

ASSEMBLY AGRICULTURE COMMITTEE MINUTES
MARCH 20, 1977
Las Vegas

MEMBERS PRESENT: Mr. Hickey
Mr. Jeffrey
Mr. Serpa
Mr. Jacobsen
Mr. Rhoads

MEMBERS ABSENT: Mr. Polish
Mr. Price

GUESTS PRESENT: See attached Guest List

Mr. Hickey called the meeting to order for the purpose of hearing additional testimony on the various bills before this session dealing with the Dairy Commission.

Charles Levinson, Consumer League of Nevada, spoke in support of the Dairy Commission. He presented a prepared statement which is attached to these minutes as Exhibit A and herewith made a part of this record.

The next person to testify was Muriel Stevens. Mrs. Stevens stated that she was here both as a member of the Dairy Commission and as a representative of the general public. Before giving her testimony, Mrs. Stevens inquired of Mr. Hickey what the purpose of this meeting was and the other meetings which have been held all over the state. She went on to say that she had been in other sessions where they have gone through this very same thing. Mr. Hickey stated that at this time the committee was looking at two specific pieces of legislation, AB 61 and AB 152. He gave a brief explanation of what has happened so far in the various hearings and meetings that have been held. He explained that the committee has met with general public in an open hearing in Carson City. They were presented with testimony on the Interim Study as well as the study made by Dr. Joe Stein. After this hearing, Mr. Hickey explained that the committee has met with the legal counsel for the Dairy Commission as well as the Legislative Counsel Bureau counsel and was presently in the process of going over the budget of the Dairy Commission with the Legislative Auditors.

Mrs. Stevens went on to say the reason she has asked this is because somehow the blame for the present condition of the State's dairy industry is never put where it belongs and that is on the past Dairy Commission and not on the present one, where there is even presentation of representation of the general public and the industry. It is incumbent of any investigative body to place the blame where it properly belongs - the past, not the present commission. Abolishing the Dairy Commission will wreak havoc both for the industry and for the general public. Retail pricing, as far as Mrs. Stevens is concerned, must be maintained as long as possible in order to maintain stability in the industry. If retail prices are removed, the vertically integrated companies will move in and we will then have a repetition of the old "mom and pop" store days. She cited the example of when the huge chains offered low, low prices; the little corner store was forced out of business because they couldn't compete and once the neighborhood store was gone, the prices went right back to what they had been in the "mom and pop" stores and perhaps even a little above. The little independents were knocked out of the box. Abolishing the Dairy Commission would surely give us a repetition of the "mom and pop" story. As for restructuring the Dairy Commission to a three-person body, Mrs. Stevens stated, that excludes the industry and the general public, will we not have a board responsive to neither the industry nor to the public? As for avoiding conflict of interest with a three person board composed of a banker, an agricultural expert and a CPA, please remember that banks make loans frequently to industry, farms and whoever needs money. Businesses related to the Dairy Commission always borrow money from banks and everyone who qualifies for a loan would get one, so we'd have to get a banker that was certainly in a particular kind of bank where that wouldn't happen. An agricultural expert would certainly not be a disinterested party, even our State university is a land-grant university, so there is definitely a conflict there. The CPA would have to be a one-man office to avoid conflict. If he is with a major company, it would be like some of the legal firms. They do have clients and it's very fine point but it does exist as we found out with previous counsel. Mrs. Stevens went on to urge that the committee not rush to abolish the present commission. It has already shown, that given the opportunity, it can perform well for the industry and for the public. And she went on to urge the legislators to write laws governing the industry which can be interpreted easily by anyone. She further urged that they do away with the confusion of laws which can be interpreted many different ways and frequently are, and as best we can, retain the present commission and restore the confidence of the general public by informing them honestly of the problems that exist within the industry. She finished by stating that this was her personal feelings having sat on the Commission for one year.

Mr. Rhoads asked Mrs. Stevens what her feelings were on an advisory board of consumers for the three member Commission. Mrs. Stevens stated that she really doesn't feel that the industry should be shut out. She added that she doesn't really feel that a banker, an agricultural expert and a CPA are going to do a better job than any of the past commissions. She stated that the present commission has had a lot of problems but at the last few meetings it has started to work. At first they were in an adversary position; but somewhere along the line, they realized they really wanted the same thing. They wanted enough information to pass onto the public to justify increases or whatever, so there wouldn't be a problem when the industry did indeed need a price increase and they granted it. They wanted to be able to say - Look, we gave the increase because such and such a position exists and you're going to have to suffer along with it. They wanted the public to be better informed. She added that she doesn't feel that you have to abolish the Commission or change the structure to that. What is necessary is some strong legislation that can be easily interpreted to be enforced. She finished by stating that once again there has been no distinction between the past commissions and the present one.

Mr. Jeffrey stated that he realizes what the publicity has been with the present commission but that he really feels that most people who would have been involved with the problem realize that the problem has been with the past commission and not with the present one. He went on to say that he also feels that the general public is beginning to realize that. Unfortunately the present commission was in office when all these things came to light.

