

Statement by:

ROBERT MORGAN
Attorney General
Senate Agriculture Committee
March 21, 1973

Re: Senate Bill 302

Mr. Chairman and members of the Committee, I appear upon the invitation of this Committee to express my views on proposed S.B. 302.

In my opinion, S.B. 302 should be passed because:

First: The present system of regulation of milk in North Carolina by the Milk Commission under the present law has brought to North Carolinians some of the highest prices for milk in the United States today. This is an unassailable fact of life faced by this General Assembly today and the situation should be corrected,

Second: These extremely high prices for milk paid by the consumer are not finding their way back into the pockets of the milk producer (dairy farmer). The milk producers in North Carolina are not receiving any higher prices for their raw fluid milk than are their neighbors in other southeastern states.

Third: These excessive prices for fluid milk paid by our consumers are instead finding their way into the pockets of major retail chain food stores as is illustrated by this chart. (Chart) I do not have time to explain in detail how this result has come about, but I say to you that the result exists as a fact in this State today.

Fourth: The milk control laws were passed only for the purpose of giving basic protection to the dairy producer from

predatory purchasing practices of milk processors in an unregulated market. This was done because in such a market, prior legislatures concluded that, sufficient producers could not earn an adequate return on their investment in farm land and dairy herds to justify their continued operation and thus insure a sufficient quantity of locally-produced milk to satisfy the demands of the public in this State.

As you know, it is the public's interest in having a sufficient quantity of milk available to it at reasonable prices and on reasonable terms that the legislature derives its power to enact milk control law.

Fifth: As the present law is now being administered, the Milk Commission apparently devotes the major portion of its energies towards attempting to regulate the wholesaling and retailing of milk in a market that, by its nature, is highly competitive. The wholesaling and retailing of milk is not capable of effective government price controls unless you wish to create an extremely large policing organization and furnish it with a large number of personnel to carry out such a price fixing policy.

I ask you why government regulation should be necessary at these levels anyhow when there are a sufficient number of milk processors, distributors and retailers in every market area in this State to permit effective competition to determine the proper price level of milk purchased by the consumer.

Sixth: The only justification I have ever heard for the intervention of government in the milk industry is that it is

necessary to protect the farmer because of his large capital investment in land and herds, his high labor costs on a constant basis, the extremely perishable nature of raw milk, the individualism of the farmer, and the past history demonstrating the tendency of large processors to engage in predatory practices when purchasing milk from the farmer.

I have never heard anyone justify government intervention at the wholesale and retail levels by saying it is to protect processors, distributors, or retailers from the rigors of price competition; and if such a proposition were advanced to you here today, I venture to say that the bill would not have a chance of getting out of committee.

Yet, laws have been amended in the past to do this very thing and Administrative Orders of the Milk Commission have become commonplace in the State. Law suits have been instituted by the Milk Commission against retailers who have used price as a means of competition with other food retailers, and the Commission has a long-standing practice which it refuses to budge from, of requiring every milk processor, distributor and retailer to publicly file his prices with the Milk Commission and further to give his competitors 10 days advance notice of any change in his prices. It has knowingly and deliberately destroyed any chance for competition in the retail sale of milk.

So you see, the actual regulatory practice of regulating milk at the wholesale and retail level today is being done in a manner which eliminates price competition. I just can't conceive of your voting for such a proposition if it were put forthrightly to you here today.

Senate Bill 302 merely removes from the Commission any power it has assumed over the wholesale and retail pricing of milk in this State. A vote for the Bill is a vote against the use of a State Agency as a vehicle for price fixing of milk at the wholesale and retail level.

I note that the Bill leaves in the Milk Commission law all power necessary to control the price of milk paid to the producer and to take all other steps necessary to assure the producer fair treatment in the selling of his milk to the processors in this State.

Thank you.