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HOW THE [NATURAL PRODUCTS MARKETING ACT] OPERATES IN BRITISH COLUMBIA

F. M. CLEMENT

Dean, Faculty of Agriculture, University of British Columbia, Canada

THE Natural Products Marketing Act (1934) is a Dominion measure. The Act functions in British Columbia by reason of the fact that the Provincial Legislature passed a similar measure known as 'The Natural Products Marketing (British Columbia) Act' (1934). The two Acts, Dominion and Provincial, taken together are designed to cover all the respective powers of both Dominion and Provincial Governments. Both Acts are necessary because of the three phases of trade: (1) intra-provincial, (2) inter-provincial, and (3) foreign. The marketing schemes that have been given effect to in British Columbia have been approved not only by the Dominion Marketing Board, but by the Provincial Marketing Board as well. The two Acts are designed to regulate and control the marketing of natural products.

In the event of the Natural Products Marketing Act (Canada) being declared invalid by the Supreme Court of Canada, and pending appeal to the Privy Council, the situation will be complicated. Such a decision, however, should not affect the operation of the British Columbia Act. An amendment to this Act, known as Bill 74, can be put into operation by the Lieutenant-Governor by Proclamation. Section 4, Clause 1, of this amendment reads as follows:

'The purpose and intent of this Act shall, from the time of the coming into operation of this section, be to provide for the effective regulation and control in any respect or in all respects of the marketing of natural products within the Province, including the prohibiting of such marketing in whole or in part.'

This amendment to the British Columbia Act also contains a price-fixing clause, whereas under the Dominion Act prices are made or fixed in an indirect way only.

The main complications that would arise should the Dominion Act be declared invalid would be due to the fact that it might not be possible to apply any important measure of regulation or control to exports; and some schemes are concerned primarily with exports.

Of the twenty-two marketing schemes (or codes) that have been approved in the nine provinces of Canada, eleven are in the Province

of British Columbia. Of the eleven schemes in British Columbia, eight have to do with farm products and three with other natural products. The eight (in chronological order) that have to do with farm products are:

British Columbia Tree Fruit Scheme.

Milk Marketing Scheme of the Lower Mainland of British Columbia.

British Columbia (Interior) Vegetable Marketing Scheme.

British Columbia Coast Vegetable Marketing Scheme.

British Columbia Hothouse Tomato and Cucumber Marketing Scheme.

British Columbia Small Fruits and Rhubarb Marketing Scheme.

British Columbia Sheep Breeders' Marketing Scheme.

British Columbia Beef Cattle, Beef, and Beef Products Marketing Scheme.

The three schemes that do not deal with agricultural products are:

British Columbia Red Cedar Shingle Scheme.

The British Columbia Dry Salt Herring and Dry Salt Salmon Scheme.

British Columbia Halibut Marketing Scheme.

British Columbia, the most western province of Canada, borders on the Pacific. The climate and rainfall are very varied. As a whole, the country is mountainous, not more than 10 per cent. of the total area being suitable for agriculture. Most of the farms are found in the river valleys, on the shores of the great inland lakes, and on the coast islands. Many of these farms have been made by one of three ways: by dyking and draining, by land clearing, or by the application of irrigation water. The exceptions to these three ways are found in the sheep- and cattle-grazing country of the interior, where bunch grass growth is natural to the rolling plateaux. In terms of national or world figures, the agriculture of British Columbia is of small importance, the production in recent years being only about \$40 million annually. (Fishing, \$15 million; Forestry, \$44 million; Mining, \$42 million.) In terms of relative intensity and progress in recent years in production and marketing it compares very favourably with any country of the world. (The total population is about 700,000—this is an increase from 50,000 in sixty years. About 40 per cent. of the total population are classified as rural.)