Mrs. Stevens stated that she has found the public to be very reasonable and instead of just ignoring them or being arrogant that she feels if milk prices have to increase, and there is little reason in her mind to think that they don't have to with the present conditions, there must be forms that everyone submits which are the same, so that the information can be read accurately, that can be interpreted in a way that the average man on the street can understand. Everybody works and everybody wants a cost of living increase, so the average person knows this has to happen in every business. We're dealing with perishable items and there's no question that it is a little different kind of business, but Mrs. Stevens feels that changing the structure would just compound the failures of the past commissions. The present one has not been given an honest chance to work. They have changed counsel, they have been under public scrutiny. They have been under unfair attacks by the press and had little cooperation by the legislature. In spite of all the testimony that they present at these hearings it comes back to the same thing - abolish the commission. She stated that she feels that this

is not going to change anything. All this is going to accomplish is to give the legislature more time to make more problems and then once again have hearings over and over and do the same thing until ad infinitum.

Mr. Hickey inquired what Mrs. Stevens meant by no cooperation from the legislature. Mrs. Stevens stated that she didn't mean the legislative body. She was referring to the people who write the laws. She stated that she was not talking about the investigative bodies because Mr. Jacobsen was there when they all had their say. But the interpretation. She said that she had read the report that was turned in and they did put a great deal of blame where it belonged, but again, no distinction was made between the past and present commission and none of the advice that was given to give the present commission a chance to see if it will work was included. She would like to see the same opportunities given the present commission that were given the past commissions. She added that she doesn't still understand when all those stories were public knowledge, why these investigations didn't take place then. It seems to her, strange, that these investigations popped up when, for the first time, the structure of the commission was balanced. She said that this is not something that just happened these past few years, this has been going on, there have been stories, and nobody investigated--none of the legislative bodies made an investigation.

Mr. Jeffrey stated that he would like to give him impression of what has happened and the reason he thinks they got into this legislation during the last session which was due to the problems that they knew at that time existed. Basically it was the consumer pressure. He stated that he does not think anyone would deny that they brought the pressure about to make the changes in the last session. At this same time there was a resolution passed investigate the practices of the Dairy Commission during the interim. Now the present hearings being conducted are to get the public, industry and commission input on the bills that were submitted as a result of that interim study. It's a problem that goes back a long ways and it's an effort to take care of those problems that were caused in the past and whatever may need to be done to finish the job.

Mrs. Stevens stated that in order to understand the problems of the industry she had to dig through piles and piles of transcripts of past hearings and that she actually read minutes that included requests from local distributors asking if it is legal for them to have shelf-space leasing and this sort of thing and yet no legislative body bothered to make an investigation at the time these questions were being asked and the same people that served on the board and were being asked these questions, were just ignored.

Mr. Hickey stated there were a number of agencies and boards throughout the state. The only time the legislature really becomes interested, because of time limitations, etc., is when there are problems or "the wheel squeaks the loudest". Attention was brought to the Dairy Commission when someone wanted to abolish it. If there were abuses you would find the legislature moving in. Mr. Hickey ended by stating that if any citizen has any problem, they can contact a legislator and bring that problem to light.

Mrs. Stevens stated that she was aware of the number of bills before the session and the lack of time and that is why she stated that she would urge the committee not to rush to abolish the present commission and should really be given a honest chance to work. It has proven in the last few months that it can work and to abolish it would be a disservice to the public and certainly to the industry.

Mr. Serpa inquired whether she felt that any of the problems of the Dairy Commission in the past were the Executive Secretary's fault. Mrs. Stevens replied that she felt this "was sort of a moot point at this time". Mr. Serpa disagreed with her and repeated his question. Mrs. Stevens stated that she had read enough to say that he was certainly deeply involved. However, he has done a complete "about-face" and he does retire in July.

Mr. Serpa then inquired when the new commission took over why they didn't relieve him of his duties. He added that doesn't this make the new commission a little derelict in their duties. Mrs. Stevens replied that they did attempt that a number of times. She stated that they first started with their counsel and removed him and they also considered the Executive Secretary. One of the problems was that they were in such a deep hole trying to separate out what was happening. First of all, they served on a commission with 4 consumer members and 4 industry members and before they even sat down the industry members were constantly changing. They never got a chance to catch up with the information before they had a new member who had to learn everything that they were just starting to understand. Mrs. Stevens stated that she spent hours upon hours going over material, not always with the cooperation of the Executive Secretary. In spite of the fact that she was on the commission and had absolute right to request the information, she had difficulty in obtaining it. At this stage of time, they were so deeply immersed in other problems, that the Executive Secretary became unimportant because they were just trying to keep things going and going in a fair way. First of all, they had to understand that the problems of the industry were legitimate. At that time it was a terrible mess and the industry members barely had a chance to sit down before they were embroiled in things the rest couldn't even understand.

They have been playing catch-up a great deal of the time and now they finally have reached the point where they think it will work.

