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Marketing of farm products

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A Comparative Study of Agricultural Marketing Legislation in Canada, Australia, United Kingdom and the United States

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A COMPARATIVE STUDY OF AGRICULTURAL PRODUCER MARKETING LEGISLATION IN CANADA, AUSTRALIA, UNITED KINGDOM, AND UNITED STATES[1]

Summary of Study

The overall objective of marketing legislation is to raise and/or stabilize farm incomes of growers of the regulated product. A review of the origin and development of compulsory producer-initiated and controlled agricultural marketing organizations that are today in evidence in Canada, United States, United Kingdom, and Australia, suggests that such organizations are a consequence of two major causes. These are firstly, the impact of world economic depression of the late 1920's,[2] and secondly, the failure or, at best the partial success of the traditional voluntary marketing co-operatives to effectively restore declining farm prices.

Statutory marketing legislation, through which instrumentality, compulsory producer-controlled marketing organizations are constituted, ranges from State and/or provincial to national coverage.

In Canada and Australia, state boards operate under basic state and/or provincial legislation.[3] The same also holds for the United States state marketing programmes. However, in the United States the Agricultural Marketing Act, 1937 permits marketing programmes to cover more than one state.

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[1] The material in this publication has been drawn from a Master's thesis submitted to the School of Graduate Studies, University of Toronto; T.H. Koh, "A Comparative Study of Agricultural Producer Marketing Legislation in Canada, Australia, United Kingdom, and United States" (unpublished thesis, University of Toronto, July, 1964).

[2] The origin of Australian Marketing Legislation preceded the depression years of the late 1920's and 1930's.

[3] Two States in Australia do not have basic Legislation and Boards operate under specific commodity legislation. Also in addition to State Legislation specific legislation was introduced for specific commodities.

In Australia, Commonwealth Marketing Boards operate under specific commodity acts and such acts are limited in their power to export trade. On the other hand no federal marketing boards as such exist in Canada (with the possible exception of the Canadian Wheat Board which, however, is a Crown Corporation as opposed to producer-oriented and directed Marketing Boards) and the federal legislation is merely a permissive instrument to permit each provincial board to carry out interprovincial and export trade. Both Canada and Australia face constitutional problems which complicate marketing schemes on a national basis.

The United Kingdom and United States have basic federal enabling legislation covering the marketing of commodities on a nationwide basis.[1] In addition, the U.S. also has complementary State and Federal Legislation.

The purpose of this bulletin is to compare the various types of marketing legislation that are now in operation in Canada, Australia, United Kingdom, and the United States. More specifically it deals with the main features of programme initiation and administration of the legislation and compares these features with those pertaining to the marketing legislation in Ontario.

With respect to programme initiation, it appears that the British system has several merits. Adequate legislative safeguards to producers and/or the industry concerned seem to have been provided in the introductory and electoral procedures of the United Kingdom Agricultural Marketing Acts. More specifically, the manner of notification and advertising of a proposed programme to growers concerned; the limitations and amplifications of the class of eligible voters; and the dual system of voting are issues which seem worthy of consideration and adoption in Ontario.

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[1] In the U.K. provisions are also made in the marketing legislation to accomodate the establishment of regional boards, e.g., there are five Milk Marketing Boards in the U.K.

On the matter of programme administration, the special provisions of ministerial appointees of persons with professional skills and experience to the administrative boards and/or executive committees, as they are practiced in the United Kingdom and Australian agricultural marketing legislation, might be desirable features for adoption in the marketing legislation of Ontario.

An important aspect of marketing legislation seems to be that of providing adequate safeguards to consumers' and/or public's interests. So far no formal direct representation of consumers on marketing boards has been provided in any of the legislation studied. At best, consumers' interests are only indirectly represented through governmental power to intervene in cases of abuse of power by marketing boards. However, the provision of the creation of Consumers' and Investigation Committees to look into and investigate the interest of society under the United Kingdom Marketing Acts seems a salutary example.

Definition of Terms

Enabling Legislation

This is a statutory instrument passed by the government which enables a marketing scheme to be administered using the police power of the state. It does not impose control over the marketing of any commodity, nor require that any marketing control will necessarily be established. All it does is permit the establishment of a marketing programme (or scheme) within the constraints specified under each marketing act. All marketing legislation mentioned in this ~~study~~ CHAPTER is enabling in nature.

"A Marketing Board"

This can be defined as a producer-controlled, compulsory,[1] horizontal

[1] The compulsory feature of a marketing board creates a basic distinction between it and any other voluntary marketing legislation. It implies that, once a marketing scheme is approved by the appropriate authorities, the minority group of producers of a regulated product is compelled by law to adhere to the enabling legislation.

organization sanctioned by governmental authority, through the instrumentality of enabling legislation to perform specific marketing operations of a particular agricultural commodity (or commodities) in the interest of the producers of the commodity (or commodities) concerned. This term is used in the same context for Canadian, United Kingdom, and Australian Marketing Legislation.

"Marketing Agreement and Marketing Order"

These terms are used within the context of United States Marketing Legislation. There is a basic difference between a marketing agreement and a marketing order.

A "Marketing Agreement" is a voluntary, contractual arrangement entered into between the Secretary of Agriculture (or State Director of Agriculture in the case of a State Marketing Agreement) and handlers (producers or handlers in the case of a State Marketing Agreement) of a particular agricultural commodity. It is binding only on signatories to the agreement.

A "Marketing Order", on the other hand, is a Statutory instrument issued by the Secretary of Agriculture of the United States. Once approved, it is compulsory for all handlers,[1] both signatories and non-signatories, of the regulated product in the area covered by the programme.

"Marketing Plan"

A "Marketing Plan" means a plan to provide for the control and regulation of the marketing of a farm product. This term is used with reference to the provincial marketing legislation in Ontario. In the United Kingdom and Australia the word "scheme" is preferred. In the U.S. the word "marketing programme" is used. These three terms, "plan", "scheme", and "marketing programme" are used synonymously in this study.

[1] "Handlers" means persons involved in acquiring, processing, packing, shipping, and selling. Growers are not regulated in marketing agreements and orders so long as they are just acting as growers or producers. However, when they perform handling functions, they become handlers as well as growers and are subject to regulation.

The discussion that follows is organized into three sections. Section I describes the development of agricultural marketing legislation in four selected countries, namely, Canada, U.K., the U.S. and Australia. Section II deals mainly with those sections of this legislation which pertain to the initiation and administration of marketing programs. In Section III a comparison is made of the specific differences and similarities of Ontario marketing legislation and this legislation in the other countries. For purposes of convenience an attempt is made to summarize the information in sections II and III in tabular form.

SECTION I

HISTORICAL DEVELOPMENT OF AGRICULTURAL MARKETING LEGISLATION IN CANADA, AUSTRALIA, UNITED KINGDOM, AND UNITED STATES

Canada

Federal Marketing Legislation

The history of federal marketing legislation dates back to 1934 when the first agricultural marketing act was passed by the Dominion Government of Canada. This was "The Natural Products Marketing Act" of 1934. This type of legislation was, in many ways similar to that introduced in Queensland, Australia - The Queensland Primary Products Act of 1922. The basis of this type of marketing arrangement, is that, where a majority of producers decide to sell a particular product in a centralized fashion, the minority is compelled to go along with the majority. During the short life of the Natural Products Marketing Act of 1934, about one and a half years, some twenty-two natural product schemes were brought into existence. Most of these schemes were formed in the Provinces of British Columbia and Ontario. Due to constitutional difficulties, the Natural Products Marketing Act was short lived. It was declared ultra vires of the Dominion Government on grounds that it was infringing upon provincial jurisdiction on matters such as property and civil rights and provincial trade practices, consequently it was repealed in the spring of 1937 by the House of Commons. This action followed a judgement passed by the Privy Council, an extract of which is given below.

> "It was said that as the Provinces and the Dominion between them possess a totality of complete legislative authority, it must be possible to combine Dominion and Provincial legislation so that each within its own sphere could in co-operation with the other achieve the complete power of regulation which is desired. Their Lordships appreciate the importance of the desired aim. Unless and until a change is made in the respective legislative functions of Dominion and Province, it may well be that satisfactory results for both can only be obtained by co-operation. But the legislation will have to be carefully framed, and will not be achieved by

> either party leaving its own sphere and encroaching upon that of the other. In the present case their Lordships are unable to support the Dominion legislation as it stands. They will, therefore, humbly advise His Majesty that this appeal should be dismissed."[1]

In 1940 the Canadian Chamber of Agriculture[2] urged the Dominion Government to institute a Federal Marketing Act that would limit its activities to interprovincial and export trade. But by this time World War II broke out and the Federal Government assumed full authority over all phases of agricultural production through the instrumentality of the War Measures Act. When World War II was over, the Federal Government passed its Agricultural Products Marketing Act in 1949. This Act is only a permissive instrument which is designed to enable provinces to conduct trade on an interprovincial and export basis within the framework of existing legislation in the province concerned. This is contained in the relevant section of the Agricultural Products Marketing Act of 1949 (more commonly referred to as Bill 82) which is quoted below.

> "The Governor in Council may by order grant authority to any board or agency authorized under the law of any province to exercise powers of regulation in relation to the marketing of any agricultural product locally within the province, to regulate the marketing of such agricultural product in interprovincial and export trade and for such purposes to exercise all or any powers like the powers exercisable by such a board or agency in relation to the marketing of such agricultural product locally within the province."[3]

Provincial Marketing Legislation

When the validity of the Natural Products Act of 1934 was challenged,

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[1] Poetschke, L.E., and Mackenzie, Wm., "The Development of Producer Marketing Board in Canadian Agriculture" (Department of Extension, University of Alberta, Edmonton, Alberta, Canada), page 11.

[2] Now known as Canadian Federation of Agriculture.

[3] Section 2 (1), Agricultural Products Marketing Act, 1949.

legislation was passed by some provinces to deal with intraprovincial trade. The idea was to enable provisions, that were lacking in the federal legislation, to be ushered in by provincial legislative instruments. The following description traces the origin and operation of marketing legislation in the various provinces of Canada.

British Columbia[1]

The passage of the British Columbia Produce Marketing Act of 1927 was the first Canadian experiment with producer marketing boards. This development resulted from the failure of the British Columbia fruit growers to practice orderly marketing of their produce through voluntary co-operation. Under this Act, extensive powers were granted to a Committee to control the time and place of marketing of the regulated product together with other qualitative and quantitative regulations. It also permitted the setting of prices and collection of levies to meet the operating costs of each scheme.

In 1931, the British Columbia Produce Marketing Act of 1927 was declared ultra vires on the grounds that its operation was an encroachment upon federal jurisdiction in the regulation of international trade and in the imposition of indirect taxes.

In 1936, soon after the Supreme Court of Canada declared the "Federal Natural Products Marketing Act (1934)" unconstitutional, British Columbia enacted "The British Columbia Natural Products Marketing Act."

As of July 18, 1963, there were four marketing schemes operating under this Act.[2] These were:

The British Columbia Coast Vegetable Scheme.
The British Columbia Interior Vegetable Scheme.
The British Columbia Tree Fruit Scheme.
The British Columbia Broiler Scheme.

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[1] Poetschke, L.E., and Mackenzie, Wm., op. cit., p. 26.