Farming is typically capitalistic in its organization. That is, its products are produced primarily for sale in domestic or foreign markets. There is but little farming of a 'self-sufficing' nature. While it is considered sound policy to advocate the production of

as many commodities as possible on the farm for home consumption, and while this is done to a large degree, it is nevertheless true that the farmers are thinking primarily in terms of grading, packing, and standardizing their products and merchandizing them on modern lines. They are interested in wages, interest, and profits. While the farm house is the home of the farm family, it is also true that the house and the farm are a place of business.

It is quite largely because of this capitalistic and business point of view that marketing and marketing legislation play such important parts in the agricultural economy of British Columbia.

Previous to the introduction of the Natural Products Marketing Acts (Dominion and Provincial), British Columbia experimented with two other Marketing Acts: (1) the Produce Marketing Act, 1928, and (2) the Dairy Products Sales Adjustment Act, 1929. These Acts were the forerunners of, and were similar in objective to, the present Natural Products Marketing Acts. Both were ultimately declared by the courts to be *ultra vires* of the Legislature of the Province. Both Acts were originally put on the statute books at the request of farmers' organizations.

The backgrounds I have mentioned, while not complete, will nevertheless give some understanding of the reasons for the interest in marketing legislation.

Though eight schemes under the 1934 Act have been approved and all are mentioned in the pages that follow, no one is described in detail. Only sufficient information is given to indicate how the schemes operate. It should be kept in mind that a scheme applies only to named commodities and only to these commodities in so far as they are produced in an area or territory defined in the scheme or code. Milk, fruit, and tomatoes may all come from the same area, but still be marketed under different schemes. Organization is either by commodity, or by commodities that are similar in nature.

The strength of the Act, in the judgement of the speaker, lies mainly in its local application. That is, any group of producers of any natural product in any area defined can work out a scheme for themselves. The scheme may be practicable for them when it might not be practicable for another group producing the same commodity in another province. If the scheme as presented meets with the approval of the Dominion and Provincial Boards, it can be given the force of law. The initiative can be taken by groups of producers, and, if a reasonable number are in accord, the law makes it possible for them to act together.

The British Columbia Tree Fruit Scheme deals mainly with export.

The total salable production of fruits in the area defined under this scheme has amounted to somewhat more than 4 million boxes annually during recent years. Of this number of boxes the domestic market, i.e. the Canadian market, can absorb about 60 per cent. more or less, depending on the production in the other provinces of Canada, market demand, &c. The Canadian protective tariff amounts to approximately 42 cents for a box of apples weighing 50 pounds. In recent years, during that part of the season when Canadian markets could be supplied from home production, no fruits of the kinds produced in Canada have been allowed to enter Canada. Canada, then, for a certain season of the year, has become a closed market in so far as importations of foreign products are concerned.

Because this scheme deals mainly with a product that is sold outside the Province, and partly outside the Dominion, the Board administering the scheme draws its powers largely from Dominion authority.

The market under control is the domestic or Canadian market. The aim of the Tree Fruit Board is to regulate the quantity and quality flowing to the domestic market in such a way that the demand will always be met. Price must not be advanced to too great a degree and, on the other hand, must not temporarily or seasonally be depressed to a point where the growers do not obtain all that the market will pay. While the Board endeavours to regulate the flow to the domestic market and consequently not to over-supply or under-supply any part of it, the product comes into competition with similar and other products from other parts of Canada. Thus, while internal competition between and among growers is reduced to a minimum, competition between and among provinces is interfered with only to a limited degree, if at all.

The organization for purposes of administration is as indicated in Figure 1 on the next page.

The Provincial and Dominion Marketing Boards referred to in the diagram are three-man Boards appointed by the respective governments. These men are civil servants selected because of their special qualifications for the work. The Tree Fruit Board is a three-man Board elected by the registered growers from among their own number. This Board, that is, the Tree Fruit Board, acts for the Dominion Board and carries out the regulations in so far as the powers of the Dominion Government extend. This Board also acts for the Provincial Board and carries out the regulations under the scheme in so far as the jurisdiction of the Provincial Board extends. The Tree Fruit Board thus draws its powers from two sources. It is

hoped in this way to avoid conflict of Dominion and Provincial authority within the Board. The Tree Fruit Board, not the Dominion or Provincial Board, is the active body in the regulation of the marketing of the product. It regulates, but it does not buy or sell.

