Ontario marketing boards: an examination of the public interest.

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LA THÈSE A ÉTÉ MICROFILMÉE TELLE QUE NOUS L'AVONS RÉCUE
ONTARIO MARKETING BOARDS:

An Examination of
the Public Interest

by

Mark Costello

A Thesis
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through the Department of Political Science
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for the degree of Master of Arts

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ABSTRACT

This thesis examines natural products marketing boards in Ontario in an attempt to ascertain whether the Boards safeguard and/or promote the interests of both farmers and consumers. This examination is concerned with determining whether the Boards operate in the general confines of two selected aspects of the 'public interest': namely, farmer interest and consumer interest.

This paper first examines the fundamental decision made by the Government and farmers to establish marketing boards; the delegation of authority by the Government to the Boards; and, the subsequent exercise of authority in the marketplace. Secondly, two levels of selected indicators are employed to determine if the interests of both farmers and consumers are being adequately safeguarded by the Boards. The analysis focuses on various board activities designated to be of primary and secondary interest to both farmers and consumers. The examination of these selected indicators concerns determining the provisions for and the existence of safeguards for both the farmer interest and the consumer interest; safeguards against any abuse of the exercise of authority granted to the Boards.

The examination reveals that there appears to exist a lack of adequate safeguard mechanisms embodied in the marketing board system for the interests of the consumer and non-farm interests. The farmer interest, on the other hand, is more than adequately safeguarded and promoted by the activities of marketing boards.
ACKNOWLEDGEMENTS:

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L. R. Mark Costello
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Chapter I

Introduction

The objective of this thesis is to undertake an examination of natural products marketing boards in Ontario in an attempt to ascertain whether the Boards safeguard and/or promote the interests of both farmers and consumers. Since most academics admit to difficulty in formulating an acceptable definition of the 'public interest', this study is concerned with an examination of two selected aspects of the public interest; namely farmer interest and consumer interest.

First of all, a marketing board may be defined as a marketing organization which has been delegated authority to control the marketing of natural products. G. A. Hiscocks has defined a marketing board as,

...a compulsory, horizontal marketing organization for primary and processed natural products operating under authority delegated by the Government. The compulsory feature means that all farms producing a given product in a specified region are compelled by law to adhere to the regulations of a marketing plan. The horizontal aspect means that marketing boards have influence over the input of all farms participating in the particular marketing scheme and that they aggregate the supply from all the farms up to a chosen permitted level. Government authority through legislation is essential to achieve the required compulsion.
The power of the board utilizing this authority is generally wide enough to affect the form, time, and place of marketing and, directly or indirectly, the price. 1

In Ontario, there are three types of marketing boards. In descending order of the degree of authority that they exercise in the marketplace, they are: (1) Agency; (2) Negotiating; and, (3) Promotional. 2 The Agency type takes physical control of the product and markets it on behalf of the producers. The Negotiating type attempts to get the job done by negotiating the terms of the sale for the commodity. The Promotional type is organized primarily to expand the market for the commodity. One aspect of this study will be to classify the existing marketing boards in Ontario in light of the categories listed above.

The "Public Interest"

Attempts at defining the public interest have not been successful. Many of the definitions which have been advanced are much too broad and philosophical. One such definition is that the public interest is viewed as the objective of


the duly authorized organs of government or as the expression of majority rule.\textsuperscript{3} This definition provides the social scientist with very little substance that may be operationalized. In effect, it does not really define the public interest. The public interest has also been defined as envisioning or embracing those activities necessary to the safety of the state and the welfare of the community.\textsuperscript{4} One problem encountered in defining the public interest is that public responsibilities regarded as being in the public interest in one setting may not be so regarded in a different context. The concept of the public interest is both elastic and relative rather than fixed and absolute.\textsuperscript{5} The concept of the public interest serves to remind the parties immediately concerned that there are considerations extending beyond their own goals or their particular rivalries or negotiations.\textsuperscript{6} This idea is better visualized when describing the public interest as being clearly more than the sum of competing interests.