[2] Correspondence from Gilchrist, M.M., Markets Commissioner, Markets and Statistics Branch, Victoria, B.C., Canada. July 18, 1963.

Ontario

In view of the fact that this study will make particular reference to marketing boards in the Province of Ontario in a later Chapter, it is desirable at this point to delve into the growth and evolution of agricultural marketing legislation in the province in greater detail. This is best traced in chronological order.

In 1937, shortly after the Dominion Natural Products Marketing Act was declared ultra vires, the Ontario Legislature introduced "The Ontario Farm Products Control Act." This action by the Provincial Government of Ontario enabled the various marketing schemes in the province, operating under the Dominion Natural Products Marketing Act of 1934, to continue their activities. The purpose of The Ontario Farm Products Control Act was "to provide for the control and regulation in any or all respects of the marketing within the Province of farm products including the prohibition of such marketing in whole or in part."[1]

As time went on, changes were introduced into the Act. In 1946 a major amendment resulted in the renaming of The Ontario Farm Products Control Act as "The Ontario Farm Products Marketing Act."

In 1955, major amendments introduced included the provision "for a wide extension of the powers respecting the appointment of marketing agencies and the authority of marketing agencies to direct the marketing, to fix the price or prices and to prohibit the marketing of any regulated product."[2]

In 1957, the word "scheme" was changed to read "plan" at the request

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[1] Perkin, G.F., "Marketing Milestones in Ontario, 1935-1960" (Ontario Department of Agriculture, Toronto), p. 4.

[2] Perkin, G.F., op. cit., p. 5.

of some farm groups.[1]

Further amendments to the Act were made in 1958. These empowered the Farm Products Marketing Board to formulate regulations for carrying out plebiscites on proposed marketing plans and also to provide such other matters as the registration of producers and keeping up to date of voters' lists. In the following year the Act was again amended so that procedures, with respect to the treatment of irregularities in the conduct of plebiscites, were brought in line with those of the Ontario Elections Act. Additionally, The Farm Products Marketing Board was "empowered to limit the powers of a local board or a marketing agency and to revoke any regulation, order or direction of a local board or marketing agency".[2]

In 1960, further amendments were introduced and the most important of these authorized The Farm Products Marketing Board "to approve of the amount of service charges granted by a local board to a marketing agency and to approve of the making of grants by local boards and marketing agencies to other organizations".[3]

In April 1963, a bill was introduced to amend The Farm Products Marketing Act. Amongst the many amendments included in this bill, the most important provisions were the additional powers granted to the Provincial Minister of Agriculture to approve a proposed plan and to amend an existing one. These new provisions are quoted below:

(1) "Where the Board receives from a group of producers

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[1] "In most other jurisdictions, particularly Great Britain, Australia, and New Zealand, the word "scheme" continues in use due to its wider meaning of a programme of action to attain an end or to accomplish a project through a system of correlated things. A plan only devises or designs some action or arrangement still to be carried out." Perkin, G.F., op. cit., p. 5.

[2] Perkin, G.F., op. cit., p. 5.

[3] Perkin, G.F., op. cit., pp. 5-6.

in Ontario or any part thereof a petition or request asking that a plan be established for the control and regulation of the marketing of a farm product or any class or part thereof and the Board is of the opinion that the group of producers is representative of the persons engaged in the production of the farm product or class or part thereof, the Board may recommend the establishment of such plan to the Minister.

(2) Where the Board receives from a local board a request that amendment be made to the plan or to regulations under the plan under which the local board is constituted, the Board may recommend such amendments to the Minister."[1]

In March, 1964, further amendments were brought in by the passage of Bill 83.

As of March 30, 1964 there were thirteen marketing plans in operation under the Farm Products Marketing Act covering twenty-six crops.[2] These were:

The Ontario Asparagus Growers' Marketing Plan, 1938.
The Ontario Tender Fruit Growers' Marketing Plan, 1959.
The Ontario Sugar Beet Growers' Marketing Plan, 1942.
The Ontario Seed-Corn Growers' Marketing Plan, 1942.
The Ontario Berry Growers' Marketing Plan, 1944.
The Ontario Bean Growers' Marketing Plan, 1944.
The Ontario Vegetable Growers' Marketing Plan, 1946.
The Ontario Hog Producers' Marketing Plan, 1946.
The Ontario Grape Growers' Marketing Plan, 1947.
The Ontario Soya Bean Growers' Marketing Plan, 1949.
The Ontario Fresh Peach Growers' Marketing Plan, 1954.
The Ontario Flue-Cured Tobacco Growers' Marketing Plan, 1957.
The Ontario Wheat Producers' Marketing Plan, 1958.

New Brunswick

Following the passage of "The British Columbia Natural Products Marketing Act" in 1936, the Province of New Brunswick passed her first piece

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[1] Section 5, "The Farm Products Marketing Act," 1963, Ontario, p. 6.

[2] "Annual Report of The Farm Products Marketing Board" - for the year ending March 31, 1964, (The Farm Products Marketing Board, Ontario Department of Agriculture, Queens Park - Toronto).

of marketing legislation in 1937. This was the "Natural Products Control Act." This Act underwent amendments over the years and as of July 16, 1963 the following plans were in operation:[1]

New Brunswick Hog Marketing Plan.
New Brunswick Cream Producers' Marketing Plan.
New Brunswick Cheese Marketing Plan.
Madawaska Forest Products Producers' Marketing Plan.

Manitoba

The relevant legislation in Manitoba is the "Natural Products Marketing Act" which was passed in 1939. Only one marketing plan has been in operation under the authority of this Act and this deals with honey.[2]

Saskatchewan

The Province of Saskatchewan passed the "Natural Products Marketing Act" in 1945. Only one marketing plan - "The Saskatchewan Honey Plan" operated under this Act.[3]

Nova Scotia

This Province passed her first marketing legislation - "The Natural Products Marketing Act" in 1946. Three schemes have been in operation since. These are the wool, hogs and milk marketing schemes.

Alberta

The Province of Alberta passed her first marketing legislation -

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[1] Correspondence with Scovil, H.R., Acting Administrative Assistant, Department of Agriculture, Fredericton, New Brunswick, Canada, July 16, 1963.

[2] Correspondence with Chase, R.D., Secretary, Manitoba Marketing Board, Department of Agriculture and Conservation, Winnipeg, Manitoba, Canada, August 21, 1963.

[3] Correspondence from Heidt, A.A., Director, Department of Co-operation and Co-operation Development, Regina, Saskatchewan, Canada, May 14, 1964.

"The Marketing of Agricultural Products Act" in 1955. No plans have been in operation at the time of writing.

Prince Edward Island

The relevant legislation here is "The Marketing Act," 1956. Only one product is regulated under this Act - i.e., "The Prince Edward Island Potato Marketing Scheme."

Quebec

The Province of Quebec was the last province to pass marketing legislation. The relevant legislation - "Quebec Agricultural Marketing Act" was passed in 1956. One feature of the Quebec legislation which provides a contrast to all other provincial marketing acts, is its strong support for co-opeatives. The Act "must be applied .....in such a manner as not to hamper co-operative action in the regions and areas of production and sales where such action effectively meets requirements or is capable of so doing, and in such manner as to take advantage.....of the assistance of co-operatives for the establishment and administration of joint plans...."[1] Many marketing plans have since been brought into operation. These include products falling under the general categories of "Fluid Milk," "Industrial Milk," "Tobacco," "Maple Syrup," "Fruits and Vegetables (Tomatoes)," and "Wood."[2]

Australia

State Marketing Legislation

The development of agricultural marketing legislation in Australia preceded the depression years of the 1920's and 1930's. The first appearance

[1] Article 2, Bill 13, Quebec Agricultural Marketing Act, 1963, pp. 2-3.

[2] See "Annual Report, Quebec Agricultural Marketing Board" - Fiscal year - 1962-1963 - (201 Est. Boulevard Cre'mazie, Montreal 11), March 31, 1963.

of this form of marketing legislation was the "Primary Products Pool Act, 1922" of Queensland, Australia. This Act has, since 1926, been merged into what is today known as the "Primary Producers' Organization and Marketing Acts, 1926 to 1957". At the moment there are sixteen marketing boards operating under this Act and Queensland has now the largest number of marketing boards.

The State of New South Wales was the next to pass marketing legislation. The relevant Act is the "Marketing of Primary Products Act, 1927-1957", and to date ten marketing boards operate under its authority. These include boards for eggs, rice, wine, grapes, lemons, dried fruits, milk, meat, dairy products, and grain elevators.

Following the lead given by the States of Queensland and New South Wales, other states in Australia introduced similar marketing legislation. In the State of Victoria, marketing boards function under the Marketing of Primary Products Act, 1935-51. Both the States of South Australia and Western Australia have no general enabling marketing legislation directing or establishing marketing boards but specific commodity legislation has been used to regulate individual commodities. Finally, in the State of Tasmania, the relevant legislation is the "Marketing of Primary Products Act, 1941-1951". In addition, some specific commodities operate under special legislation in Tasmania.

Commonwealth[1] Marketing Legislation

In Australia, Commonwealth (Federal) Marketing Boards are constituted

[1] "Commonwealth" refers to the Commonwealth of Australia. In this bulletin it is used synonymously with the word "Federal" encountered in the U.S., U.K., and Canada.

under specific national marketing legislation with respect to each commodity. There is no basic national marketing legislation similar to that in the United Kingdom and the United States.

Commonwealth Marketing Boards in Australia apply exclusively to export trade. The initiation of export control boards was first conceived as an attempt to remove destructive competition and the chaotic conditions that beset the marketing of primary produce. This state of affairs greatly reduced returns to Australian farmers and exporters after the First World War. The first Commonwealth Marketing Boards were set up in the period 1924 to 1926 and these included boards for dairy produce, dried fruits, and canned fruits. As of July 29, 1963, there were nine Commonwealth Marketing Boards[1] covering wheat, dairy produce, eggs, meat, dried fruits, canned fruits, wine, apples and pears, and honey. Most of these boards are regulatory or controlling authorities rather than trading organizations.

The limitation of Commonwealth Boards to export trade has been necessitated by a clause in the Australian Constitution.[2] This clause prevents the Commonwealth Government from introducing federal marketing legislation to govern or restrict trade between the states. This poses one of the major problems confronted by the state boards in that it also overrides State Laws and permits producers to sell their produce in other States and so avoid board charges and obligations.

In an export-oriented agricultural economy like Australia, export controlled boards play an important role in the national economy. For

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[1] Letter from A.C.B. Maiden, Secretary, Department of Primary Industry, Canberra, A.C.T., Commonwealth of Australia, July 29, 1963.

[2] Section 92 of the Australian Constitution provides that "trade, commerce and intercourse among the States, whether by means of internal carriage, or occannavigation, shall be absolutely free."

example, in the period 1959 - 1960, these boards accounted for about 75 per cent of the total agricultural exports.[1]

United States

Development of Federal Legislation

Like many other countries, marketing legislation in the United States resulted from the economic conditions of the depression years and the ineffectiveness of voluntary organization to arrest falling prices of farm products. The Agricultural Adjustment Act of 1933 marked the first attempt in the U.S. to provide a statutory basis for "compulsory co-operation" in agricultural marketing through the use of licenses.[2]

Within a period of twenty months after the inception of the 1933 Act, sixty-eight plans were promulgated involving 7,700 licenses and directly affecting two million growers.[3] This experience provided some knowledge and direction as to the type of products, problems and powers to which market control techniques were desirable and/or applicable.