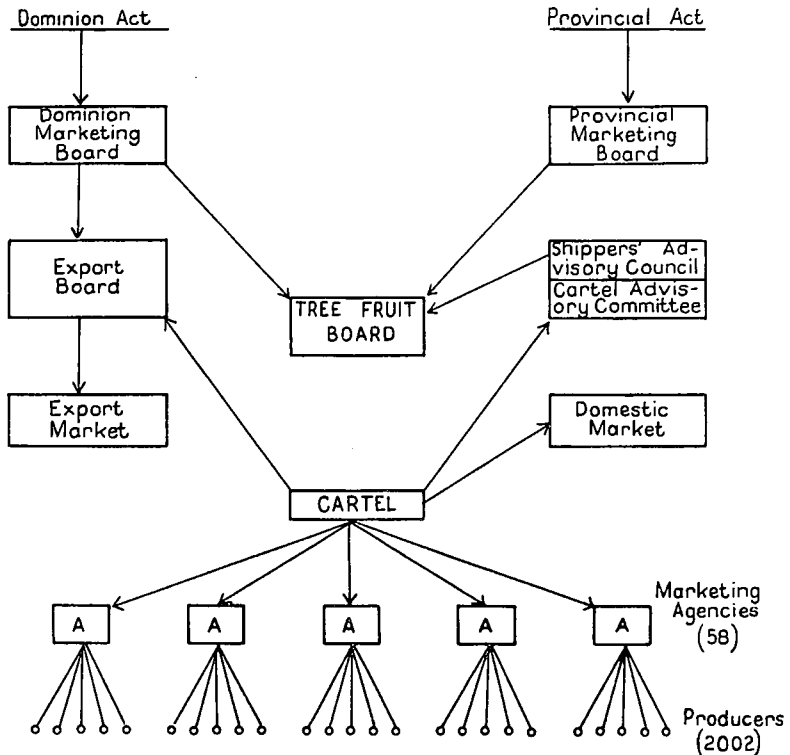


FIG 1. MARKETING ORGANIZATION FOR TREE FRUITS IN THE OKANAGAN VALLEY, 1934-5.

The agencies referred to in the diagram are shipping or selling individuals, companies, or associations. These number more than fifty. The Tree Fruit Board regulates the marketing agencies. In this way competition is not discouraged, but at the same time it is not permitted to result in mutual frustration. It is carried out under a code of ethics that tends to put all competitors on an equal basis.

From the above it is obvious that the purpose of the Board is to maintain prices at a reasonable level in the domestic competitive markets.

The Board works on the principle that a market on which the price is falling distributes less than a market on which the price is rising. Consequently an attempt is made to set an opening price that

can be advanced as the season progresses. Also, a low price at the opening is no incentive to further price cutting. The Board, after consultation with the Shippers' Advisory Council, names the minimum price at which the various varieties and grades are to be pooled. It then permits a percentage release on a named date. Second, third, or further releases are made when, in the judgement of the Board, the market situation is favourable. The Board has no power to compel the agencies to abide by the price recommended by the Board. Neither has it the power to prevent any agency from holding back on each release because of the belief that prices will rise. So far, however, these two considerations have given little trouble. The price named by the Board is the price at which the various varieties are pooled. The Board also places on the shipper the onus of seeing that his products are properly stored. Compulsory inspection by a Dominion Government Inspector is required of all shipments. Shipments can be made only to the brokers or jobbing houses designated by the Board.