The public interest as a concept seems to be employed

\textsuperscript{4} *Ibid.*
\textsuperscript{6} *Ibid.*
in situations that involve a conflict of interests or a problem of defending or interpreting broader or longer-range considerations against special or more immediate factors. 7

In the scholarly literature, there is agreement that public interest usually involves a measure of conflicting interests which is to be resolved for the good of the public at large. The resolution of conflict between interests is left to the auspices of a central authority, an authority with sources of information concerning the entire society. In the case of marketing boards, the central authority can only be the government. The government attempts to act as a mediator between farmers and consumers in the interests of the public. However, it has been stated that,

... a central authority will never understand individual interests perfectly, and it is true that it will be in constant danger of perversion; hence the importance of respect for private judgements, the need for a variety of safeguards and mechanisms for enforcing responsibility... 8

In Ontario, the government has delegated its authority to control the marketing of agricultural products to marketing


boards.

It has also established a variety of safeguards and mechanisms to ensure that these Boards do not abuse the authority which the Government has delegated to them. The major mechanism is the two supervisory agencies established to supervise the activities of the local commodity marketing boards. An examination of the control mechanisms and other safeguards such as the representation of various sectors of society on the Boards is essential to the focus of this study; that is, do the Boards safeguard and/or promote the interests of both the farmer and the consumer?

Public interest, consumer interest and farmer interest are all legitimate concerns in twentieth-century Canadian society. One noted scholar has stated that:

... the supreme virtue of a democratic system of government is the multiplicity of points of access that it affords for the manifold conflicting interests which necessarily arise in a pluralistic society. The function of government officials is to facilitate the continuous re-adjustment of conflicting interests, with minimum of disturbance of existing equilibrium. 9

It has also been stated that,

... ultimately we must recognize that both the farmer

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interest and the consumer interest are legitimate concerns within the context of the public interest and all three levels of concern must be considered if we are to achieve a rational and equitable agricultural policy. 10

Consumer interest is each individual's very broad and diffuse interest in all facets affecting his role as a consumer in the society. 11 In other words, economic processes, in light of the consumer, should be ultimately focused toward satisfying the wants of the final consumer. Production, exchange, and distribution are all means; consumption is the end. The performance of any economy is evaluated in terms of how well it fulfills the wants of the consumer. 12 In the case of marketing boards, the consumer is concerned that the prices set by some marketing boards are unduly high as well as the fact that some marketing boards artificially limit supply of the product which in turn affects price. The consumer is concerned that the Boards are designed solely to protect and promote the interests of the farmer while neglecting the interests of the consumer.


11 Ibid.

Broadly speaking, the farmer interest is the farmers' desire for stable prices, orderly distribution and adequate returns. The farmer interest is also the farmers' desire for protection from the risks which reduce the returns he desires. In the case of marketing boards, the farmer is concerned whether the Boards are the mechanism on which the farmer should rely upon to meet these objectives.

**Primary and Secondary Indicators**

Marketing boards in Ontario are delegated authority by the Ontario Legislature through enabling legislation to either control or influence certain aspects of the marketing of most agricultural products. By employing the aforementioned definitions of consumer interest and farmer interest, it is the intention of this study to examine the degree of authority exercised by marketing boards in an attempt to ascertain whether the Boards attempt to safeguard and/or promote the interests of farmers and consumers.

To accomplish this task, it is necessary to examine two items of interest to both the farmer and the consumer; namely, prices and the degree of authority exercised by the Boards in an attempt to meet the objectives for which they were established. However, there is a paucity of literature on the subject of prices. Since the scope of this study is greatly

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limited by both time and monetary considerations, it is necessary to concentrate on the question of authority, legislative authority and the subsequent exercise of authority in light of both the farmer and the consumer interest. The question of market price and the effect of this price on the farmer and the consumer is an area of future endeavour for the academic community. However, price determination is an important concern of this study and shall be examined in an attempt to determine if the methods employed by a number of marketing boards to set prices can be considered to be in the best interests of farmers and consumers.

In order to accomplish the objective set forth in this study, it is necessary to examine certain aspects of marketing boards and their activities which relate to the welfare of both farmers and consumers. It should be understood that these are only surrogate indicators which attempt to compensate for the lack of empirical evidence in this area of study. There are both primary and secondary indicators. The primary indicators are more directly concerned with the farmer and the consumer than are the secondary indicators. The control mechanisms established to control and supervise the local Boards are of much greater concern to both the farmer and the consumer than the role of advisory committees to the local Boards. The actions undertaken by the control boards are more likely to have a greater impact on the welfare
of both the farmer and the consumer than the role assumed by certain advisory committees. Those indicators considered to be of primary importance are: (1) control mechanisms; (2) representation; (3) type of board; and, (4) distribution. Those indicators considered to be of secondary importance are: (1) national agency ties; (2) degree of access permitted by some boards to scrutinization by means other than control agencies; and, (3) the role of advisory committees.