The 1933 Act was criticized on the grounds that its provisions were too general. Consequently, in 1935 amendments were introduced. The word "order" was substituted for "license"; and administrative requirements for such matters as notice, hearing, determination of facts and initiation of orders were carefully specified. The latter provision was intended to eliminate the popular attack on the lack of a "due-process basis" for establishing market control techniques in the original act.

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[1] Department of Primary Industry, Canberra, A.C.T., "Marketing Studies - Commonwealth Marketing Boards," September 6, 1960, Appendix Table I.

[2] Hereinafter referred to as "orders."

[3] Mehren, G.L., "Agricultural Market Control under Federal Status." (Contribution from Gianinni Foundation, University of California, Berkeley), Mimeographed Report No. 90, page 5.

In 1937, the processing - taxes provision of the 1933 Act, was declared unconstitutional on the grounds that some taxes had, as their objectives, "to take money from the processor and bestow it upon farmers who will reduce their acreage."[1] As a consequence, "The Agricultural Marketing Act of 1937" was enacted. This new Act was also designed to place marketing controls as a permanent adjunct of agricultural marketing whereas originally these programmes were advocated as temporary measures to meet the emergency situations created by the Depression years. Briefly, the main objectives of the Agricultural Marketing Act of 1937 were as follows:

> "....to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices....."
> "....to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities....in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest."
> "....to establish and maintain such orderly marketing conditions for any agricultural commodity....as will provide in the interests of producers and consumers an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices."[2]

Since then a number of major amendments were introduced. In 1947 an amendment was approved to empower market control boards to establish minimum grade and quality standards, together with mandatory inspection

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[1] Ibid., page 9.

[2] Farrell, R. Kenneth, and Wood, William Jr., "Federal Marketing Orders and Agreements for California Fruits, Vegetables and Tree Nuts." (University of California, Agricultural Extension Service, Berkeley, January, 1963), p. 2.

even through seasonal average price exceeded parity levels.[1]

In 1954 additional provisions were made to allow for the regulation of containers, marketing research and development projects. Provision was also made for the regulation of imports with the view to maintaining these on a comparable basis with regulated domestic product.

An amendment was introduced in 1961 to include all commodities except those specifically excluded in the Act.

State Marketing Legislation

Apart from the development of Federal Marketing Legislation, parallel laws were introduced by many States in the United States during the depression of the 1930's. In view of the predominance of marketing legislation and its wide application in the State of California, it is intended to draw heavily on California as an example with respect to State legislation and programmes.

The Agricultural Prorate Act of 1933 was the first State agricultural legislation introduced in California. This Act was the result of shortcomings of voluntary organizations for reasons cited above.[2] The main purpose of the Act was to enable the industry concerned to adjust supply to demand in maintaining prices. Over time, changes were brought about and this Act has been known as the "Agricultural Producers' Marketing Law" since 1953.

Additional and separate State marketing legislation has also been introduced. The "California Agricultural Adjustment Act" was passed

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[1]The basic Act of 1937 required suspension of all control activities designed to aid prices in periods in which seasonal average price had reached or was likely to reach the parity level.

[2]See page 1.

in 1933 to allow for the extension of specific provisions of the Federal Adjustment Act into intrastate trade. The "California Agricultural Adjustment Act" has been renamed the "California Agricultural Products Act" of 1937 and 1943.

The California Marketing Agreement Act of 1935 specifically excluded any surplus control measure exercisable under the Prorate Act of 1933 and all industries regulated by the State Agricultural Adjustment Act of 1933. In 1937, the California Marketing Agreement Act was replaced by the "California Marketing Act of 1937."

United Kingdom

The origin and evolution of marketing legislation in the United Kingdom can be characterized by four distinct periods. Broadly these are the depression years of the 1920's and 1930's, the war-time situation, the immediate post-war situation and the position since decontrol and derationing.

During the depression of the late 1920's and the 1930's, declining prices in agricultural products, both at home and in the importing countries, caused considerable disruption in the British agricultural economy. Coupled with this, attempts to organize farmers on a voluntary co-operative basis failed for reasons discussed previously.[1] Consequently, the government enacted permissive marketing legislation with a view to introducing more effective measures to restore the deteriorating position of British farm prices. The "Agricultural Marketing Act of 1931" was designed with these objects in view.

In 1933 a further Act was introduced to complement the Act of 1931 by providing for the quantitative control of home supply and imports. To

[1] See page 1.

an agricultural importing country like the U.K., import control measures were absolutely crucial to the effective maintenance or raising of prices to home producers.

Shortage of food and the inflationary rise in food prices during the Second World War compelled the government to handle the supply, production and distribution and pricing of food in the public interest. Consequently the independent nature of the various producer marketing boards (except the Hops Marketing Board) was suspended.

In 1949, amendments were introduced into the 1931 and 1933 Acts. One major feature of the 1949 Agricultural Marketing Act was to provide for an increase in the number of government representatives on each marketing board and to give stronger power to the government to regulate and/or intervene in the activities of the boards. In addition, the 1949 Act allowed any marketing scheme to extend over the whole of the U.K.

After the war, the government indicated its willingness to promote and resume agricultural marketing schemes. As a result, the Wool, Milk, Potato Marketing Boards and a Fatstock Scheme, came into operation.

Since July, 1958, an Act, called the "Agricultural Marketing Act, 1958" was passed by Parliament to consolidate the Agricultural Marketing Acts of 1931, 1933, and 1949 respectively. At the moment the boards in operation are - The Hops Marketing Board, The Wool Marketing Board, The Potato Marketing Board, The Milk Marketing Boards (one in England and Wales, three in Scotland, and one in Northern Ireland) and The Egg Marketing Board.

SECTION II

PROGRAMME INITIATION AND ADMINISTRATION

This section deals with the procedural methods involved in establishing and administering a marketing programme. Table I gives a tabulated outline of the various features of programme initiation and administration in the legislation studied. The object of this Table is to bring out some of the main features for comparison and analysis in a later section.

Programme Initiation

The following procedures are generally involved in bringing about a marketing programme:

(1) Submission of a request by producers for a programme to be established;

(2) Notification of the request to the public and interested parties;

(3) Approval of programme by producers at a poll;

(4) Declaration by Government of constitution of programme upon (3).

Submission of Request

The proposal for any programme usually originates with the producers or growers of the commodity concerned. A representative group of producers may submit a written request to the relevant government authority.[1]

[1] With the U.K. Schemes the relevant Government authority is the Minister of Agriculture and Fisheries, in Canada it is the respective Provincial Marketing Board, in Australia petitions for a proposed scheme are usually addressed to the Lieutenant Governor-in-Council, whereas in the U.S., proposals are directed to the Secretary of Agriculture (in the case of federal programme) and State Director of Agriculture (in the case of State Marketing Programme).

Sometimes the various farm organizations[1] may make such a request on behalf of the commodity group concerned.

Notification of Proposed Programme

Upon the receipt of a request by the producers, the authority concerned will then accordingly make it known to the members of the industry concerned in the area to be covered by the proposed programme. The ways and means through which notification is brought about vary from one legislation to the other.[2] In the United Kingdom Legislation, for example, the responsible Minister gazettes the proposed scheme and allows at least six weeks for objection, if any, to be lodged. A specified period of acquaintance is also allowed with the Australian marketing legislation whereas in the United States marketing legislation, public hearings are conducted for the parties concerned to express their views on the proposed programme. With the exception of the Quebec Marketing Act, no other province in Canada seems to make any explicit provision on the matter of notification and/or acquaintance.

Approval of Schemes

With the exception of the United Kingdom schemes,[3] after general consent of the producers is indicated and if the relevant authority is satisfied, the proposed programme will then be referred to the producers whose approval or otherwise will be determined at a referendum. The voting procedures and requirements adopted under the various legislation

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[1] For example The Canadian Federation of Agriculture, the National Farmers' Union (NFU) in the U.K. etc.

[2] See Table II, pages 54-57.

[3] In the U.K. marketing legislation parliamentary approval by both Houses must be sought before a scheme is allowed to be placed before a growers' plebiscite. In all other countries this step is by-passed.

are of interest insofar as these can affect the success or otherwise of a scheme. Broadly, four systems of voting requirements have been observed in this study.[1] These are:

i) Affirmative vote by a minimum percentage of those voting;

ii) Affirmative vote by a minimum percentage of the total eligible voters;

iii) Affirmative vote by a minimum percentage of number of eligible voters and by volume of products produced; and

iv) Affirmative vote by a minimum percentage of those voting representing a minimum percentage of eligible voters.

Declaration of Approved Schemes

Consequent upon an affirmative decision being taken at the producers' plebescite, the proposed scheme or programme is then declared a scheme under the relevant enabling legislation.

Amendments, Revocation and Continuance

Conditions which beset the marketing and/or production of agricultural products are seldom static. Consequently, enabling legislation is subjected to amendments and modifications to meet changing conditions. Amendments may result from legal loopholes in existing legislation which tend to impair the efficient control and operation of marketing programmes whereas others may be due to changing economic conditions.

On the other hand, a programme may be revoked by producers and in some cases by Government authorization when it no longer serves the need for which it was created, or when abuse of power by the board is apparent.

In the U.K. and U.S. the procedures involved in bringing about an amendment follow the same routine as that in initiating a programme.

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[1] See Tables I and II for details.

In Canada, amendments to any marketing plan may originate from the local board and/or producers concerned. In Ontario, for example, the Provincial Board may recommend any amendment suggested to it by the local board, to the Provincial Minister of Agriculture.[1]

In general the decision to revoke an existing plan is placed before a poll of producers.

Programme Administration

This section presents a generalized outline of programme administration. In particular, it draws attention to the composition and manner of member representation to each marketing board and/or executive body constituted under the relevant legislation. Again, the details of board administration are given in Table I.

Canada

In a majority of cases the administration of the Provincial Marketing Acts is the responsibility of the respective Provincial Marketing Boards.[2] Membership to each Provincial Board is usually appointed by the Government and the size of each board may vary - from one to several members.

In the Provinces of Ontario, for example, the present Farm Products Marketing Board has seven members.[3]

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[1] See section 5, Farm Products Marketing Act, 1963, Parliament Buildings, Toronto, Ontario, Canada.

[2] In the Provinces of Alberta and Prince Edward Island, the Provincial Minister of Agriculture is directly responsible for the administration of the Provincial Marketing Act.

[3] All these members are Government appointees whose term of office is at the pleasure of the Provincial Lieutenant Governor-in-Council. Of the seven members, the Chairman, Vice-Chairman and the Secretary, are civil servants. The remaining four members are growers and/or producers of various agricultural products. The Secretary of the Board has no voting rights.

The Provincial Board may formulate regulations either in general or pertaining to any regulated product. Its principal role is that of a supervisory board to which all local boards are responsible.

In Ontario, each local board is constituted under a marketing plan.[1] A marketing plan is made up of two parts. Part I of the plan has to be approved by the Provincial Lieutenant Governor-in-Council upon the recommendation of the Provincial Minister of Agriculture. This part of the plan constitutes the legal framework within which the local board concerned is empowered to administer the plan. In addition, it stipulates the procedure by which each local board is elected and defines the product or products to be regulated.