Mrs. Stevens stated that she would like the record to show that until she became a member of the commission there were no proper minutes kept of the meetings. If you missed a meeting and you had to read the minutes, you certainly didn't know what had transpired and they were coming six weeks after the meetings when you don't remember anything that you said. There have been some positive changes and Mrs. Stevens stated that she has on several occasions requested that the Executive Secretary change his ways or leave. She stated that a member does not have a vote that cancels out everybody else's. Everybody must vote in unison, or at least a majority, in order to accomplish anything.

Mr. Jacobsen inquired how Mrs. Stevens presently felt about their legal counsel and did she think there is merit in the commission having a deputy attorney general. Mrs. Stevens replied that when she first sat on the commission she would have gone with the second suggestion but that she now feels that they have a young, sincere, thoroughly dedicated legal counsel and that he will work to his best whether it is to the commission's advantage or not. He's going to be honest and straight-on. They need independent counsel.

Mr. Jacobsen then inquired whether the commission that exists now will take his advice. Mrs. Stevens stated that she felt he certainly had a better shot than the attorney general's office because they have had their problems there too.

Mr. Hickey then directed Mr. Jacobsen's question to Mr. Rivera of the Attorney General's Office. Mr. Rivera stated that from their standpoint, the only reason they don't represent the Dairy Commission is because they're one of the few agencies that have the opportunity and the right to have private counsel. They represented them before at the commission's request. He stated that he was not sure that he understood the conflicts that Mrs. Stevens was talking about.

Mr. Jacobsen stated that his reason for asking the question was that he can see an area where it might be saving a few dollars if someone from the Attorney General's office could be on call. He inquired whether there was enough controversy that legal counsel is necessary all the time.

Mrs. Stevens stated that she felt there was. She stated that she was one of the people who had requested their aid, but they proceeded to investigate it and turned none of those investigations over to the commission because they said the commission was in conflict. The commission then needed counsel to advise them. Mr. Jacobsen stated that he did not want to see us get into a past situation where we have to ask them to prosecute.

Mr. Rivera stated that he had read an article in the paper that reported that their cases were full of holes and things of this nature; but the minutes of the meeting show the counsel for the Dairy Commission stating right off the bat that they (the A.G.) had prima facie cases and their (A.G.) office can definitely prove these cases. They were there at the meeting and it was the first time they heard that there was going to be a recommendation for dismissal. They (A.G.) had never been informed of this prior to the meeting. The Dairy Commission's counsel could of come into the A.G. office and talked to them about it and then reported back to the Commission. He never came to their office once to look at the information they had accumulated or look at the cases. He called them about 3 months prior to the dismissal and indicated that he would be coming in to talk about it and to look at the information to see what he thought about it. Yet at this meeting it was the first time Mr. Rivera had heard that he was going to recommend that the cases be dismissed. The day before the meeting they attempted to find out what he was going to do and he refused to tell us. Their position was that with the industry representatives in the audience and their counsel, whom they'd have to prosecute the cases against, they wanted to know we thought the defenses were. There are three or four defenses that are always submitted in a case. Their position was that they were there, and they were prepared to argue that governmental bodies are not estopped, which was one of the defenses the Dairy Commission counsel was concerned with. Their position was that governmental bodies are not estopped from taking action even though a previous commission didn't take action. Mrs. Stevens was the only one who voted to allow the Attorney General's office to continue with these cases.

Mr. Hickey stated that the committee would want Mr. Rivera to appear before them in Carson City as well as Dairy Commission counsel.

Mr. Rivera stated that their office had put thousands of hours into this investigation. They submitted three reports and basically at that time the reports were given out to the news media for their consumption.

Mr. Hickey stated that they had been given the information that some of the statutes were weak. They should be strengthened in order to prosecute. The committee would be very interested in what the Attorney General's office has done and would like the Legislative counsel sitting in on this discussion.

Mrs. Stevens said that the information was released to the press; and that it was released before the commission received copies of it.

Thomas A. Mulroy stated that he has had direct experience in the matter of milk marketing regulation. He said that although there have been questions raised about the validity of controls in business, the discussion usually reveals that there were conditions present in the milk industry that are quite different from any other business. He pointed out that product levels in the lumber business, textiles, groceries, steel, etc. can be regulated by shutting down the machinery, regulating shelf life or banking the ovens. Such an option is not available to the source of milk supply, the farmer. Regardless of product demand or price, the care of the herd is a continuing process, feeding and milking on a daily basis. The costs also continue day by day, regardless of market outlet or level of cost recovered. No matter how many meetings are held or how many formulas are considered, the realization always becomes evident that milk marketing is a unique business unlike any other product.

With the realization that regulation is very necessary, then comes need to consider the best type of control, the extent of it, and whether to let "Big Brother" do it or to keep the control at the State level. Mr. Mulroy stated that during the time that he served on the Dairy Commission staff, he became convinced personally that subjecting the local industry to the exclusive jurisdiction of a federal milk marketing order was far less desirable than in having the problems monitored by a commission composed of Nevadans. The concerns of the industry and the consumers should be heard in open session locally. They should not be referred to Washington or a district office in writing with multiple copies.