The following is a brief outline of what each indicator permits in the way of research as it relates to the question of the degree of authority exercised by the Boards in light of the farmer interest and the consumer interest. The examination of the control mechanisms involves an examination of the control agencies which have been established to regulate and control the activities and operation of the local commodity marketing boards; specifically, the Ontario Farm Products Marketing Board and the Milk Commission of Ontario. The examination of this aspect should determine those safeguards embodied in the legislation establishing these control agencies for both farmers and consumers. If these control mechanisms are established primarily to function in the interests of the farmer, it would be assumed that there is no effective means of appeal by consumers against unfair prices or arbitrary board actions. If these control mechanisms function in the public interest, it would be assumed.
that the purpose of their existence is to effectively safeguard the interests of both farmers and consumers.

An examination of representation should reveal the means of representation established for both farmers and consumers on the local Boards and on advisory committees which serve some of these Boards. If there is reasonable means of representation for both groups, it would be assumed that consumers at least have significant representation on both the Boards and their advisory committees. Because these Boards are established primarily to aid in the marketing of natural products which are produced by the farmers, it is not expected that consumers will be accorded equal representation with farmers. However, if the Boards are safeguarding the interests of both groups, there should be representation from both farmers and consumers.

An examination of the type of marketing board should reveal the differing degrees of authority legislated to the different types of boards. The degree of authority legislated to the different types of boards provides basic information about the intent of the legislation in safeguarding the interests of both farmers and consumers. It would be assumed that the authority delegated to all boards is theoretically equal. However, different types of boards have been established to accomplish certain objectives. Consequently, each type of board has been delegated the authority to control the market
commensurate with the needs of the producers of the various products. Therefore, an examination of the authority possessed by each type of board should reveal whether the Boards meet the needs of farmers and consumers in the marketplace.

The question of distribution is of prime concern to both farmers and consumers. Farmers depend on the Boards to control the distribution of their products in an orderly manner so that they might obtain the maximum return on their investment and consumers expect orderly distribution to help in maintaining fair prices for the product once it reaches the market. An examination of the question of distribution should reveal whether the Boards meet these expectations.

Those indicators considered to be of secondary importance are: (1) national agency ties; (2) advisory committees; and, (3) the degree of access permitted by some boards to scrutiny by means other than control agencies.

An examination of the national agency ties of some of the local Boards with national marketing agencies should reveal the benefits of such association for both farmers and consumers. It is assumed that those Boards which maintain distinct ties with national marketing agencies do so on the premise that national marketing agencies provide farmers and consumers with benefits which could not be accrued by either group without the existence of these national marketing agencies.
A number of local boards have established advisory committees to provide a means of ensuring that the Boards perform in the manner for which they were designed. An examination of the role of advisory committees should reveal whether advisory committees are viewed as an important means of providing safeguards for the interests of both farmers and consumers. It is assumed that those Boards which maintain advisory committees are apt to be more concerned with safeguarding the interests of the farmer and the consumer because it has not isolated itself to sources of information concerned only with protecting the interests of the farmer.

The third indicator of secondary importance concerns the degree of access permitted by some boards to scrutiny by means other than control agencies. Marketing boards in Ontario, having been delegated authority by the Government to regulate the market, would be assumed to permit public scrutiny of their activities. An examination of this aspect shall reveal to some extent the responsibility held by the Boards for the public and the farmers and consumers who seek to scrutinize board activities. If there is concern for more than farmer interests, it is assumed that the Boards permit groups other than farmers some measure of access to information on the activities of the Boards.
The second Chapter undertakes an examination of the degree of authority delegated to the marketing boards and the subsequent exercise of authority by the Boards in two selected areas of interest to both farmers and consumers; namely, the setting of quotas and the determination of price. As well, the reasons to establish marketing boards and to delegate authority to the Boards to regulate the market for natural products are outlined. The decision to establish marketing boards and to delegate authority to the Boards may be viewed as the fundamental decision of the decision-makers. The fundamental decision involved a consideration of all interests affected as well as an examination of alternatives. Chapter three examines those indicators considered to be of primary interest while the fourth Chapter examines those indicators considered to be of secondary importance. The fifth and final Chapter summarizes the findings of the study and suggests patterns of research for the future.