Part II of the plan, on the other hand, contains the operational parts of the plan. It contains the regulations handed down by the Provincial Marketing Board and specifically spells out the extent and control of such regulations over the regulated product.

Membership to each local board is elected by the producers of the product so regulated. Procedures for election to the local board is set out under the various by-laws existing from time to time.

Supplemental Committee

With the exception of the Quebec Agricultural Marketing Act,[2]

[1] G.F. Perkin, "Marketing Milestones 1935-1962", Department of Agriculture, Parliament Buildings, Toronto, page 6.

[2] The Quebec Agricultural Marketing Act provides for the appointment of a "Consulting Committee" by the Provincial Lieutenant Governor-in-Council to assist the Provincial Board. The functions of this Committee are: (a) to offer opinions and suggestions to the Provincial Board on questions which the latter may ask, (b) to study and submit report on such matters as production of various farm products and various phases involved in their marketing, and (c) to perform any other consultative functions that the Lieutenant Governor-in-Council or the Provincial Board may from time to time assign to it. The Committee may divide itself into subcommittees for the purpose of carrying out the various functions outlined above. See Table I, page 35 for composition of Committee.

no explicit provisions seem to be made in the other Provincial Marketing Legislation for the creation of supplemental Committees — e.g. executive and/or advisory committees.

However, in practice, each local board appoints committees or subcommittees to execute the policies and/or regulations handed down from the relevant authorities — e.g. Provincial Board and/or local board.

In Ontario, for example, each local board appoints a committee of two persons, a chairman and a secretary, to execute the policies of the board. The chairman is appointed from among the elected members of the local board whereas the secretary is a hired employee who may or may not be a producer. For example, the Ontario Asparagus, Grapes, and Tender Fruits Growers' Marketing Plans share the same secretary. In addition to this, each local board may further appoint subcommittees and/or advisory committees to assist in the smooth running of the respective plans. These advisory committees are usually made up of members of the local board concerned, representatives of the processing industry and a chairman who is usually a member of the Provincial Board.

United Kingdom

In the United Kingdom each commodity marketing board operates directly within the powers conferred upon it by the relevant marketing scheme.[1]

The structure and manner of representation to each marketing board in the United Kingdom is as detailed in Table I, page 41. At this juncture it is sufficient to note that under the U.K. Marketing Acts,

[1] Except as from the end of the suspensory period when a scheme is brought into operation until the first election takes place (not later than 12 months) an Interim Committee, consisting of persons named in the scheme and two nominees of the Minister, is set up.

Ministerial appointees to each board should be persons who, in the opinion of the Minister, "are qualified for appointment as having had experience and shown capacity in the fields of commerce, finance, administration, public affairs, or as being specially conversant with the interests of consumers of the regulated product."[1] This requirement is not featured in its counterparts in Canada.

Supplemental Committees

Executive Committee

Like most of the Commonwealth Marketing Boards in Australia, in the United Kingdom each marketing board appoints an executive committee to act on its behalf. The main functions of the executive committee are to simplify board administration and to execute general policies handed down by the relevant marketing board. However, each marketing board has overriding power over its committee.

The composition and manner of representation to each executive committee is given in Table I.[2]

Consumers' and Investigation Committees

Section 19 of the Agricultural Marketing Act of 1958 empowers the Minister to appoint two types of Committees, to be known as the "Consumers' Committee" and a "Committee of Investigation." The Consumers' Committee, as its name suggests, is set up to protect the interest of consumers.[3] This Committee is made of a chairman and not less than six other members

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[1] Agricultural Marketing Act, 1958, U.K., Second Schedule, Section 3, page 55.

[2] See pages 41-52 , Table I.

[3] "Consumers" means persons who purchase the product, or commodities produced wholly or partly therefrom, for their own consumption or use and not persons who purchase the product or commodities for the purpose of any trade or industry carried on by them.

(one of whom should represent the consumers' co-operative movement) to represent the interest of consumers of the regulated product or commodities.

The Consumers' Committee is specifically assigned the responsibility of considering and reporting to the Minister on (a) the effect of any scheme on consumers and (b) any complaint that may be lodged by consumers.

A Committee of Investigation, on the other hand, is designed to deal with reports submitted to the Minister by the Consumers' Committee and any other complaint which, in the opinion of the Minister, cannot be appropriately dealt with by the Consumers' Committee - e.g. complaints by producers or by trade interests. A committee of investigation is made up of a Chairman and either four or five other members all of whom are selected by the responsible Minister. To enable both the Consumers' Committee and the Committee of Investigation to carry out their assigned duties, all marketing schemes are required to furnish these committees with any accounts or information requested.

After the submission of a report to the Minister by the Committee of Investigation, and if such a report should suggest that any provision of a scheme, or act or omission of a board administering a scheme is either (a) acting contrary to the interest of consumers of a regulated product; or (b) is contrary to the interests of any persons affected by the scheme and is not in the public interest, the Minister may, upon consideration, take steps to (i) amend the scheme, (ii) revoke the scheme, or (iii) require that the board concerned rectify the matter in respect of which the complaint was directed.

However, before any action is instituted, the Minister must give the board in question a fourteen day notice of the type of action he proposes to take. The Minister will, in addition, accomodate any

representation which the board concerned may make during the duration of the said notice.

Any order amending a scheme or directing a board to remedy a complaint is subject to annulment by either House of Parliament whereas any order pertaining to the revocation of an existing scheme requires prior Parliamentary approval by both Houses of Parliament.

United States

In the United States each federal marketing programme is administered by an administrative committee (or advisory committee in the case of a state programme). Membership to each Committee is nominated by the industry concerned and appointed by responsible authority.[1]

Policies of regulation pertaining to each marketing order usually originate with the administrative committee but are subjected to the approval of the United States Department of Agriculture.

With the federal programme, the Secretary of Agriculture is further authorized to establish local committees for the more efficient execution of the functions of the programme concerned.

With the California State Marketing programme, the advisory committee sometimes employs a manager to administer the programme on its behalf.

Australia

State Marketing Legislation

Generally speaking, under each State Marketing Legislation, a

[1]The U.S. Secretary of Agriculture in the case of federal programme and State Director of Agriculture in the case of state marketing programmes.

board for each marketing scheme is constituted as follows:

i) a representative of the State Government usually in the person of the Director of Marketing. The appropriate Minister of each State may appoint one or more persons to deputize the Director; and

ii) elected representatives of producers decided upon by a poll of producers. Representation to each board is usually based on a system of proportional representation as stipulated by regulations.

In addition to the Commodity Marketing Board, the State Marketing Legislation in Queensland, New South Wales, and Victoria provides for the establishment of subsidiary bodies.

In the State of Queensland, a body called the "Council of Agriculture" comprised of elected representatives of each of the Commodity Boards, the appropriate Minister and the State Director of Marketing, is constituted under the authority of the Queensland Primary Producers' Organization and Marketing Acts, 1926 to 1957. Among other things,[1] the Council also advises the Minister on matters referred to the latter by the boards.

The State Marketing Act of New South Wales provides for the operation of a "State Marketing Bureau." This bureau engages itself in such functions as determining the costs of producing products in New South Wales, recording products imported into or produced in New South Wales, recording wholesale and retail prices of local and imported products etc.

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[1] See page 12, "The Primary Producers' Organization and Marketing Acts, 1926 to 1957", Queensland, November, 1961.

In Victoria, the "Marketing of Primary Products Act, 1958" empowers the Minister to approve, from time to time, a "Consumers' Committee." The purpose and methods of appointment of this Committee is essentially the same as those pertaining to the Consumers' Committee discussed earlier under the U.K. legislation.[1]

Commonwealth Marketing Boards

All the Australian Commonwealth marketing boards have been constituted essentially for export control of the regulated products. By and large, each commodity marketing board is made up of representatives as shown in Table I, page

A feature of interest here is that where a commodity does not undergo processing, the producers' representation tends to be in the majority e.g. dried fruits, meat, apples and pears. On the other hand, with dairy produce, canned fruits and wine, the manufacturers' representation on the board is in the majority.

A significant feature of the Commonwealth Marketing Board and the U.S. marketing programme is the provision for the representation of industry interests instead of solely producers' interest as is evident in the U.K. and Canadian Provincial local boards.

Supplemental Bodies

Executive Committee

Most Boards appoint an executive committee to undertake and execute the business of the respective boards. The composition of each committee is as outlined in Table I, page 50.

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[1]Refer to page 28.

Overseas Agency

Additional to the various administrative arrangements available within Australia, all commonwealth marketing boards are delegated legislative authority to appoint agencies or representatives abroad e.g. Commonwealth Dried Fruits Control Board maintains a full agency in U.K. whereas other boards appoint representatives to serve their interests abroad. Such interests include information on prices and disposal of the products in an overseas market. etc.

The following table provides a tabular summary of the products regulated, conditions governing initiation and administrations of producer marketing plans in the four countries included in this study.

TABLE I

SUMMARY OF PROGRAMME INITIATION AND ADMINISTRATION
OF AGRICULTURAL MARKETING LEGISLATION
IN THE UNITED KINGDOM, UNITED STATES, CANADA, AND AUSTRALIA

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Provinces of Canada Ontario	Farm Products Marketing Act 1946 (Revised Statutes 1963)	Products Regulated: (year ending 31st March, 1964) Asparagus, Tender Fruits, Sugarbeet, Seed Corn, Bean, Hog, Grape, Soyabean, Fresh peach, Flue-cured Tobacco, Wheat, and Vegetables. Products Eligible: Any "farm product ... or any class or part of any such article of food or drink manufactured or derived in whole ... and such other natural products of agriculture as are designated by the (con.)	(a) A request for a proposed plan is submitted by a group of producers (should represent at least 15% of the total number of producers affected by the plan) to the Board for consideration. (b) If the Board is satisfied it arranges for a plebiscite to be conducted among all producers of the proposed plan. (c) If the required percentage (not less than sixty-six and two-thirds per cent of all persons voting in the plan) of producers voted in favour of the plan, it is then recommended to the Minister for approval. N.B. Section 5 of the Act further provides that where a request is made by a group of producers and if the Board (con.)	The Farm Products Marketing Board is appointed by the Provincial Lieutenant-Governor-in-Council. It may be made up of one or more appointees of the Governor. The Provincial Board delegates powers to local Boards established for individual regulated products. Establishment of Schemes and methods of operations of the local Boards are regulated by the Provincial Board. Members of local Boards are elected by producers.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Ontario (con.)		regulations and for the purpose of this Act, fish shall be deemed to be a farm product".	is of the opinion that the group of producers is representative of persons engaged in the production of the product concerned, the Board may recommend to the Minister the establishment of a plan to regulate the product.	
British Columbia	Natural Products Marketing Act. (British Columbia, 1960).	Products Regulated: Fruits and Vegetables Products Eligible: Any "Natural Product" which implies "any product of agriculture or of the forest, sea, lake, or river, and any article of food, or drink, wholly, or partly manufactured or derived from any such product."	(a) A proposed plan is subjected to a plebiscite supervised by the Provincial Board and approved by the Lieutenant Governor-in-Council. (b) No specified percentage of vote requirement is set out for any plan to be approved but this can be determined by regulations in existence from time to time.	Each Provincial Board shall consist of not more than 3 members who are appointed by Lieutenant-Governor-in-Council. Appointment of members to any marketing board is as set out by the respective scheme. Any scheme may apply to one or more natural product.
Nova Scotia	Natural Products Marketing Act (amended to April 1962)	Products Regulated: Apple, Wool, and Hogs	(a) A scheme is submitted to the Provincial Board and approval is given to the latter if the required proportion of the producers or persons engaged in the marketing of the product is met.	The Provincial Board is established by the Lieutenant-Governor-in-Council. Each Board consists of (con.)