Some of the general regulations under the Board are as follows:

- (a) Each shipper is required to deliver to the Board an estimate of the volume of each product to be marketed by him during the season.
- (b) Each shipper, or other person marketing or otherwise disposing of a product, is required to apply to the Tree Fruit Board for a licence. Shipment of tree fruits by any shipper without a licence is prohibited.
- (c) No product can be delivered by a grower for marketing to any shipper, broker, or other person not holding a licence from the Board.
- (d) True invoices covering all products marketed in Canada must be mailed to the Board within 24 hours of the time of the shipment of the product.
- (e) Each shipper is required to authorize in writing any railroad or other agency transporting the product to furnish the local Board any information required by it in respect to the movement of any product, and to send a copy of such authorization to the local Board.
- (f) The local Board determines the amount of storage, transportation, handling, brokerage, and other charges, or any losses through shrinkage or dumping, that are to be assumed by the pools.
- (g) Each shipper pays to the Board a specified sum per box or crate for the purpose of establishing an equalization fund.

- (b) Every shipment in car-lots or in motor-trucks must be inspected by a Dominion Government Inspector and a certificate covering such inspection must be obtained by the shipper.

The following is quoted from the first annual report of the Board. The quotation indicates one of the weaknesses in the scheme.

'While the Board is convinced that its operations during the past season have been of real benefit to growers, and that they can be of much greater benefit in future seasons, its members are unanimous in the belief that, in the fact that the marketing of British Columbia fruits is handled by a multitude of shippers, lies the greatest weakness in the whole marketing structure. If the growers are ever to get all that they are entitled to for their efforts, the Board believes that this can only be realized through a great reduction in the number of shippers operating on the markets.

'It was therefore with great satisfaction that the Board viewed the result of the vote recently taken by the British Columbia Fruit Growers' Association which showed that eighty-seven per cent. of those voting were in favour of a reduction in the number of shippers. The Board took no part in the argument on this question prior to the taking of the vote, as it felt that its mandate from the growers was to administer the scheme agreed upon, and that it should continue to do so until the growers should indicate their desires otherwise. The result of the vote is taken by the Board as instructions from the growers to do everything in its power to bring about the result aimed at.'

It is difficult to estimate the value of the Board to the industry as a whole. The growers, however, are confident that regulation of marketing is essential if they are to obtain full advantage in the markets.

Under the scheme or code, the Tree Fruit Board is elected by the registered growers annually. After one year of operation all members of the first Board were returned. Out of a total of 2,002 registered voters, 1,756 ballots were cast. Out of this number the Chairman of the Board received a total of 1,520. At the end of the second year of operation all members of the retiring Board were re-elected by acclamation.

This industry seems definitely headed towards fewer selling agencies, more definite regulation, and in the long run, in addition to regulated marketing, possibly even a planned and regulated production.¹

Under the *Milk Marketing Scheme of the Lower Mainland of British Columbia*, the Milk Marketing Board draws most of its powers from the Provincial authority. It is concerned with the marketing of

¹ For information on the Fruit Export Control Scheme of Canada, of which British Columbia is a part, address Canadian Horticultural Council, Ottawa, Canada.

milk and milk products in an area commonly described as the Tuberculosis-free Area around the metropolitan area of Greater Vancouver. The area from which milk can readily be drawn is limited. Additional supplies can come only from the adjoining islands, the inland area of British Columbia, or from the United States. The area contains only about 3,150 registered milk producers and produces about 8½ million pounds of butterfat annually. About 5 million pounds of this come from A and B grade farms, which farms alone, under the regulations, can participate in the fluid market. Of this amount the fluid trade takes approximately 3.6 million pounds of butterfat. The product from C grade farms and unclassified farms can be sold only through other channels. The farm grades A, B, and C are set out in the regulations under the British Columbia Milk Act.

The administrative set-up is practically the same as for fruit, previously described. The Board makes rules and regulations, but does no marketing. The product is sold to the distributors through three agencies; the Fraser Valley Milk Producers' Association, a co-operative with about 2,600 active members; the Independent Milk Producers' Co-operative Association, with about 280 members; and the Milk Shippers' Association, Ltd., with about 200 members. Each of these agencies is a corporate body. They can buy and sell.