Mr. Mulroy then quoted a item that appeared in Saturday evenings' Review Journal. The item states "Carter to Decide Milk Prices". The first sentence sums it up: "President Carter will decide by the end of this month how high retail milk prices will go this spring and summer, officials said Friday." Mr. Mulroy stated that this committee is to be commended for the very sincere manner in which this subject is being considered. He suggested that locking out any industry representation would be a very serious mistake. He discussed a similar proposal involving the Metro Police Commission in Clark County. He closed by stating that he feels the commission should be retained and that the make-up of the Commission should allow for the voice of the marketing arm of the industry.

Mr. Hunt, Hunt's Dairy and Dairy Commission member, stated that he felt that one of the greatest abuses of all in the industry is the amount of time it takes from the time they know a raise is needed until they get it. Knowing the amount the feed costs and knowing how many thousands of dollars per month it's costing them, a three month delay is so damaging they can hardly pull out of it.

Mr. Hunt went to say that perhaps he could give some information regarding the question of the Executive Secretary. He stated that when he came on the commission he also criticized many of the same things that Mrs. Stevens had spoken of. He stated that it takes lots of hours to understand the industry as it is a very complex industry. The reason the Executive Secretary has not been replaced includes three factors. The first one is what kind of man of any calibre would you be able to hire when there's a good possibility that his job won't last over 6 months. The second point is that the Executive Director has made a complete about-face and is working well with them at the present time and the third is that he is ready for retirement. Since he did cooperate and since it would be hard to find a qualified man on a temporary level, Mr. Hunt feels that the commission felt they could work under this deal until his retirement came or until they know what is going to happen in the Legislature. Mr. Hunt agreed with Mrs. Stevens was that the minutes were very poor and contained very little back up information on the various raises that were allowed.

Mr. Hickey inquired why weren't these minutes kept better. Mr. Hunt was unable to answer this question but Mr. Mulroy stated that perhaps he could shed some light on this. He stated that the evidence that was presented to back up the various requested were often in a form that did not subject itself properly to be included in the minutes. However, the information was there.

Mr. Jacobsen inquired whether the Executive Secretary was still taking the minutes and are they accurate. Mr. Hunt stated that the Executive Secretary was being pushed to have the minutes taken verbatim. When he first was on the commission he was very frustrated because he couldn't get any information. The Executive Secretary has done some things in trying to keep the industry stable on his own that he perhaps shouldn't have done, but that he thought he has done a tremendous job in lots of ways. Mr. Hunt stated that they really need some help on this thing or there'll be no industry here to regulate and there won't be a problem.

John Fetherston, producer from Overton, stated that after taking a look at the Dairy Commission's accomplishments and failures over the years the only thing there is do with it is to abolish it. As far as the producer is concerned, they have failed to do anything for them. The new commission isn't directing them and adjusting themselves to the producer problems in Southern Nevada and Mr. Fetherston doesn't think they will. If the producers and other people want it in Northern Nevada, let them have it. It's just a financial burden to them in the South and doesn't do them any good and if the Dairy Commission is kept at all, one thing is for sure and that is to take the financial burden off the backs of the producer.

Mr. Fetherston went on to say that the dairy industry in Southern Nevada, from the producer end, is in a sick situation. Producers are going out of business because the producer's price is just not high enough to cover the cost of production. There is no way that they can raise the price to the producer. With the number of consumers there are on the commission, anytime the producer price is raised that means it will be passed right onto the consumer and the consumer is not going to stand for it, so the Dairy Commission can't do anything for the producer. It's not stabilizing the industry and therefore Mr. Fetherston can see no reason for it.

Mr. Jacobsen inquired whether he saw any merit to AB 152. Mr. Fetherston stated no he would just say to abolish it. He stated that situated where they are they have large amounts of milk from Utah and California and the Dairy Commission can do nothing about out-of-state milk. Anytime the Dairy Commission would come up with something regarding interstate milk, ways to circumvent it would be found and in would come this milk.

Mr. Jacobsen stated that if the industry is so sick down here what would happen when there were no more producers. Mr. Fetherston stated that milk prices would go back up tremendously.

Mr. Jeffrey inquired whether Mr. Fetherston felt that the Dairy Commission hasn't been responsive to the producers' needs. Mr. Fetherston stated that he doesn't think they set the price on producer milk because all the distributor has to do is have his head out of state and he can pay whatever he wants to. He added that when you belong to a coop you get whatever the boss wants to pay you and if he happens to be out of state the Dairy Commission makes no demand that the producer be paid the statewide price.

Mr. Jeffrey inquired then if the problem was with the co-op or the Commission. Mr. Fetherston stated that the problem was the lack of authority of the Commission.

Mr. Hickey inquired whether Mr. Fetherston felt if the producer could get a better price would he be willing to withdraw from the Lake Mead Federal Marketing order. Mr. Fetherston stated that they are in such a desparate condition right now that they would do anything to get a better price, providing that its guaranteed. He stated that would have to cover expenses because at the present time his net was \$8.62 CWT in February and it costs about \$12, so they're just about 1/3 under the cost of production.