14 Amitai Etzioni, The Active Society, (New York: The Free Press, 1968), pp. 282-285. The fundamental decision is the decision on which all other decisions are structured. Fundamental decisions are made through an exploration of the main alternatives seen by the decision-maker in view of his conception of the goals but details and specifications are omitted so that overviews are feasible. Bit-decisions are made incrementally but within the contexts set by the fundamental decisions. The decision to establish marketing boards was the fundamental decision and all other decisions concerning the operation of the Boards were made in the context of the reasons employed by the decision-makers to establish the Boards.
Chapter II

Marketing Boards

and the

Exercise of Authority

This discussion turns now to an examination of the legislative authority delegated to the local commodity marketing boards by the Ontario Legislature. In order to accomplish this task, it is necessary to examine the basis for the delegation of authority. Such an examination shall reveal the reasons behind the decision to establish marketing boards and to delegate authority to the Boards to regulate the market. The examination shall also pinpoint those Boards which have been delegated the greatest degree of authority. The question to be considered by this examination is whether those Boards which exercise the most authority function less in the interests of either farmers or consumers than those Boards which have been delegated a lesser degree of authority.

The Marketing Board Option

Because of the perishability of his product, the seasonability of his production, and the fact that he is usually one of a large number or relatively small producers selling to a small number of large buying organizations, the
bargaining power of the individual farmer in the marketplace is almost negligible. Historically, the Canadian farmer has experimented with various organizational systems and marketing methods in his continuing battle for a better deal.¹

Beginning in the 1920's, farm prices and incomes fell severely in a country heavily dependent on exports of primary products. As well, the recovery of raw material prices until 1929 had only been modest. Canadian farmers initiated pooling programmes to counteract these trends.² However, these early attempts to co-ordinate agricultural production and marketing basically failed to achieve the necessary degree of control required to attain the objective of increased farm incomes as these attempts consisted primarily of farmers attempting to gain some bargaining power through voluntary co-operative action. Most of these co-operatives proved to be unsuccessful, mainly because participation in these was voluntary and the farmers who did not wish to participate reaped the benefits sought after by the co-operatives. As well, these early co-operative organizations did not represent


fully all of the producers of the region involved. This situation provided the stimulus for the Government to respond to the problem of agricultural unrest by enacting legislation to enable the establishment of compulsory farm marketing organizations.

The basic reasons for the establishment of a compulsory board form of organization were threefold:

(i) a desire for higher prices as most farm marketing organizations either begin or experience their greatest growth in periods of low prices;

(ii) a desire for more stable prices as the price of farm products fluctuates greatly and often for no apparent reason;

(iii) a desire to improve the bargaining position of agriculture as this was the fundamental issue in the thinking of most advocates of the new form of farm marketing organization. 3

Individual marketing boards in Ontario were established for a variety of reasons. The Fruit and Vegetable Boards were established in the 1930's to provide growers with more bargaining power to counteract domination by large companies and to increase farm income as the growers had suffered in the early 1930's from low prices. Another bone of contention with fruit and vegetable growers was the contractual

relationship between the growers and the canning companies for the supply and sale of the growers' produce. The growers had minimal say in the intent of the contract and sought to alter this condition. The Ontario Asparagus Growers' Marketing Scheme was the first marketing agency established under legislation passed in 1937 and subsequent agencies followed.

The Ontario Bean Producers' Marketing Board was established in 1944 to provide bean growers a means of dealing with the Federal Government over the prices set for the marketing of beans. At this time, two separate prices existed; one for beans sold to Great Britain under a wartime food procurement contract and one for beans sold domestically under a price ceiling policy of the Canada Wartime Prices and Trade Board.

The Ontario Pork Producers' Marketing Board was established in the 1940's to provide farmers with a means of regulating the flow of hogs to market. Before the establishment of the Board, farmers were at the mercy of the processing plants as the plants paid inducements to truckers to deliver the hogs to their plants and consequently, the farmers suffered financially from a lack of prior agreed price.

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Marketing agencies in Ontario were established for a variety of reasons, but foremost to aid the farmer in his pursuit of higher prices; to aid the farmer in the control of the distribution of his product; and, to provide the farmer with a source of bargaining power in the market.