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Nova Scotia (con.)		Products Eligible: "Natural products include animals, meat, eggs, poultry, wool, dairy products, grain, fruits, fruit products, vegetables, vegetable products, maple products, honey, forest products, and articles of food, or drinks manufactured or derived in whole or in part from any such product."	(b) An affirmative vote of 75% of the producers voting or 60% of the total producers concerned is required for the establishment of a program.	such number of members as the Governor may appoint from time to time. One member of the Board shall be appointed Chairman by the Governor. The Board may employ technical, professional or other officers and establish local boards and/or agencies.
Quebec	Quebec Agricultural Marketing Act (Bill 13, Assented to the 24th of April, 1963)	Products Regulated: Twenty-six plans in operation in June, 1958. Products Eligible: "Any agricultural, horticultural, or avicultural, or forest products, in its raw (con.)	(a) Ten or more interested producers must submit a draft of a proposed plan to the Provincial Board for approval. The application must be attested on oath by at least one of the applicants. (b) Within fifteen days of the receipt of such a draft, the Board will then publish in the Quebec Official Gazette notifying of the receipt of same.	The Provincial Board is composed of not more than seven members including a President and a Vice-President, all of whom are appointed by the Governor-in-Council. The term of office shall be ten years.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Quebec (con.)		state or partly, or wholly transformed by the producer ... including ..... farm and farmyard animals, alive or slaughtered, ... poultry, eggs, wool, dairy products, grain, fruits, vegetables, maple products, honey, tobacco, beverages, or foodstuffs derived from agricultural products and any other agricultural commodity designated by order of the Lieutenant-in-Council."	(c) The Board reserves the right to accept or reject the application for approval by the plan. (d) If it accepts the application, then a referendum will be held in the manner prescribed by the Board for all interested producers. (e) For a plan to be approved, an affirmative vote of two-thirds of the voters concerned is required.	The Lieutenant-Governor may appoint and assign to the Board any expert deemed necessary. Local Boards and negotiating agencies are established under regulations set by the Provincial Board. Consulting Committee: The Lieutenant-Governor may appoint a Committee to assist the Provincial Board. This Committee will consist of: "Specialists of services of the Provincial Administration; persons having special qualifications in various branches of..... products contemplated by this act (con)

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Quebec (con.)				and in the fields of co-operation and consumption." The number of this Committee will not exceed twenty.
New Brunswick	Natural Products Control Act (Revised Statutes, 1952)	Products Regulated: Cheese, Cream, Hogs, Potatoes. Products Eligible: "includes fish, animals, meat, eggs, ... and other natural products of agriculture, and of forest, sea, lake, or river and any article of food or drink wholly or partly manufactured or derived from any such product that may be designated by the Lieutenant-Governor."	(a) Interested producers send in a petition to the Provincial Board asking for the adoption of a proposed plan. (b) The Board, if it is satisfied with the proposed plan, and if the required percentage of producers are in favour, then recommends it to the Minister of Agriculture of the Province. (c) The Lieutenant-Governor, on the recommendation of the Minister, may then declare the said plan in force. N.B. The percentage of voters required to establish a proposed plan is determined by the Provincial Board.	The Provincial Board consists of not more than three members, one of which acts as a Chairman. It delegates powers to the local boards to enable them to operate any plan in force from time to time.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Prince Edward Island	The Marketing Act (assented to April 23rd 1963)	Products Regulated: Potatoes Products Eligible: Any product of forest or farm.	The Lieutenant-Governor-in-Council may, upon request by a group of producers, establish a plan for the marketing of any eligible product under the Act. An affirmative vote of sixty per cent of the persons voting is required to establish a plan. However, the Lieutenant-Governor may establish a temporary plan for any designated product if it is desirable without a vote being taken. A temporary plan should exist not less than six months after it has been put into operation. Subsequently a vote has to be taken and sixty per cent of the persons voting must vote in favour for it to be accepted.	Wide regulatory powers are vested by the Lieutenant-Governor to any local Board. The Minister of Agriculture is charged with the administration of the Act Producers of the regulated product may petition the Minister of Agriculture for an established plan to be terminated.
Alberta	The Marketing of Agricultural Products Act. (assented to April, 1957)	Products Regulated: Product Eligible: "Any poultry, poultry products, vegetables, honey, cheese, commercial	A plan is established if 51% of the persons engaged in the production of designated products voted in favour and who were registered voters at the time of voting.	The Act is under the administration of the Minister of Agriculture. The Lieutenant-Governor may cause to be established any plan or agency necessary for the

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Alberta (con.)		grass, and legume seed."		promotion, control and regulation of the marketing of any agricultural product within the Province. Such a board or agency shall be delegated all the powers conferred upon by the Act. An established plan can be terminated if not less than 10 persons concerned with the regulated product petition the Minister of Agriculture and if 51% of the persons engaged in the production of the product voted in favour.
Manitoba	The Natural Products Marketing	Products Regulated: Honey.	(a) A request in writing, for approval of a proposed plan, may be submitted by (con.)	The Provincial Marketing Board acts as a (con.)

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Manitoba (con.)	Act (as amended by regulation 636/62)	Products Eligible: "Any natural product, the regulation of the marketing of which is provided for in any scheme approved or established under this Act."	any group of producers. (b) The Provincial Marketing Board may thenccall for a vote of producers engaged in the product. (c) Board may approve the plan if two-thirds of the number of persons voting in favour, or, (d) where the matter of approval is not submitted to a vote of producers, the Board may recommend approval or rejection of the plan. (e) Upon approval given by the Board, the Board shall forthwith recommend to the Minister that the proposed scheme be given assent by the Lieutenant-Governor-in-Council.	supervising body to which all local Boards or schemes are responsible.
Saskatchewan	The Natural Products Marketing Act (assented to April 5, 1963)	Products Regulated: Honey. Products Eligible: "Any product of Agriculture, or of the forest, sea, lake, or river, (con.)	(a) A request from a group of persons engaged in the production of a natural product is submitted to Saskatchewan Marketing Board. (b) The Provincial Board may then recommend to the Lieutenant-Governor-in-Council if the request is respresentative of the persons engaged in the (con.)	The Provincial Board acts as a supervising body to which local Boards are responsible.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Saskatchewan (con.)		animals ... wholly, or partly manufactured ..... from any such product!	proposed plan. This decision is based upon public hearings. (c) A poll is conducted and an affirmative vote of at least 51% of those voting is required to approve the proposed plan.	
United Kingdom	Agricultural Marketing Act, 1958. (Consolidated Act of Agricultural Marketing Acts - 1931 to 1949).	Products Regulated: Milk, Potatoes, Hops, Apples, Pears, Pigs, Wool, and Eggs. Products Eligible: Any product of agricultural or of horticultural origins whether primary or processed.	(a) Petitioners of a proposed scheme must submit their request to the Minister. (b) The Minister then gazettes the proposed scheme and allows at least six weeks for objections to be lodged. (c) If (b) is satisfied and the scheme is desirable then the Minister will lay it before the Houses of Parliament for approval. (d) All producers concerned must then register before voting takes place. (e) Every registered producer has a vote. A scheme is approved and adopted only if two-thirds of the total number of registered voters voted in favour and they should represent not less than two-thirds of the total volume of the regulated	Each scheme is administered by a Marketing Board. The Board is made up of elected representatives from among registered producers and appointees of the Minister. At least two appointees and not more than one-fifth of the total membership of the Board must be made by the Minister. These appointees are chosen for their proven commercial and financial capabilities and knowledge

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
United Kingdom (con.)			product.	of consumer's interest. At any one time the total membership of each Board should not be less than 8 nor more than 24, unless for special reasons, the Minister thinks fit to increase the number. Each Board shall have an Executive Committee made up of: 1. Not more than 7 members of the Board; 2. At least one appointee of the Minister.
United States (Federal)	Agriculture Marketing Agreement	<u>Products Regulated</u>: Milk (federal milk	(a) A preliminary proposal is drafted by growers and handlers of the product	Each marketing order is operated by an

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
United States (Federal) (con.)	Act, 1937.	orders), fresh fruits, fresh vegetables, and Tree Nuts. Products Eligible: Milk and specified fresh fruits, vegetables, tree nuts, peanuts, or hops and their products.	concerned. (b) The proposal is then submitted to the Secretary of Agriculture requesting a public hearing. (c) A public hearing is then held in the area covered by the proposed programme. A fifteen day notice is given to all growers and producers of the industry before the day of the hearing. (d) At the end of the hearing and if the Secretary of Agriculture gives assent, then the proposed programme is submitted to the growers and handlers whose approval or otherwise, will be determined by a referendum. (e) A marketing order can be issued only under the following circumstances: 1. At least two-thirds of the growers voting in the referendum, by number or volume of production, voted in favour of the programme. 2. Handlers of NOT less than 50% by volume, must sign	Administrative Committee composing of growers or growers and handlers. These appointments are nominated by the industry and appointed by the Secretary of Agriculture. There is no specification as to maximum or minimum membership to the Committee. With orders covering fruits and vegetables for fresh market, the Committee is usually made up of growers only. The terms of office of each Committee, its powers and duties and obligations are

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
United States (Federal) (con.)			the agreement except in the case of California-Arizona Citrus Programme where 80% of handlers must sign the agreement. The Secretary of Agriculture may still issue an order, with certain exceptions, if it is in the interest of producers.	specifically spelled out in each order. Policies and regulations originate from the Committee but are subjected to the final approval by the Department of Agriculture.
State of California	California Marketing Act, 1937.	Products Regulated: (November, 1962) Fruits, Vegetables, and Tree Nuts. Poultry, Turkey, Beef, Fish, and Honey. 43 programmes are now in operation. Products Eligible: All products of agricultural, and horticultural origins.	(a) Need for a programme is first discussed among members of the proposed scheme and representatives of the State Department of Agriculture. (b) A proposal is submitted by proponents of the industry concerned to the State Director of Agriculture. (c) A public hearing (or series of hearings) is then conducted by State Government to receive evidence for and against the proposal. (d) The result of the hearing is then determined by State Department of Agriculture as to its desirability.	The Director of Agriculture appoints an advisory board from a list of nominations submitted by the industry. If the programme involves both producers and handlers, then each group is represented in the Board. If only producers, or handlers are regulated then each Board is

