( I couldn't pick it up on the tape) He believes the commission makeup has been just.

Meeting adjourned at 12:10 p.m.

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February 17, 1971

51

THE HONORABLE ASSEMBLYMAN  
RICHARD BRYAN  
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CARSON CITY, NEVADA

ON BEHALF OF THE NEWLY FORMED SOUTHERN NEVADA  
CONSUMERS LEAGUE WE RESPECTIVELY URGE THE NEVADA STATE  
ASSEMBLY TO ENACT THE PROVISIONS OF ASSEMBLY BILL A. B. 118  
INTRODUCED BY RICHARD BRYAN.

WE FEEL THAT IT IS INCUMBENT UPON THE STATE  
LEGISLATURE TO RECOGNIZE THE INHERENT MARKETING ADVANTAGES  
TO THE DAIRY INDUSTRY IN SELLING AN ESSENTIAL PRODUCT FOR WHICH  
THE PUBLIC DEMAND IS CONSTANT AND UPON WHICH THE PUBLIC HEALTH IS  
DEPENDENT THUS, IN THE ABSENCE OF THE PROTECTION AND BALANCES OF  
A FREE ENTERPRISE ENVIRONMENT, THE INTERESTS OF THE CONSUMER  
MUST BE IMMINENTLY PREDOMINANT.

IT IS OUR FIRM CONVICTION THAT AN INCREASE FROM TWO TO  
FIVE PUBLIC REPRESENTATIVES ON THE NEVADA DAIRY COMMISSION IS NOT  
ONLY IN KEEPING WITH THE FUNDAMENTAL RESPONSIBILITY OF THE STATE

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