 Farmers did realize that the establishment of marketing boards at the provincial level could not fully provide a solution to the problem of low farm incomes. The Provincial agricultural community did not operate in a vacuum; it was dependent on two extraneous variables: (1) the national or domestic agricultural environment; and, (2) the international agricultural environment.  

 Hence, it became a matter of necessity which prompted the Federal Government to pass legislation to permit provincial boards to co-ordinate their activities. The most recent legislation at the Federal level was The Farm Products Marketing Agencies Act, S.C. 1972, c.65.  

 The Delegation of Authority

 It might be useful at this juncture to discuss the basis of marketing board legislation and the delegation of authority

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5 Lorne Hurd, Functions and Responsibilities of the Ontario Milk Marketing Board, (Guelph: 1975), (mimeographed), p.i.

6 See Appendix for a list of both provincial and federal legislation concerning the establishment of marketing boards.
in both the Federal and Provincial context. Natural products marketing boards are merely one component of a vast network of regulatory agencies in Canada. These regulatory agencies have been delegated authority by legislatures to undertake specific tasks set forth in their respective enabling Acts. The structure of the marketing schemes varies from province to province but a legislative framework has permitted producers of a variety of agricultural products to organize for the purpose of controlling some or all aspects of the marketing of their produce. The controls were granted by governments to provide producers with countervailing power in the marketplace, to achieve efficient, orderly marketing, and to give producers an opportunity to influence the development of their own industry.\(^7\)

The Province of Ontario has established the second greatest number of natural products marketing boards in Canada, ranking behind only Quebec.\(^8\) This is a logical development since both of these Provinces are large in physical size and have the greatest concentration of population within their respective boundaries. Combine that


\(^8\) There are twenty-three marketing agencies in Ontario, more than thirty in Quebec.
fact with the abundance of good agricultural land in Ontario and the diversity of agricultural and primary products marketed in Quebec, it is not difficult to understand why these Provinces contain the greatest proportion of marketing boards in Canada.

As outlined previously in Hiscock's definition of marketing boards, the authority to control the market for a commodity has been delegated to the Boards by the Government. The basis for delegation should be outlined as it provides a clearer perspective on the reasons why the decision to establish marketing boards was made by the respective Governments and it also outlines the legal framework in the area of compulsory marketing. The question of the delegation of authority from the Government to a specific economic interest is of concern to this study as it aids in determining whether the Boards effectively safeguard the interests of both farmers and consumers.


considered the legality of whether the Federal Parliament could validly delegate legislative authority not to a provincial legislature but to an administrative board created by a provincial legislature. These two decisions, especially the second, have important implications for the establishment of marketing boards in Canada.

Since agriculture is an area of overlapping jurisdiction as outlined by Section 95 of the B.N.A. Act, both the Federal and Provincial Governments possess the constitutional capacity to initiate policy concerning agriculture in the Provinces. In the case of conflict, the Federal legislation is given priority.

Consequently, the authority to delegate legislative authority in the area of agricultural marketing is not explicitly defined in precise terms. The two legal decisions already mentioned are instrumentally responsible in defining the constitutional validity of the delegation procedure.

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9 R. J. Van Loon and M. S. Whittington, The Canadian Political System, (Toronto: McGraw-Hill Company of Canada Limited, 1971), p.529. In each province the Legislatures may make laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

The Government of Nova Scotia submitted the question of constitutional validity of this delegation procedure to the Supreme Court of Nova Scotia. The Court ruled that it was outside of the jurisdiction of either Parliament or the Provincial Legislatures to use the delegation device embodied in the Nova Scotia legislation. An appeal to the Supreme Court of Canada was dismissed on the grounds that an inter-delegation of authority between the two levels of Government would have the effect of altering the basic scheme of Canadian federalism and neither Parliament nor the Legislatures were authorized by the B.N.A. Act to make "... ad hoc amendments to the divisions of legislative powers."^10

The Supreme Court of Canada pledged faith in the 'water-tight compartments' approach to the divisions of legislative authority as set forth in Sections 91 and 92; that is, the premise which alleged an unbreakable barrier between the authority assigned exclusively to each level of government. Supreme Court Justice C. J. Rinfret wrote:

Neither legislative bodies, federal or provincial, possess any portion of the powers respectively vested in the other and they cannot receive it by delegation. In that connection the word "exclusively" used both in Sections 91 and 92, indicates a settled line of demarcation and it does not belong to either Parliament, Legislatures, to confer powers upon the other... 11

The decision by the Supreme Court of Canada thus made the interdelegation of authority between Parliament and the Provincial Legislatures unconstitutional but it left open other possible forms of legislative collaboration. 12

The implications that this decision has on marketing board legislation is that it prevented the Federal Government from enacting enabling legislation to permit the authorization of the establishment of local commodity marketing boards in


12 Russell, Op. Cit. p.217. Referential and conditional legislation are two such techniques which have been frequently employed in the past and which, in principle, were not affected by this case.
the Provinces. Local commodity marketing boards were perceived to be the necessary mechanism by which to control the marketing of agricultural products within the Provinces as the Boards were primarily concerned with provincial agricultural concerns. However, the Federal Government felt that the Boards could perform certain vital functions relating to the marketing of agricultural commodities over provincial boundaries or international boundaries. Since only the Province of British Columbia had indicated any desire to establish marketing agencies, it was left to the Federal Government to pass legislation enabling the establishment of the much needed marketing agencies. The judicial decision concerning the Nova Scotia Interdelegation Case merely supported a previous Supreme Court of Canada decision when it declared The Natural Products Marketing Act, 1934, S.C. c.57 ultra vires. At that time, it was left to the individual legislatures of the Provinces to enact legislation to enable the establishment of marketing agencies. British Columbia and Ontario led the way and the remainder of the Provinces soon followed. Consequently, the Federal Government had no alternative but to wait for the Provinces to enact legislation.

The second decision, Prince Edward Island Potato Marketing Board v. H. B. WILLIS Inc., considered the question of whether the Federal Government could delegate legislative
authority not to a provincial legislature but to an administrative board created by a provincial legislature. The question arose out of a joint effort by the two levels of Government to grant a provincial marketing board the authority to regulate both intra-provincial and extra-provincial aspects of trade in agricultural products. The Prince Edward Island Legislature had passed The Agricultural Products Marketing Act, 1940, S.P.E.I. c.40. This Act authorized the Lieutenant-Governor-in-Council to establish a board for regulating various aspects of trade in natural products within the Province as well as providing that such a board could perform any functions delegated to it by the Federal Government. Under provisions of this legislation, the Prince Edward Island Potato Marketing Board was established in 1950.

The Federal Government had previously enacted The Agricultural Products Marketing Act, 1946, S.C., which authorized the Governor-General-in-Council to delegate the Federal Government's jurisdiction over interprovincial and export trade to a provincial board. Subsequently, in 1951, the Federal Government delegated to the Prince Edward Island Potato Marketing Board authority to regulate the extra-provincial marketing of potatoes from the Province. When the validity of this procedure was referred to the Supreme Court of Prince Edward Island, the Court offered the opinion that this method was unconstitutional, basing its
decision on the Supreme Court of Canada's previous decision in the *Nova Scotia Interdelegation Case*. The Court felt that if the *B.N.A. Act* prohibited Parliament from delegating legislative authority to a provincial legislature it must also prohibit Parliament from delegating authority to a creature of such a legislature. However, when the matter was put before the Supreme Court of Canada, it made a distinction between the type of delegation at issue in this case and that which was involved in the *Nova Scotia Interdelegation Case*. Delegation from Parliament to a provincial board did not involve a transfer of authority across the sacrosanct wall dividing provincial and federal authority.\(^{13}\) The Provincial Board, although it might be a subordinate offspring of a provincial legislature could still exist as an autonomous unit entirely distinct from the Provincial authority which created it.\(^{14}\)

The second decision meant that the authority which Parliament could not delegate directly to a provincial legislature could be indirectly delegated to an agency established by such a legislature. Thus, through a combination of judicial decisions, local commodity boards are

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\(^{14}\) Ibid. pp.223-224.
entrusted with authority to control intra-provincial, inter-provincial and extra-provincial aspects of the market. The implication of these two decisions is that government has delegated to marketing boards vast authority by which to control the marketing of many agricultural commodities which have become so essential to the Canadian consumer. Since the Government has established supervisory agencies to perform a surveillance function for the Government, the public has little direct recourse in the operation of marketing boards. The farmer has been granted authority to operate these boards for the purpose of seeking to regulate the market in an orderly fashion and to improve the income position of the farmer. The public, on the other hand, relies upon their elected representatives to safeguard their interests. The appeal mechanism provides the public some recourse against board actions, but since an appeal is launched after the fact, the public does not in effect have any influence on the formulation of board policy. The existence of these marketing agencies is merely one more administrative level which has been delegated arbitrary authority to control specific aspects of the market.