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
State of California (con.)			(e) The final draft is then passed back to the industry concerned for approval. (f) A referendum is held and the programme is adopted if the following conditions are met: 1. "Sixty-five per cent of the producers marketing 51% of the volume, or 51% of the producers marketing 65% of the volume, if producers are regulated; 2. Sixty-five per cent of the processors, by number <u>and</u> by volume, if canners and dried fruit packers are regulated; 3. Sixty-five per cent of the handlers, by number <u>or</u> volume, if other handlers are regulated." The basis for determining approval is that all members of the affected programme are considered rather than those voting, as with the federal programmes.	made up of members from ONLY that particular group. Each Board is charged with the responsibility to initiate regulations etc., and submit them to the State Director of Agriculture for approval. Sometimes Boards employ a manager and staff to administer the programme on their behalf. However, the manager is subjected to the control of the Board and approval of the Director who has the final say in the enforcement of order provisions. Violations are referred to the Attorney-General for prosecution.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Queensland, Australia	The Primary Producer's Organization and Marketing Acts. 1926 to 1957, (as amended in December, 1962)	Products Regulated: Arrowroot, Egg, Pig, Cheese, Maize, Peanut butter, Millet, Cotton, Barley, Ginger, Navybean, Tobacco, Plywood, and Veneer, and Dairy Products. Products Eligible: Any agricultural product of the State of Queensland.	(a) The Governor-in-Council, upon receipt of a signed petition by at least 50 growers of any particular commodity, shall declare it a commodity under this Act. (b) Upon declaration, a 30 day notice of intention to set up a Board is then gazetted. (c) At the end of this notice, and if at least three-fifths of voters voted in favour and at least 50% of those eligible to vote exercised their rights to vote; the proposed scheme will be adopted.	A Board for each programme is constituted under this Act. Each Board consists of elected representatives of producers and a representative of the Government in the person of the Director of Marketing. The Minister may appoint one or more persons to deputize the Director of Marketing if he is absent. The Chairman of each Board shall be appointed by the Minister upon the recommendation of the Board at its first meeting. Every member of the Board shall hold office for a period of three years but each shall be eligible for re-election.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
New South Wales Australia	The Marketing of Primary Products Act. 1927 - 1940. (Recent amendments not available at time of writing).	Products Regulated: Egg, Rice, Navybean, Wine, Grapes, Lemon, Dried Fruit, Milk, Dairy Produce, and Grain Elevators. Products Eligible: Any product of agricultural origin except wool or fresh milk.	(a) A representative number of producers (not less than 100 or, where the number engaged in producing a commodity does not exceed 150, one-half of the number so engaged) can petition to the Governor requesting the commodity be declared to fall under the Act. (b) Upon the receipt of the petition the Governor will then, by proclamation declare that the product is a commodity under the Act. (c) By the same proclamation he will fix a day, not less than fifty days after gazetting the proclamation, for a poll to be taken of the producers of the commodity. (d) A scheme shall be constituted provided that the votes polled represent three-fifths of the producers entitled to vote, and that more than one-half of the votes polled are in favour of the constitution of a scheme.	A Board will consist of representatives elected by producers and of other members as under:- 1. "If two representatives have been elected by the producers: one other member; 2. If three or five representatives have been elected by the producers: two other members." The total number may not exceed seven members. Election of Board representatives is conducted upon a system of preferential voting or proportional representation in a manner presented by regulation. The tenure of office of members of a Board is three years.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
New South Wales Australia (con.)			Qualifications of Voters: (1) No person may vote unless his name is on the list which the Minister shall cause to be compiled. (2) No person is qualified to enroll in a roll of producers compiled under the Act unless he is enrolled on the New South Wales Electoral Roll. (3) Any person whose name is omitted from a roll may apply to a stipendiary or police magistrate for his name to be included. Voting Compulsory: Compulsory for producers to vote under a penalty of not less than two pounds.	
Victoria, Australia	Marketing of Primary Products Act. 1958.	Products Regulated: Onion, Maize. Chickory, Egg, Potato, French-Bean Seed, Dairy Products.	(a) The Governor-in-Council may by proclamation declare a product a commodity under the Act for the purposes of this Act: 1. "where the number of producers of the product does not exceed two hundred - by at least 50 per cent of the total numbers of such	After the application of this Act to a commodity, the Governor-in-Council will appoint a Marketing Board in relation to the commodity. One member of the Board will be a

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Victoria, Australia (con.)		Products Eligible: a."any product (other than wool, hay, or fresh fruit not being pears, or apples or citrus fruit or tomatoes) of agricultural, horticultural, grazing... and, b. any other article of commerce prepared (otherwise than by any process of manufacture) from the produce if agriculture, horticulture, viticulture,... or fishing operations."	producers, or 2. where the number of producers of the product exceeds two hundred - by at least one hundred of such producers plus five per centum of the numbers by which the total number of such producers exceeds two hundred." (b) Before taking a poll, the Minister shall gazette the said commodity for at least 50 days to acquaint the producers. (c) The Minister then appoints a day for a poll to be taken of the producers of the commodity so declared. (d) If - 1. sixty per cent - or more of the producers entitled to vote, voted, and 2. sixty per cent - or more of the votes polled are in favour of the constitution of a Board - the Governor may then declare that a Board respecting the commodity and the provisions of this Act will then apply.	Governor appointed, and the others will be persons elected by the producers at a poll. The Board will have a Chairman elected at the first meeting of the Board or appointed by the Governor if not so elected at the first meeting of the Board. The Board shall be responsible for carrying out the power conferred upon it by the Act. All members of the Board shall hold office for a period not exceeding two years after which he is eligible for re-appointment or re-election.

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Commonwealth of Australia	Separate Legislation, Controlling and regulating of each commodity concerned.	-Products Regulated: Wheat, Dairy Produce, Egg, Meat, Dried Fruits, Canned Fruits, Wine, Apples, Pears, and Honey. Products Eligible: Any product of Agricultural, or horticultural origin.	All Commonwealth Marketing Legislation has been created with the full approval of the industries concerned. Usually strong representation is made by industry concerned to the Commonwealth Government. The latter then requires a vote to be taken throughout the Commonwealth to test growers opinion before any enabling legislation is submitted to Parliament.	A Board called the "Australian (Name of Commodity) Board" is constituted under each Act. The Board usually consists of the following: (a) A representative of the Commonwealth Government; (b) Representatives of the relevant State Marketing Board based usually on the principle of proportional representation; (c) A member with commercial experience; and (d) A member representing employees engaged in the handling, grading, and processing of the regulated product. Representatives of the various State Boards are appointed from among members of the respective State Boards and the nomination of

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Commonwealth of Australia (con.)				the Minister of State administering the Act. The Commonwealth Government representative acts as the Chairman of the Board. The representative of employees is selected after consultation by the Minister with the representative of the appropriate trade union or unions. The term of office of the Chairman is determined by the Governor-General, whereas other members of the Board usually serve for a period of three years but shall be eligible for re-appointment. The representatives of the State Boards shall cease to hold office should they cease to be a member of the State Board. The Board further appoints an Executive Committee composing of: (a) A chairman;

TABLE I (con.)

Country, State or Province	Legislation	Products	Conditions for Programme Initiation	Programme Administration
Commonwealth of Australia (con.)				(b) Members of the Board representing State Boards, not being members representing the same State Board, and (c) The Member of the Board representing employees engaged in the handling, grading, and processing of the regulated product. An executive member usually holds office for 12 months or until he ceases to be a member of the Board whichever is earlier. The Executive Committee is vested with powers and functions as recommended by the Board, or by the Minister, but the Board may have the overriding powers. The Board may appoint a person or persons approved by the Minister to represent the Board overseas.

SECTION III

AN ANALYSIS OF ONTARIO MARKETING LEGISLATION WITH RESPECT TO PROGRAMME INITIATION AND ADMINISTRATION

In the preceding sections the main features of programme evolution, establishment and administration were outlined. The purpose of this concluding section is to present a comparative analysis of these features between the Ontario Agricultural Marketing legislation and the other legislation studied. This comparison is presented in summary form at the end of this section in Tables II and III.

Programme Initiation

Qualification of a "Producer"

Under the Farm Products Marketing Act of Ontario, the eligibility of a producer to vote at a plebiscite is not clearly spelled out. All that is necessary to make a producer an eligible voter is for him to sign a certificate stating that he is a bonafide producer. It is significant to note that in some other legislation there are clear cut definitions of the class of persons eligible to vote at a producers' plebiscite.[1] This may minimize the likelihood of any proposed scheme being defeated by the admittance of non-bonafide producers to a producers' poll.

Notification of a Proposed Scheme to Producers

As was brought out in Tables I and II, it has been a practice in some of the legislation studied to require a specified period, between the

[1] For example, the "Marketing of Primary Products Act, 1950", Victoria, Australia, specifies that a bonafide egg producer is one who was, on the date of a producers' poll, the owner of at least two hundred and fifty adult female fowls and also had delivered or was to have delivered to the board, during the twelve months preceding the date of the poll, at least three thousand dozens of eggs. Specifications of this nature also occur in other Australian and British marketing legislation.

time of receipt of a petition for a proposed scheme and the day of the plebiscite to decide on its approval, to acquaint the parties concerned with the implications of the proposed scheme. This requirement has two important merits. Firstly, it allows for objection, if any, with respect to the proposed scheme, to be lodged.[1] Secondly, where public hearings are conducted following the submission of a proposed programme, as is commonly practised in the U.S. marketing legislation, it provides a form of public forum whereby the proponents and opponents concerned can avail themselves of the opportunity to express their views.[2] The results of these public hearings and deliberations then form the basis for further action as to the adoption or otherwise of the proposed programme.

This provision of a specified period for public hearing and/or notification preceding a formal poll of producers to decide on a proposed programme are features which the Ontario Farm Products Marketing Act does

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[1]Under the United Kingdom Marketing Acts, where an objection has been raised during the period of notice by any producer or a group of producers, the Minister responsible must, unless he considers that such an objection is trivial or has modified the proposed scheme to suit the aims of the objectors, institute a public inquiry. On the basis of this inquiry, the Minister may then modify the proposed scheme accordingly. But the modified scheme is subject to the approval of the majority of the original petitioners. If this approval is not met further actions as to the institution of the proposed scheme automatically ceases.

[2]A public hearing is preceded by informal discussion and meeting among proponents of the commodity concerned to see if a marketing order is the appropriate solution to the problems confronting the industry. This is particularly important because each industry usually faces problems peculiar to itself - an order that is useful in correcting the ills of one industry need not be necessarily effective when applied to another industry with different problems. Even if a marketing programme is an acceptable solution, the problem of general agreement as to the technique to employ to achieve the ends has also to be resolved. Technical advisors of the Department of Agriculture are readily available to advise the interested group of the mechanics of setting up a proposed programme.

not provide[1] though in practice some form of notification is carried out by the government.[2]

Voting Requirements

The question of voting requirements is one of importance when dealing with the procedures establishing a proposed plan. Upon this may lie the answers to such significant questions as whether a marketing plan is respresentative of the producers' and/or industry's interest. Various systems or combination of systems have been adopted in the provinces of Canada and elsewhere.[3] In view of the significant and different implications behind each voting system, it is intended here to analyze four commonly practised systems encountered in the legislation under review.[4] These are: first affirmative vote by a minimum percentage of those voting; second affirmative vote by a minimum percentage of the total eligible voters; third affirmative vote by a minimum percentage of number of eligible voters and by volume of products produced; and fourth affirmative vote by a minimum percentage of those voting representing a minimum percentage of eligible voters.

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[1] Perkin, G.F., "Marketing Milestones in Ontario, 1935-1960," Department of Agriculture, Parliament Buildings, Toronto, p. 12.