Mr. Fetherston stated that the plant he ships to is under the Lake Mead Federal order. He stated that he has no quarrel with that, but it's a fact that the State has no control and even now with private companies they can cut you off if they don't like you. Anderson Dairy did it, they put Lincoln County out of the dairy business. If the Dairy Commission can't do something about securing your market then they are better off being in a co-op because a co-op has to take your milk.

Roger Bunker stated that he has had many of the same problems as Mr. Fetherston. He stated that they are paying for the Dairy Commission and yet it is not helping them. It is supposedly doing the same job that the federal marketing order is and it is helping them. Between the security of co-op and the marketing order they do have some security they didn't have before. He would be in favor of abolishing the Dairy Commission.

Mr. Jacobsen inquired if the President did reduce the price of milk where would they be. Mr. Bunker had no answer. Mr. Jacobsen then asked if they would rather have the state dictate to them or the Federal government. Mr. Bunker stated that he was not an advocate of big government but that the state just doesn't seem to be able to help them.

Melvin Hughes, Hughes Bros. Inc., stated that the thought he has gotten from this hearing was that the committee was trying to make the co-op the monster. He cited his experience of before the co-op came in and after it came in. Things have been a lot better since the co-op came in. He inquired whether if the President would lower the price would the State have the authority to keep this price up.

Mr. Jacobsen stated that if they're under the federal marketing order there is nothing they can do but the state is going to those that are not under it.

Mr. Hughes stated that they did join the order as a last resort to get some help and it has succeeded in helping them and so that at this time he would favor abolishing the Dairy Commission.

Dwain Hollingsfield, Agman 75, Inc., stated they would like to see the Dairy Commission continue, but strengthened and given more powers to find out when and why they need increases or decreases, and to act on these immediately. He urged that they be kept abreast of the situation at the producer level and also at the manufacturer's level and also at the retail. If there isn't a good healthy situation at a profit level, there won't be an industry here. They feel that they would like to see the Commission strong enough and with enough clout to make it advantageous to produce milk in the State of Nevada.

Bruno Biasi, dairyman from Bunkerville, stated that like most people he doesn't like regulations. Dairymen probably have more than anybody else. They have EPA, OSHA etc. However, the Dairy Commission they feel is quite necessary. They need to have this regulation and he feels it should be regulated at all levels because if it isn't then segments of the industry will start fighting and ultimately it gets to the producer. Mr. Biasi stated that although they are under the federal order they do not have one thing guaranteed at all. There's no use of having this order guaranteed for \$9.60 or \$10.00 if the milk cannot be put into Grade A. If the Commission were taken off, they would come in here and fight with the price and what would happen to the milk. They'd just be out. Mr. Biasi stated he would like to see the commission retained. It has made mistakes but then there isn't any agency that has been put in that doesn't need some adjustment sooner or later. It's just like the legislative body. Because they have made mistakes let's get rid of them. You know this can't be done. As far as the costs are concerned, Mr. Biasi stated that the order cost to him is about 6 or 8 times higher than the Dairy Commission cost. He has to pay about \$800 a month to the order for them to make up the statements and until a few years ago it didn't cost anything.

Mr. Serpa inquired whether Mr. Biasi would favor a three man board or keeping it the way it was. Mr. Biasi stated that at the present time it was perhaps a little top heavy. He went on to say however that it would be impossible to get three members who were not consumers. Three knowledgeable people might be better in all segments and there would be no reason why it shouldn't work.

Charles Cameron, Manager of the Lake Mead Co-op, spoke in favor of abolishment of the Commission. His statement is attached as Exhibit B and herewith made a part of this record.

Mr. Jacobsen stated that he would like to go back a bit. He stated that Mr. Fetherston brought up at a previous hearing that he felt he had some equity in the co-op. Did this every get straightened out. Mr. Cameron replied that he really couldn't speak on this as Mr. Fetherston is not a member of his co-op but does belong to another one. Mr. Cameron stated that his co-op has equities that have been set up on a 5 year rotating basis and we see no problem with our rotation.

Mr. Serpa inquired what membership in their co-op was based on. Mr. Cameron stated that they just need to buy a membership of a certificate of stock. This costs \$15.

Mr. Serpa went on to inquire what the dues were. Mr. Cameron stated they have a 10¢ administrative check-off and they have a 10¢ capitalization check-off. This is capitalized and is the money included in the equity that is returned on a 5 year basis. The 10¢ a hundred administrative charge is returned to the producer. Otherwise, they spend a nickel of it, the other nickel is returned to him at the end of a year.

Mr. Jacobsen inquired whether they have returned any to date. Mr. Cameron stated they have to the producers. Last year they returned money to the producers on their administrative. What Lake Mead producers have done is to join with another cooperative in Colorado and through central management they have managed to control their prices. This has helped both of them.