The historical evolution of marketing board legislation has been highlighted by numerous other court decisions. The two decisions discussed are considered to be the most
relevant as they provide the basis for the delegation of authority which permits the establishment of marketing boards in the Canadian context.

**The Ontario Experience**

Having outlined the constitutional basis for the delegation of authority which permits the establishment of marketing boards, it is, perhaps, advisable at this stage of the discussion to explain the manner by which marketing boards in Ontario are established. In Ontario, the enabling legislation for the establishment and supervision of local commodity marketing boards is *The Farm Products Marketing Act, 1970, R.S.O. c.162*, and *The Milk Act, 1970, R.S.O. c.273*. The legislation permits farmers to organize a system of marketing and, provided that a majority of farmers have approved a plan in principle, the Ontario Farm Products Marketing Board or the Milk Commission of Ontario may recommend the plan to the Ontario Minister of Agriculture and Food. If a proposed plan is received from a group representing more than 15% of provincial growers of the particular commodity, the Farm Products Marketing Board or the Milk

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15 Twenty-one boards are under the supervision of the Ontario Farm Products Marketing Board and two boards are under the supervision of the Milk Commission of Ontario. The relationship of the local Boards to their respective control agencies shall be examined to a greater depth in Chapter III.
Commission investigates and considers the Plan. The Board or Commission must be satisfied that the proposed plan will promote more efficient marketing of the commodity in question before it arranges for a vote by farmers. Upon the recommendation of the Minister, the Cabinet issues an Order-in-Council advising that an appended Regulation be made under the existing legislation. The new Regulation is thus the legislative basis defining the authority possessed by the local Boards in the Marketing Plans. When the Plan is accepted, all producers of the commodity are obliged to comply with the Regulations promulgated under authority of the Act. The Plan outlines the authority legislated by the Government and subsequently delegated to the Boards. It is this delegation of authority by an elected body, the Ontario Legislature, to a specific interest, the farmers, that has prompted consumers to question the effect of such actions on the marketplace.

At this stage of the discussion, an examination of the specific authority entrusted to the marketing boards and the subsequent effect of such exercise of authority is to be undertaken as it outlines the basic actions which consumers question.

Authority Delegated to Local Commodity Boards

The authority delegated to local commodity boards varies depending on board type. Generally, the major objectives of marketing boards are: (1) to maintain or increase
the incomes of the producers of a particular product; (2) to stabilize income from the sales of the product; and, (3) to standardize the terms of the sale of the product. The activities undertaken by marketing boards are designed to pursue these objectives.

The general authority entrusted to the Boards is basically as follows:

1. **Pooling**: A board may pool all the proceeds from sales so that each producer receives the same average price after adjustments for such items as grade;

2. **Price Setting**: A board may have the authority to set wholesale or consumer prices or both;

3. **Producer Prices**: A board may have the authority to set minimum and/or maximum or fixed producer prices;

4. **Price Determination**: A board may use one of the following means of setting a price: (a) formula; (b) negotiation; or (c) price fixing;

5. **Quotas**: A board may have the authority to set marketing and/or production quotas for every producer;

6. **Licensing**: A board may have the authority to require licensing of growers, producers, processors or dealers, or

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any other persons involved in any way with the marketing process;

(7) **Seizure and Disposal:** A board may have the authority to seize and dispose of any product marketed contrary to board orders;

(8) **Regulate Interprovincial and Export Trade:** A board may have the authority (delegated by the Federal Government) to regulate interprovincial and export trade;

(9) **Import Control:** A board may have indirect control over imports by prescribing the type of package to be used;

(10) **Purchase and/or Sell:** A board may have the authority to purchase and/or sell the regulated product;

(11) **Market Information:** A board may supply market information to producers and other interested persons;

(12) **Market Development:** A board may develop new domestic and export markets; and,

(13) **Promotion:** A board may undertake promotion of the regulated product.  