[2] A draft of the proposed plan is usually issued for general circulation through government agencies (e.g. the agricultural representative in the area to be covered by the proposed plan) radio, press, etc. Where a voters' list is available, a draft of the proposed plan is sent to each individual producer concerned. Furthermore, agricultural press and farm organizations do attempt to bring any proposed plan to the attention of the growers. However, to the extent that some farmers' organizations have specific interests, the possibility exists that the views and actions they take may reflect only these interests.

[3] Perkin, G.F., op. cit., pp. 9-11.

[4] See Table II, pp. 67-70.

Affirmative Vote by a
Minimum Percentage of Those Voting

This is the system used in the Province of Ontario and a majority of the other provinces in Canada.[1] In Ontario, two-thirds favourable vote of those voting in a producers' poll, regardless of the volume of production of the commodity which this number represents, is necessary to bring a proposed plan into existence. Theoretically, it means that a proposed plan could be approved with only a small portion of the total production should a large number of small producers vote in the affirmative and a relatively small number of large producers vote in the negative or abstain from voting. On the other extreme, a vote could fail to carry despite a large proportion of the total production being committed favourably by a relatively small number of large producers.

Whilst a favourable vote of 66-2/3 per cent of those voting represent the majority interest of those voting, it does not necessarily represent the majority interest of the industry concerned. Past plebiscites conducted in the Province of Ontario have revealed this apparent weakness of the present system.[2] For example, a plebiscite on the "Ontario Tender Fruit Marketing Plan" in 1959 indicated that 85 per cent of those voting voted in favour of having the plan. This was, by no means, an overwhelming majority of the industry as a whole because it represented only 36 per cent of the total number of eligible voters. Since the inception of this plan, no re-voting as to its continuance has been conducted. The present legislation in Ontario does not seem to provide for a periodical vote to be taken by producers to decide on the continuance or otherwise of an existing

[1] Perkin, G.F., op. cit., pp. 9-11.

[2] Perkin, G.F., op. cit., Table I, plebiscites on Ontario Tender Fruit Growers' Plan (1959), and also Table 3, p. 17, re-votes on Ontario Fresh-Peach Growers' Marketing Plan and Ontario Hog Producers' Marketing Plan.

plan.

Furthermore, it may be pointed out that, though only a simple majority of those voting is required by government in a political election within a democratic institution, there are several subtle differences between a compulsory farm product marketing board and the constitution of government. These differences were pointed out by Perkin as follows:

> "A marketing plan can limit the individual farmer's trading freedom in the sale of the farm product which may constitute a part of his livelihood without paying him any compensation. A marketing plan taxes the farmer to pay the cost of his marketing organization and this tax can be increased or decreased without the farmer's consent. A marketing plan is not subject to an automatic vote of confidence every four or five years as to whether it will continue in operation. Experience has shown that no marketing plan can hope to succeed unless the substantial majority of the farmers affected by it are actively in favour of it. Indifference is almost as bad as opposition. For these reasons it is difficult to concede that a simple majority in favour, as in a political election, is sufficient enough producer support on which to approve a compulsory plan."[1]

Affirmative Vote by a Minimum Percentage of Total Eligible Voters

Up until 1956, to approve a proposed plan in the Province of Ontario, the voting system required an affirmative vote of 66-2/3 per cent of the total number of eligible voters.[2] This system has been criticized on the ground that "those not voting are in effect 'no' votes." A further criticism might have been that those voting in favour might not have represented a major portion of the total productive capacity of the industry.

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[1] Ibid, p. 10.

[2] Ibid, p. 9.

Affirmative Vote by a Minimum Percentage, by
Number of Eligible Producers and by Volume of Products Produced

As indicated earlier in Section II, this is the system currently in use under the United Kingdom and California State Marketing Legislation. The object behind this dual system is to ensure that a scheme is representative of the industry concerned both by productive capacity and by number of producers. Such a system might prove too complicated in practice and the initial cost of setting it up (in terms of survey and investigation of individual farm's productive capacity etc.) might be prohibitive. There is also the question of what criteria to adopt in deciding on the minimum volume of production to qualify one as an eligible voter. Furthermore, where a very large disparity of farm size exists, as is the case in the Province of Ontario, the system could possibly lend itself to allowing an undemocratic advantage to the large producers.[1]

However, the system seems to have worked successfully in the U.K. All the schemes that are now in operation in the U.K. were brought in by this system. One scheme, however, failed to carry despite the fact that parliamentary approval was given, because, though it was approved on the two-third affirmative vote of registered voters, it did not fulfil the volume basic requirement. This was the proposed apple and pear marketing scheme.

In the United States Marketing Legislation, a further requirement is the signing of a companion agreement to marketing programmes by the handlers. The contention is made here that a "handler" is the person who actually puts the regulated product into the market and consquently a marketing programme should affect him primarily.

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[1]Ibid, p. 12.

Affirmative Votes by a Minimum Percentage of Those Voting Representing a Minimum Percentage of Eligible Voters

This is the system widely adopted in the Australian State Marketing Legislation.[1] The idea here is to guard against indifference or apathy on the part of producers which could result in a plan being constituted with the support of only a minority. A more drastic, but less democratic measure, is the additional provision under the New South Wales State Marketing of Primary Products Act which makes it compulsory for producers to vote under a penalty of not less than two pounds.

Between 1937 and the date of writing, the Province of Ontario has tried practically all the systems discussed above except system (iii), the dual voting system.[2] In view of this, and the fact that this system has shown apparent success and popularity since the inception of the Agricultural Marketing Acts in the U.K., it might prove a plausible alternative to the present system of voting in Ontario.

Programme Administration

The case has often been advanced that, while the election of producer representatives to the various boards pays due respect to democratic principles, control of such boards is not always effective because farmers in general possess neither the time nor the skill to engage in the complexities of marketing.[3] It is conceivable that the efficiency of a statutory instrumentality can be impaired when direction is placed in the hands of such people. This is particularly so when representatives of

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[1] See Table II, pp. 69-70.

[2] Ibid, p. 9.

[3] See, for example, "Report of the Committee appointed to review the Working of the Agricultural Marketing Acts, December, 1946", Ministry of Agriculture and Fisheries, U.K. Economic Series No. 48, p. 56.

primary producers are elected to a board, not necessarily because of their knowledge and skill in marketing, but because of their stature in grower organization, and where executive committees are appointed from members of the administrative body.[1] This problem can be theoretically solved by appointement of staff persons skilled in the matter of agricultural marketing. The view, for example, put forward by Davies, General Manager, Milk Marketing Board of England and Wales, was that "....there is always a great deal of administrative execution and this requires a professionalism and the highest calibre of men....I cannot think of anything more beneficial to farmers' organizations than such recruitment of men into marketing from Departments of Economics and Agricultural Economics at the universities."[2]

The topic of programme administration is best discussed under two broad headings: first composition and manner of representation to each administrative body; and second supplemental committees created under the various legislative acts.

Composition and Manner of Representation to Each Administrative Body

The type and manner of representation on each Board responsible for administering and supervising each programme varies and may include representatives of government, industry and consumers.

Government Representation

All the legislation in the U.K., Australia, the Provinces of Canada,[3]

[1] See under "Executive Committee," pp. 42-52, Table I.

[2] Davies, J.L., C.B.E., "Reflections on the Marketing of Our Farm Produce," Journal of Agricultural Economics, December, 1960, Vol. XIV, No. 2, p. 141.

[3] The case of the Ontario Provincial Legislation and most other provinces in Canada, is a unique one in that members of the Provincial Board are solely government appointees, whereas members to local boards are all producer elected.

provide for either direct government representation on the commodity boards or control over the activities of commodity boards.[1]

Experience in countries which have in their marketing legislation provision for the appointment of government representatives on the administrative bodies, suggests that the case for such a representation is a good one. At least this view has been accepted in the U.K. and Australia.

In Ontario, the composition of the local boards (which are the counterparts of the commodity marketing boards in the U.K. and Australia) show that there is a complete absence of government representation and all board members are elected by producers. However, since local boards have their power delegated to them from the Provincial Board, which is a government appointed board, some degree of governmental direction is implied.

Industry Representation Other Than Growers'

In addition to government representation discussed above, some legislation provides for the representation of other industry interests.[2] These interests include a wide range, e.g. processors, canners, commerce, employees' co-operatives, etc. To the extent that these other related industries have an identity of interest with producers, it makes good sense to provide for their interest in the board concerned.

Supplemental Committees

The Ontario Farm Products Marketing Board legislation makes no provision for supplemental committees. Excepting the Quebec Marketing Legislation, all other provinces of Canada do not seem to provide in their

[1] See Table III, pp. 71-73.

[2] See Table III, pp. 71-73.

legislation for the creation of supplemental committees as do other countries.[1] Broadly, these committees can be categorized into two general groups: (a) Executive Committees, and (b) Consumers' Investigation Committees.

Executive Committees

These are appointed bodies and their chief function is to conduct or execute business on behalf of the marketing board. Membership to each Executive Committee may be appointed from members of the elected board and from the civil service.[2] The practical significance of the Executive Committee lies in the fact that they simplify the administration of boards, some of which are made up of a large number of elected members. Furthermore, the appointement of civil servants, in the person of the Director of Marketing, as is the case in the Australian Boards, seems to be an added asset. As marketing boards enjoy a de facto autonomy, they have to exercise their powers wisely and take cognizance of the fact that the government decides economic policy.

Consumers' and Investigation Committees

Earlier sections under programme initiation have discussed the various legislative safeguards to what one might call the special interest of producers.[3] This section pays particular attention to a review and consideration of the various safeguards available for protection of consumers' and/or public interests.

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[1] See Table III, pp. 71-73.

[2] See Composition of Executive Committees in the U.K., Commonwealth Marketing Board, etc. pp. 42-52 , Table I.

[3] See, for example, voting requirements, ministerial power to intervene, public enquiry, etc., in Section II, and the first part of this Section.

The fundamental task of a marketing board, as pointed out earlier in the study, is to maximize producers' returns. In general, it is safe to say that marketing boards do not have specific responsibilities to consumers although, over the years, protagonists of such organizations have stoutly argued that consumers have something to gain from organized marketing. Be that as it may, the severest criticism and indeed threat to statutory marketing organization, from the point of view of the consumers and public, has been its capacity and potential to exploit consumers unduly by its monopolistic tendency. Hence, the need to bring the activities of marketing boards under closer public regulation and surveillance. This seems a strong point in current public thinking in the U.K. Warley, in a paper to the British Agricultural Economics Society, suggested that "given the general acceptance of two propositions which seem to have wide support in current society, first that monopolistic power once obtained may be abused, and second, that there should in general be the minimum of restraint on individual liberties and entrepreneurial freedom, then there must equally be presumptions that monopoly power should be created in exceptional circumstances and.....additionally that its existence should be subject to close public regulation and surveillance."[1]

It is significant to note that all the legislation under review in this study does not provide for formal representation of consumers on the boards. At best, consumers interests are represented indirectly through the offices of government appointees on some boards.[2] However, since

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[1]Warley, T.K., "The Future Role of Marketing Organizations," Journal of Agricultural Economics, December 1963, U.K., Vol. XIV, No. 4, p. 552.