Mr. Serpa inquired what the additional charges that Mr. Biasi had referred to were. Mr. Cameron stated that there was an assessment to non-members. This assessment is for the testing etc. of the milk but in the case of the co-op they do all their own testing.

Mr. Hickey inquired where Mr. Biasi extra assessment goes. Mr. Cameron stated that it goes to the order. He added that if they do come up with extra money, they shut this assessment off around September. It all depends on the administrative costs that come out of the order, but the co-op itself does these things so that they never are charged this.

Max Hafen, producer in Mesquite, stated that he has been the dairy business since the early 40s. He cited some of the problems they had before the federal marketing order was brought in. He stated that the times were rough. He stated that prior to this some dairymen were running their milk through a separator and just keeping the cream and the rest went down the drain. Today they are stabilized. They have a market for their milk and they have a base. If they produce more than their base it is still marketed. There is more stability to Hafen Dairy than there ever has been. They truck their own milk and whatever it costs that is what they pay. They are in a position where they can now compete with Utah and California. Mr. Hafen stated that he was happy with the order and was protected. If the northern part of the state wants a Dairy Commission that is fine with them. Mr. Hafen stated that the Dairy Commission has never gotten very far here as they do not have the records and have never done anything about the kickbacks.

Lee Walker, Attorney representing the Dairy Industry Political Action Commission, stated that there seems to be more unanimity among pros in Southern Nevada in favor of abolishing the Commission than ever before. He criticized the Commission for its emphasis on price fixing instead of what he considers its main function - an adequate supply of milk to consumers and a fair return to producer, distributor and retailer. Mr. Walker also stated that he felt it has become a consumer-oriented commission and hasn't even been doing an adequate job for consumers. As an example of this assertion, he related a call from a small store owner who wanted to lower his price to 67¢ but was fearful of being in violation of Commission laws and regulations. He stated the group he represents is in favor of total abolishment of the commission and short of that, a modification of the law allowing the commission to function only in areas where there is no federal order. Or, if that's not acceptable, the commission should be limited to setting prices only for producers.

Mr. Serpa questions Mr. Walker on the call he had received from the store owner and suggested that perhaps the store owner simply wanted to use milk as a loss-leader, making no profit. He felt this could lead to a disastrous situation.

Mr. Jacobsen asked Mr. Walker if he felt the Dairy Commission has no value at all to the small producer. Mr. Walker answered by saying that he felt it had no value and the only reason Southern Nevada producers are still in business is because of efficiencies they have made on their own for which the Dairy Commission can take no credit. Mr. Walker did give some credit to the Dairy Commission for maintaining prices to producers.

John Fetherston explained the deductions of 20¢ and 30¢ made by the co-op that is set up on a rotation basis and hopefully returned to the producers every five years, if it's there to be returned. He said this is an expense to producers because it is so long before it is returned. He added that he has received some back of HiLand, however "Western General's taking it out faster than I can get it back in."

Virgil Getto, speaking on behalf of the producers in Western Nevada, pointed out that in contrast to Mrs. Steven's statement regarding conflicts in the three man commission proposal, he felt that there is as much conflict with consumers borrowing money. He felt that the three man commission could be independent and impartial and would have the expertise and background lacking in lay persons. The three-man board, he felt, would be able to go to work more efficiently, with no time loss, than lay persons because of their expertise.

Mr. Getto expressed the support of the Western producers for a state control as opposed to a federal marketing order. One reason they support the state control is that the federal order is not going to be cheaper; it is going to cost more money which the consumer, in the long run, will have to pay. The second reason is that the present commission is starting to be very effective and responsive to the needs of the producer. He also pointed out that it is very difficult for the Nevada producer to compete with California since costs are higher here than they are in California - hay, grain, utilities, etc.

Charles Levinson spoke about the Dairy Commission delays in increasing prices when increases were needed. However, he felt this was due more to the fact there was insufficient evidence presented at hearings. He felt it was important that an uneven number of members be appointed to the Dairy Commission, but that it was vital that the consumer and industry be represented. He also stated that dairy prices in Nevada are lower than those in unregulated states and that the Dairy Commission has functioned well for the consumer, at least, in this state.

As there was no further testimony to be heard, Mr. Hickey adjourned the meeting.

Respectfully submitted,

Sandra Gagnier
Sandra Gagnier,
Assembly Attache

ASSEMBLY AGRICULTURE COMMITTEE MINUTES
Sunday, March 20, 1977
Las Vegas, Nevada

GUEST LIST

Charles Levinson	Consumer's League of Nevada
Muriel Stevens	Dairy Commission member
Tricia White	Las Vegas Sun
Lyle Rivera	Deputy Attorney General
Lois Jacobs	
Tom Mulroy	
Dale G. Hunt	Hunt's Dairy & Dairy Comm. member
Dick Johnson	Dairy Commission staff
D. S. Adams	Western Dairymen Co-Op, Inc.
John H. Fetherston	producer
Roger M. Bunker	Bunker Dairy - producer
Melvin Hughes	Hughes Bros. Inc., - producer
Dwain Hollingsfield	Agman 75 Inc., producers
Bruno Biasi	Biasi Dairy - producer
Virgil Getto	Western dairymen
Charles Cameron	Lake Mead Milk Co-Op
Merlin Jones	
Dee M. Hughes	
Max Hafen	Hafen Dairy - producer
Lee Walker	Dairy Industry Political Action Assn.