The Fraser Valley Milk Producers' Association, in addition to supplying a large distributing company in which it holds a substantial financial interest, operates a condensery and a utility plant for the manufacture of powdered milk, butter, and cheese. The other two agencies are not equipped to manufacture large quantities. Nearly all of the surplus from A and B grade farms is manufactured by the Fraser Valley Milk Producers' Association.

The Marketing Board has no power to fix prices. The three agencies, however, can and do name a price at which they will sell butterfat to the distributors. The price agreed on for this year was 53 cents per pound of butterfat. The Board has power to and does fix the spread between purchase price and resale price. This spread varies according to the butterfat content, the size of the container, in bulk or bottles, to householders or hotels, &c. The resale price is consequently supposed to be a uniform price for all distributors.

Up to the present time little restriction has been placed on one other group of dairy farmers, those known as producer-vendors. These operate Grade A farms, bottle the milk on the farms, and supply individual routes in the city. There are now about 200 farmers distributing milk in this way, and their number is increasing.

Each agency pools its product within its own agency, but there is no pooling among the agencies. Because of this, the agency doing the manufacturing of surpluses from A and B grade farms pays its members less per pound of fat than those agencies that sell practically all of their product on the fluid market. This has led to bitter controversy and is one of the very serious weaknesses of the scheme. Pooling among the agencies has not been given effect to even though the scheme permits it.

There are other weaknesses in the scheme also. It has been found that, while the spread in cents has been adhered to in so far as distributors are concerned, there is a tendency to put a little more cream in the milk bottle. Competition leads to the 'sweetening' of the bottle of milk. Also, another weakness is found in that two of the agencies do not handle the milk physically and may not even see it. It goes direct to the distributor, and the distributor reports the tests and the weights sold for various purposes. Consequently, the agencies become, to quite a large degree, distributor-directed and -controlled agencies, even though theoretically they are producer-controlled. All milk should be handled physically by the producer-controlled agency if the producer is to control in fact as well as in name.

When the scheme went into effect the farmers were receiving from 33 to 44 cents per pound of butterfat from the distributors. The scheme gave them 53 cents for that portion which went into the fluid market. On this basis it is estimated that the 3,150 producers received an additional \$500,000 during the first year of operation.

As provided in the code, the registered producers were asked to express their desires with regard to the men whom they wished to represent them on the Board. This was done by ballot, and the nominees of the Co-operative Association received substantial majorities.

At the same time the producers were asked to vote on two other questions:

1. 'Are you in favour of the Provincial Milk Marketing Scheme of the Lower Mainland of British Columbia?' The answer was in the affirmative by 1,246 to 92 against.
2. 'Are you in favour of the designation of a single agency through which the regulated product shall be marketed?' The answer was in the affirmative by 1,042 to 277 against.

The producers are about four to one in favour of more rigid regulation and control. They also favour a single agency. More bitter controversy has centred around this theme than any other, and the

controversy centres fully as much around personalities as around the principle of regulation and control.

The British Columbia Coast Vegetable Marketing Scheme is designed to regulate the marketing of vegetables other than hothouse tomatoes, cucumbers, and rhubarb in the defined area. The area is the Lower Mainland and adjoining islands. The scheme may be described primarily as a local one, and, though all coarse vegetables are handled, the main crop handled is potatoes. Cauliflower, lettuce, beets, turnips, and cabbage are of some importance, but are regulated for export outside the controlled area only. Potatoes are controlled within the area. The controlled market is the consuming area, including the coast cities, Vancouver, Victoria, and New Westminster.