[2]See U.K. Boards, p. 27, and Table I, pp. 41-42.

government is at least theoretically a guardian of public welfare, various measures have been exercised or are exercisable through the instrumentality of the marketing legislation where abuse of power by a board is apparent. These measures are (a) the ministerial control of the regulation and his power to amend the legislation; (b) the possibility that any aggrieved party or parties can take action with a court of law should a board exceed its statutory power; (c) the institution of public inquiry into schemes and/or amendments of existing schemes; (d) the question of parliamentary approval of schemes and, more specifically; (e) the appointment of consumers' and investigation committees.

Measures (a), (b) and (c) were usually implied in most of the legislation studied. In actual fact, these are curatives rather than safeguards because whenever any such action is necessitated, it invariably implies that consumers' or public's interest have already been hurt. Measures (d) and (e) are peculiar to the British Marketing Acts, whereas the State of Victoria in Australia also has in its Marketing Legislation provision for the appointment of a consumers' committee.[1]

Because of their general acceptance by producers,[2] and the public, consumers' committees of the type in operation in the U.K. deserve a closer scrutiny. The procedural details in the execution of duties of the consumers' and/or investigation committees have been discussed in a previous

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[1]See Table III, pp. 72-73.

[2]"These marketing acts are in my opinion deserving of wider study, because not only do they provide the means of organization to producers, but they involve government only slightly and they provide full and proper safeguards to consumers. This regard for public interest is a check which is properly accepted by producers, it does not involve ministers too closely, and the commercial operations of the board are not subject to question on the floor of the House of Commons. Those of you who may be interested in the organization of public services which are involved in industry and commerce will be glad to know that it is possible to organize them so that government, while finally in control, is remote from policy and the execution of day-to-day affairs." - Davies, J.L.C., C.B.E., op. cit., p. 131.

section.[1] An appraisal of the effectiveness of the working of such committees in a difficult task. At best, it can be said any effect is only of an indirect nature since they only act as advisory bodies. It will be recalled that any ultimate decision, upon reports being submitted by investigation committees, is left to the discretion of the responsible minister. Doubts were, in fact, cast by the Lucas Committee when it submitted that "we doubt whether the consumers' committee set up under the Agricultural Marketing Acts, with their strictly limited powers of positive action, gave adequate protection to consumers in the case of products dealt with under marketing schemes....but if, as we think it most likely, the demand for food in this country should in the future exhibit a long-term tendency to expand faster than available supplies, the virtual exclusion of the consumer from any positive part in the operation of marketing policies could be a more serious matter."[2]

Reports of the consumers' committees to the ministers in 1958, however, suggested no serious objections to the general policies of the various marketing boards in the U.K. insofar as consumers' interest was concerned.[3]

In summary, it can be said that the tendency and fear of consumers' exploitation through the use of statutory instruments in agricultural marketing seem obvious. This was foreseen by the authors of the British Marketing Acts at the time of their inception, hence the insertion of provisions for the legislative safeguards to the public. Where the market for agricultural products is a domestic one, the danger and threat to consumers' welfare can be a more serious one.

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[1]See pp. 28-29.

[2]"Report of the committee appointed to review the Working of the Agricultural Marketing Acts, December, 1946", Ministry of Agriculture and Fisheries, U.K. Economic Series No. 48, p. 52.

[3]Ministry of Agriculture and Food, U.K. "Reports of Consumers' Committees for Great Britain, for England and for Scotland," December, 1957 - May, 1958.

The provision for the creation of Consumers' and Investigation Committees to look into and investigate the interest of society under the United Kingdom Marketing Acts seems a salutory example which might be worthy of greater consideration in Ontario.

Provisions of adequate and proper safeguards to consumers should be looked upon as useful checks on the possibility of abuse of power by producer organizations. Indeed, these measures are essential in the long run interest of the producer organization itself for

> "It is not society which should be protected from the use of monopoly in agriculture. It is agriculture which should be protected against its abuse."[1]

[1] Mehren, G.L., "Some Economic Aspects of Agricultural Control," Journal of Farm Economics, Vol. 30, No. 1, p. 42.

TABLE II

SUMMARY OF VOTING PROCEDURE OF MARKETING LEGISLATION STUDIED

Country, State, or Province	Legislation	Period of Notification before Voting Specified	Notification before Voting Specified	Method of Voting[1]	Voting Requirements[2]
Canada (Federal)	Agricultural Products Marketing Act, 1949.	No.	No.	None.	None.
Provinces of Canada:					
Ontario	Farm Products Marketing Act (Revised Statistics, 1963)	No.	No.	Type I.	System I.
British Columbia	Natural Products Marketing Act, 1960.	No.	No.	Type I.	As described by regulation existing at the time.
New Brunswick	Natural Products Control Act, 1952.	No.	No.	Type I.	As determined by Provincial Board.
Nova Scotia	Natural Products Marketing Act, 1962.	No.	No.	Type I.	System I, or II.
Prince Edward Island	The Marketing Act, April, 1963.	No.	No.	Type I.	System I.
Alberta	The Marketing of Agricultural Product Act, 1957.	No.	Registration of bonafide Producers.	Type I.	System II.

TABLE II (con.)

Country, State or Province	Legislation	Period of Notification before Voting Specified	Notification before Voting Specified	Method of Voting[1]	Voting Requirements[2]
Provinces of Canada: (con.)					
Manitoba	The Natural Products Marketing Act, 1963.	No.	Registration of voters.	Type I.	System I.
Saskatchewan	The Natural Products Marketing Act, 1963.	No.	Provincial Board may hold public hearings to receive representations from persons concerned.	Type I.	System I.
Quebec	Quebec Agricultural Marketing Act, 1963.	No.	Within fifteen days after receipt of proposed scheme, the Provincial Board will gazette it in the Quebec official Gazette. Before polling day a copy of the Proposed plan is sent to each producer for his perusal.	Type II.	System IV.
Newfoundland	N.A.*				

TABLE II (con.)

Country, State or Province	Legislation	Period of Notification before Voting Specified	Notification before Voting Specified	Method of Voting[1]	Voting Requirements[2]
United Kingdom	Agricultural Marketing Act, 1958 (Consolidated Act of Agricultural Marketing Acts, 1931 to 1949)	Six weeks.	The responsible Minister will gazette the proposed scheme and allow objection to be lodged.	Type II.	System III.
United States (Federal)	Agricultural Marketing Act, 1937.	No.	A fifteen day notice is given before day of public hearing.	Type II.	At least two-thirds of those voting by number of producers or by volume of production.
California	California Marketing Act, 1937.	No.	Public hearings are conducted.	Type II.	System III.
Commonwealth of Australia (Federal)	Individual National Commodity Control Act.	As determined by relevant legislation.	As determined by relevant legislation.	As determined by relevant legislation.	As determined by relevant legislation.
States of Australia					
Queensland	The Primary Producer's Organization and Marketing Acts, 1926 to 1957 (as amended in Dec.1962)	Thirty days.	Notice of intentions to set up a Board is gazetted.	N.A.	System IV.

TABLE II (con.)

Country, State or Province	Legislation	Period of Notification before Voting Specified	Notification before Voting Specified	Method of Voting[1]	Voting Requirements[2]
States of Australia (con.)					
New South Wales	The Marketing of Primary Products Act, 1927 to 1940.	Fifty days.	Notice of intention to set up a Board is gazetted.	N.A.	System IV.
Victoria	Marketing of Primary Products Act, 1958.	Fifty days.	Notice of intention to set up a Board is gazetted.	N.A.	System IV.

[1] Type I - By secret ballot at designated polls.
Type II - By secret mail ballot.

[2] System I - Affirmative vote by a minimum percentage of those voting.
System II - Affirmative vote by a minimum percentage of the total eligible voters.
System III - Affirmative vote by a minimum percentage, by number of eligible producers, and by volume of products produced.
System IV - Affirmative votes by a minimum percentage of those voting representing a minimum percentage of the total eligible voters.

*Not Available.

TABLE III

OUTLINE SHOWING SPECIAL ADMINISTRATIVE FEATURES
OF MARKETING LEGISLATION

Country, State or Province	Legislation	Special Committee(s)	Administrative Body	Government Representation	Industry Representation other than Growers'	Consumers' Representation
Canada (Federal)	Agricultural Products Marketing Act, 1949.	None.	None.	None.	None.	None.
Provinces of Canada						
Ontario	Farm Products Marketing Act (Revised Statistics, 1963)	None.	Provincial and Local Boards.	Solely on Provincial Marketing Board.	None.	None.
British Columbia	Natural Products Marketing Act, 1960.	None.	- do -	- do -	None.	None.
New Brunswick	Natural Products Control Act, 1952.	None.	- do -	- do -	None.	None.
Nova Scotia	Natural Products Marketing Act, 1962.	None.	- do -	- do -	None.	None.
Prince Edward Island	The Marketing Act, April, 1963.	None.	- do -	- do -	None.	None.
Alberta	The Marketing of Agricultural Products Act, 1957.	None.	- do -	- do -	None.	None.
Manitoba	The Natural Products Marketing Act, 1962.	None.	Provincial and Local Boards	Solely on Provincial Marketing Board.	None.	None.

TABLE III (con.)

Country, State or Province	Legislation	Special Committee(s)	Administrative Body	Government Representation	Industry Representation other than Growers'	Consumers' Representation
Provinces of Canada (con.)						
Saskatchewan	The Natural Products Marketing Act, 1963.	None.	- do -	- do -	None.	None.
Quebec	Quebec Agricultural Marketing Act, 1960	Consulting Committee	- do -	Solely on Provincial Marketing Board, and Consulting Committee.	On Consulting Committee.	On Consulting Committee.
Newfoundland	Not available	- -	- -	- -	- -	- -
United Kingdom	Agricultural Marketing Act, 1958 (Consolidated Act of Agricultural Marketing Acts - 1931 to 1949.)	Consumers' Committee, Investigation Committee, Executive Committee.	Commodity Marketing Board and Executive Committee.	On:- Commodity Marketing Board; Consumers' Committee; Executive Committee.	On the Commodity Marketing Board and all the special Committees mentioned in column (3).	Consumers' Committee.
United States	Agricultural Marketing Agreement Act, 1937.	Subsidiary Committee appointed by the Administrative Committee.	Administrative Committee.	None.	Handlers on Administrative Committee.	None.

TABLE III (con.)

Country, State or Province	Legislation	Special Committee(s)	Administrative Body	Government Representation	Industry Representation other than Growers'	Consumers' Representation
California	California Marketing Act, 1937.	Some Boards appoint supplemental Committees to act as advisory bodies.	Advisory Board.	None.	Handlers on Advisory Boards.	None.
Commonwealth of Australia (Federal)	Individual National Commodity Control Act.	Overseas Agencies or representatives.	Commodity Marketing Board and/or Executive Committee.	On Commodity Marketing Board and/or Executive Committee.	On Commodity Marketing Board and/or Executive Committee.	None.
States of Australia						
Queensland	The Primary Producer's Organization and Marketing Acts, 1926 to 1957 (as amended in December, 1962).	Council of Agriculture.	State Commodity Marketing Board.	On State Commodity Board.	None.	None.
New South Wales	The Marketing of Primary Products Act 1927-1940 (Recent Amendments not available at time of writing.)	State Marketing Bureau.	State Commodity Marketing Board.	On State Commodity Board.	None.	None.
Victoria	Marketing of Primary Products Act, 1958	Consumers' Committee.	State Commodity Marketing Board.	On State Commodity Board.	None.	Consumers' Committee.

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