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Testimony of Charles Levinson, March 20, 1977
Agricultural Committee
On behalf of the Consumer's League of Nevada

I. Thank you for permitting me to testify before this committee again on this issue which for so many years has been of vital concern to the citizens of Nevada.

I say again, and I hope that I do not seem to be redundant because the problems facing this committee were first raised by the Consumers League of Nevada over five years ago when we received numerous complaints regarding the sanitary conditions of dairy products within the state as well as concern over the prices that the public was paying. As a result I have personally attended innumerable DC hearings and voiced some of our concerns before this committee in 1975 and attempted to give some input to the legislature in 1973.

II. In 1975, in testifying before this Committee and I might add in appearances before the DC as well, we voiced the public's doubts on many of the practices of the Commission, its structure, and the statutes and rules under which it operates. Principally our objections were based at that time on the following points.

A. The composition of the Committee in 1973 was composed 6-3 with the six members representing the industry and the 3 members representing the public. There was little doubt in our minds after attending sessions of the Commission that industry members had for many years completely dominated the Commission and in fact it appeared to be more like a social club. Any segment of the industry merely asked for a price increase and with little or no evidence before them the industry members would quickly approve these requests.

Since that time the composition of the board has been changed so that a few of the objections we had in this area were satisfied but I should like to point out that we still have a board in which half the members are composed of those within the industry. Our belief is that there is an automatic conflict of interest in this matter since the DC is concerned almost solely with the fixing of prices and that anytime an industry member votes on an issue directly affecting his own pocketbook THAT IS A CONFLICT OF INTEREST. Other commissions in this state are made up of industry members within the trade but those commissions are not price regulating and thus the conflict is not quite as difficult to swallow as within the DC.

B. For over five years now we have complained about the interpretation of the statutes and regulations under which the Commission and its staff have been operating. According to the regulations it is the function of the Commission to furnish data to the public on the statistics of the industry. At the same time there is a conflicting clause in the regulations which says that data may be considered secret. Thus in fact a cloak of secrecy has been placed over these data and to my knowledge certain vital data has not even been made available to Commission member. Thus on some issues which are vital to both industry members and the general public, the Commission members have been forced to make decisions on almost an arbitrary basis since they themselves cannot get this information.

C. It is our feeling that any industry which seeks the shelter of a government agency to fix and regulate their prices and profits must furnish to that agency full and complete data. The industry does seek this shelter but in fact through various evasive manuevers have managed to avoid furnishing complete data.

D. The regulations seem to give the DC power to obtain this information but to my knowledge the staff has not made use of this power or perhaps are unable to do so because of the way the regulations are written.

E. The regulations are so written and interpreted that what has happened is that the industry members have lost the right to manage their own businesses. Let me give you two examples if I may. Suppose for instance that a member of the industry found that because of operating efficiencies or other factors he could lower prices to his customers and still make a reasonable profit. In fact, he might be able to increase his profit by increasing sales. In such a case, and note this factual, an attempt was made to do so. Within ten days of this attempt, this industry member was quickly cited by the Commission (thru Mr. Cassady) for violating the Commission regulations. NOTE WELL PLEASE THAT THIS EFFICIENT TEN DAY ACTION TO PRECLUDE THE LOWERING OF PRICES BY A MEMBER IS QUITE DIFFERENT FROM THE INACTION OF THE COMMISSION OR ITS STAFF IN FURNISHING INFORMATION TO THE PUBLIC THAT WAS REQUESTED OVER FOUR YEARS AGO. I WONDER IF ANY OF THE MEMBERS OF THIS COMMITTEE HAVE BEEN SUCCESSFUL IN GETTING DATA FROM THE COMMISSION.

Another member of the industry recently asked me if he could lower the prices of his products (on the retail level) but note that he could not make that decision by himself. He had lost the right to operate his own business. In light of the other action by the Comm. I advised him to hold off as he might be cited with equal swiftness.

F. Probably the most important objection that the public has is the manner in which data is provided and the very peculiar definitions used by the Commission to fix prices.

It is customary in accounting to use the terms return on sales and return on investments. It is also customary in determining what a profit structure is to be to utilize as a base the normal definition of ROI and a 5% or better return is most acceptable. In fact a 10% return would be reasonable. HOWEVER, THE DAIRY COMMISSION DEFINES RETURN ON INVESTMENTS AS SOMETHING COMPLETELY DIFFERENT. IN FACT THEIR DEFINITION IS ACTUALLY RETURN ON SALES.