At the time of writing, the area contains 2,262 registered growers made up as follows: 1,475 white, 470 Chinese, 273 Japanese, and 44 Hindus (East Indians). The 5,295 registered acres were divided as follows: 3,061 operated by white growers, 2,033 by Chinese growers, 90 by Japanese growers, and 111 by East Indians. For purposes of administration the area is divided into nine districts. Each district elects a delegate and these delegates in turn elect the Board—three in number. The election is by ballot, and each delegate has one vote for each registered producer in his district. In this scheme 'producer' is defined as 'any owner of one acre or more of land in the area, upon which land the regulated product is grown for sale'. This wording practically excludes one nationality from voting rights. The Chinese are seldom owners. Four hundred and thirty-six of the 470 Chinese growers cultivate land under lease.

The Board is now in its third year of operation. Two members of the first Board, which was the organizing committee, did not continue after the first year. The personnel for the third year of operation is the same as for the second. This Board operates through a single agency. This agency in turn sells to wholesalers at stated prices for the various grades. The prices vary from week to week and month to month. The wholesaler's spread is fixed at \$3 a ton when potatoes are quoted for less than \$20, and \$4 a ton when potatoes are quoted for \$20 a ton or over. This cannot be enforced absolutely, especially on a rising market.

In order to meet competitive requirements, buyers have been demanding potatoes from individual growers. In order to meet this, dealers are permitted to buy up to 60 per cent. of a grower's quota if the potatoes grade Canada No. 1 and the price paid is the price set by the Board. If it is found that rebates are being demanded, the Board has power to cancel the dealer's licence.

The individual growers are required to submit an estimate of tonnage to the Board. An estimate is made of probable demand in the controlled area. Each grower is then allotted a quota. The growers' estimates of tonnage are checked by an inspector of the Board. For instance, the Board's order under Quota No. 26 reads as follows: 'The Board's agency is now ready to receive shipments on Quota No. 26. This quota will be based on tonnage reported by our inspector following his survey. Growers who in past quotas have exceeded allotments in proportion to tonnage yet to be marketed will not participate in this quota, but will have to wait till their allotment quota is ready.' If growers deliver more than their quotas these additions are not paid for till later pools are closed.

Only two grades, Canada No. 1 and Canada No. 2, are permitted to be marketed. All potatoes must be sacked in clean sacks and bear the special tag of the registered grower. The tags are destroyed as used. The potatoes must be transported in licensed carriers or trucks. A farmer who has his own truck may be licensed to transport. As the product is delivered to the warehouse of the agency it is examined and, if not up to grade, is marked down by a Dominion Government Inspector. One of the orders of the Board reads something like this: 'Don't ship potatoes in dirty sacks. It is better to have a good grade No. 2 than a poor grade No. 1. Don't blame the Board if the Dominion Inspector checks your potatoes below Grade A or turns them down for hidden diseases.'

Growers may sell supplies of potatoes to merchants in their nearby towns provided the individual grower arranges with the Board for the proper tags.

A schedule of charges is clearly set out by the Board. All returns are pooled weekly in the early season and monthly during the main season. It is not possible to keep potatoes from other districts out of the controlled area. The Board under discussion, however, has a working arrangement on prices with the Interior Vegetable Board. The two Boards can and do work together to mutual advantage. The Coast and Interior Boards come into competition with each other in other provinces. The competition is, however, on a basis of quality and service.

Although there have been at least 200 prosecutions under this code, at the time of writing there are no cases pending. The principle of regulation seems to have been established.

The control exercised by this Board was materially strengthened by the 1936 amendments to the Provincial Act. To the usual definition of marketing, 'buying and selling, shipping for sale or storage

and offering for sale', have been added the words, 'and in respect of a natural product includes its transportation in any manner by any person'. This permits of a close check being kept on all truck movements. Other amendments need not be discussed here, except to add that now 'if the accused person pleads or alleges that the natural product was not produced in the area to which the scheme relates, the burden of proof thereof shall be upon the accused person'.

The British Columbia Hothouse Tomato and Cucumber Marketing Scheme operates in a manner similar to the other schemes. The Board regulates marketing in the coast cities and exports to other provinces. It operates through a single agency. All producers, agencies, and dealers are registered with the Board. All of the product must be marketed through the agency except when exemption is granted for local retail. All retail sales by producers must bear a stamp indicating that a local sales permit has been issued. The boxes containing the produce are stamped with the date and number of the grower as delivered to the agency. All crates, empty or otherwise, found in use anywhere must bear the stamp of the Board showing date of delivery. Wholesalers can purchase only from the agency. The Board has power to examine books and generally check the activities of all its members and all handlers of the product. Licences can be cancelled by the Board.

The two following orders have been relatively effective in checking bootlegging:

'Any hothouse tomatoes or cucumbers being transported or marketed contrary to the orders of the Board shall be subject to seizure and shall be delivered to the agency of the Board to be sold.'

'Every dealer (wholesaler) who holds a certificate of registration from the Board shall issue a counter sales slip or invoice with every sale of hothouse cucumbers or tomatoes and every retailer or pedlar shall produce such counter sales slip or invoice upon request of any member, official or servant of the Board.'

The Board has established its own grades, but receives considerable assistance from the Dominion inspectors.

White men and Chinese are working together quite harmoniously in this scheme, and a prominent Chinese is a member of the three-man Board.

The British Columbia Interior Vegetable Marketing Scheme operates in a way similar to the British Columbia Coast Vegetable Marketing Scheme previously discussed. It is a similar scheme in a different section of the Province. Its marketing is done through an agency designated by the Board. At the present time a member of

the Board has been designated manager of the agency. Its purpose is to eliminate undesirable buying and selling practices which are detrimental to those engaged in the industry. The Board conducts a pool for the equalization of returns and co-operates with the Coast Marketing Board.

The British Columbia Small Fruits and Rhubarb Marketing Scheme, though approved, is not in operation. Varied conditions of production, conflict of personalities, and disinclination to compromise are obstacles that have yet to be overcome by this group of producers.

The British Columbia Sheep Breeders' Marketing Scheme is not fully under way. The problem to be dealt with in this case is one caused by imported products. The set-up for administrative purposes is similar to that for the schemes described. There is, however, one fundamental difference between the problem to be solved in this case and the problems being faced in the schemes described. Whereas in the schemes described the problem is to deal with surplus, in this case the problem is to deal with the steady inflow of the product from an adjoining province. It has been obvious from the outset that local control cannot be expected to function adequately without some control over the product coming into the controlled area. Beyond doing some useful work in grading, little can be accomplished pending further consideration of the control of imports.

The British Columbia Beef Cattle, Beef, and Beef Products Marketing Scheme has not been put into operation. As in the case of sheep and lambs, British Columbia is a deficit area, the products in this scheme and quite large imports come regularly from an adjoining province. Consideration is being given to the regulation or control of the imported product.

The three schemes that have to do with natural products other than agricultural, namely, the British Columbia Red Cedar Shingle Scheme, the British Columbia Dry Salt Herring and Dry Salt Salmon Scheme, and the British Columbia Halibut Marketing Scheme, are not discussed here. The principles of operation are very similar to those of the schemes discussed. These schemes have to do mainly with export outside of Canada. They aim to encourage co-operation at home and to discourage consignment to foreign markets. Stabilization of price is the ultimate objective. Unlike the schemes in agriculture, these schemes have been given little publicity. They have been approved and put into operation without general argument, discussion, or advertisement.

Since this paper was written the Supreme Court of Canada has declared the Natural Products Marketing Act to be invalid, and the Lieutenant-Governor of British Columbia has proclaimed Bill 74, an amendment to the Natural Products Marketing Act (British Columbia). The Province of British Columbia has appealed from the opinion of the Supreme Court of Canada to the Privy Council.

While there is some organized opposition to regulation and control in marketing, public opinion as a whole seems to be definitely in favour of adequate support for the farmer in his endeavours to market his produce at a reasonable price. In my judgement, regardless of the many legal complications that arise from time to time, the farmers will continue pressure for adequate marketing legislation.