As a result to this day the public is unable to determine whether in fact the industry members are making a fair profit. It is apparent in light of the recent disclosures of kickbacks and discounts that there are inequities and certain segments of the industry may have excess power. The statistics furnished by the staff of the Commission at one time indeed showed that certain members of the industry were under the formula above making 50 or 100% in excess profits. What their true profits are based on assets and investments is unknown to this date.

We must at this time point out that since 1975 when the composition of the Commission was changed there has been an improvement of sorts. Prices are no longer simply raised without some sort of investigation and the industry no longer can bully the public or do as it wishes.

But we point out that the original problems as stated above were not solved by merely changing the Board in 1975. Nor will the new bills presented to the Senate and Assembly solve these problems.

First, on those bills that would attempt to abolish the DC: May I again refer you to the inequities of the system now and the really dominating influence of certain segments of the industry. It is our belief that should the DC be abolished there might be a minor adjustment of prices but that in the long run the large cooperatives and retailers would shortly dominate the industry and be able to set prices without any opposition.

But AB 152 only in a small way solves the inherent problems. Namely it might eliminate a conflict of interest by having those industry members eliminated from the board. But their input is needed and just because the appointees are bankers, accountants or businessmen, this does not make them either a saint or a sinner. I see neither halos nor horns on the present members of the Commission. The members representing the public have made a fine attempt to resolve some of the issues. The industry members, however, should be reduced in number or merely hold advisory positions. Members representing the public must be retained since they are the ones to whom the entire regulations are addressed. PLEASE AT YOUR CONVENIENCE LOOK AT THE PURPOSE OF THE ACT - TO PROTECT THE PUBLIC.

You as legislators must incorporate into the act or the regulations the following:

A. Since this industry seeks the shelter of a governmental agency to retain its financial integrity, all members of the industry should be required to furnish complete financial data to the Commission, including profit and loss statements and balance sheets at least annually but preferably semi-annually.

B. Strengthen the powers of the Commission so that if the data is not provided they do not have to go through all kinds of legal maneuvers to obtain it. If not provided then the license of the offending member would be suspended or he could be fined a substantial amount for every day reports are delinquent.

C. Strengthen the control the Commission has over the staff so that they can indeed get the data and have the work they want done accomplished without continual delays or evasive tactics.

D. Allow changes in the regulations so that management again has the right to manage. Under the present system prices are based on the least efficient operation. Regulations should permit any company demonstrating a capability of lowering prices to be allowed to do so. Our present system discourages good management and forces the public to pay for these inefficiencies.

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E. The definitions presently used by the Commission in regard to ROI must be changed to those generally accepted by accounting firms and prices should be based on these figures as well as other data rather than the present formula.

Unless these changes are incorporated into the act, gentlemen, we will find ourselves right back to where we were five years ago. A bill mandating these changes in the NRS or mandating the DC to change its regulations would be looked upon most favorably by the people of Nevada.

Thank you for this opportunity to testify and should you have any questions, I would be most happy to respond or elaborate.

My name is Clarence Cameron
 Manager of the Lake Mead Milk Producers
 Cooperative Nevada

Lake Mead Milk Producers are in favor of abolishment of the State pricing program. We are hoping this legislative body will see that, as producers, we have sufficient pricing and auditing programs. The people in the West have a somewhat different problem.

The study presented by Dr. Stine was good in content with a few exceptions.

One exception is: Under Federal Order regulations we feel that auditing and milk reporting is more efficient and this means a lot to a producer in receiving his earnings for his product. Should a handler decide to give away the milk he has purchased from a producer under the Order he will pay the Class I price regardless. The producer will be paid in full.

As far as outside producer milk, or processed milk the handler will pay into the producer settlement fund the difference, should his producer price be lower than the Lake Mead Order. This equalizes the price.

There is no way as indicated that the Commission in the past was responsible for efficiency of producers. Producers have done this on their own for survival.

The statement on Utah production being over half of milk in Las Vegas Market is erroneous. Clark County producers are producing on a daily basis some 200,000 pounds compared to 70,000 a day by Utah producers. Remember that milk in Utah is being used mainly as a reserve in when market is short and out when long.

Lake Mead Cooperative has in the past moved a small volume of milk in when needed and in very recent weeks have done so. This was merely to balance the Market and gentlemen, this is a savings to the consumer.

We feel that the wholesale pricing tends to guarantee a grocery operation a price, it does not allow any pass through when producer price goes down. There was an example of that this very month.

There was some question on Class I usage. We want to remember, before the Federal Order there were producers dumping milk, so it did not get blended in total milk produced in the Market.

Nevada is not a manufacturing milk producing state. However the producers have invested in a plant to get rid of their excess milk.

As far as the Commission and its past enforcement, I can only say it has been terrible. I don't really believe we even need to elaborate. As far as the need for more staff members, let them get as efficient as the producers.

We hope sincerely, if funding is needed to keep the Commission that this body see fit that the consumer bear some of the cost. The statement on pass through to the consumer is not really an honest statement to the producer, but could be to the processor. Even now when the grocer brings in butter do you get your assessment. If not let grocery chains collect the funds, as they collect the sales tax for the State.