Each board has been delegated certain of the authorities listed above, depending upon the functions for which the particular board was established. In Ontario, farmers may undertake to organize three types of marketing boards:

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(1) Agency; (2) Negotiating; and, (3) Promotional. The Agency type takes physical control of the product and markets it on behalf of the farmers. Prices and condition of sale are set from day to day by this type of board. The Agency type of board has authority to deal with all of the various buyers in the marketplace. Under this method of marketing, the farmer has given up his right to decide when and how and to whom his crop will be sold.

The Negotiating type attempts to get the job done by negotiating the terms and conditions of sale for the commodity. Under this method a prescribed number of producer representatives appointed by their local boards meet with a similar number of appointed buyer representatives. This Negotiating Committee is empowered to negotiate minimum prices and conditions of sale for the regulated product. If the Negotiating Committee fails to reach an agreement each side appoints one representative and these two are empowered to appoint a third representative to comprise an Arbitration Board. If agreement is not reached on the third representative, the Farm Products

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19 Ibid.
Marketing Board appoints the third representative. The result of this is an award fixing the minimum price and terms of sale for that regulated product which decision is final. Growers of a crop such as tobacco have also superimposed selling by auction on top of the minimum price agreement because they felt it was important, among other reasons, that tobacco be sold anonymously by numbered lots and that the buyers not know whose tobacco they were purchasing.  

The Promotional type of marketing board is organized primarily to expand the market for the commodity. The authority vested in this type of board is minimal and the purpose of the Board is to promote the product to perspective buyers. The aim of increasing income for the farmer is still realized by this type of board as greater sales means more income for the farmer. This type of board, however, does not have a direct influence on the price that the farmer receives for the product once it reaches market, as is the case with both agency and to some extent negotiating boards. All of the Boards in Ontario are either agency or negotiating boards. For reasons of their own, Ontario farmers have opted for those Boards which have a greater impact on price. Table 1 illustrates the authority delegated to each board type.

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20 Ibid.
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<th>Directors #</th>
<th>23 8 9 8 10 15 15 9 7 7 11 15 7 15 10 11 9 12 12 13 8 9 19</th>
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<td>Type of Plan</td>
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<td>Advisory Committee</td>
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<td>Authority to Establish Prices</td>
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<td>Import Control</td>
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<td>Marketing Quotas</td>
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<td>Authority for Pooling</td>
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<td>Producer Prices</td>
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<td>Consumer/Wholesale Prices</td>
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<td>Interprovincial/Export Trade</td>
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<td>Purchase and Sell</td>
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A careful examination of Table 1 indicates that those Boards which have been delegated the greatest amount of authority are of the Agency type. Four of the Boards in particular have been granted wide-ranging authority. These four Boards are: the Ontario Egg Producers' Marketing Board; the Ontario Chicken Producers' Marketing Board; the Ontario Milk Marketing Board; and, the Ontario Turkey Producers' Marketing Board. These four Boards possess authority to set quotas for their producer members as well as minimum prices at which their members may sell the commodity in question. As do most of the Boards, these Boards also possess authority to license growers and processors. It is the setting of quotas and the determination of price which is of most interest to this study for it is quite obvious that it is these particular Boards which the consumer has expressed the greatest amount of concern. Since these Boards have the capacity of exercising a great degree of authority in the marketplace, there is concern that the interests of the consumer would be greatly compromised if these Boards abuse the authority which the Government has seen fit to grant. The setting of quotas artificially limits supply thus creating higher prices and the determination of prices interferes with the natural market equilibrium. Consequently, the consumer is concerned that any abuse of the exercise of authority in these two areas
is not in the best interests of the consumer.

The Negotiating Boards, by definition, do not possess the same degree of authority as the Agency Boards. The Ontario Flue-Cured Tobacco Growers' Marketing Board seems to be a unique case in itself. Although it is a Negotiating Board, it has been granted authority to seize and dispose of any product marketed contrary to Board orders. Throughout Canada, there are very few marketing boards which have been granted this authority. The implications of this fact for the consumer are that if the Board does exercise its authority to seize and dispose of a product marketed contrary to Board order, the supply of the product is artificially altered which in turn raises prices for the product to an artificially higher price. Consequently, it is understandable why some consumers might be overly suspicious of Boards which have been granted the authority of seizure and disposal.

Since the setting of quotas and the determination of price are the two areas of concern to consumers, it is necessary to undertake a brief examination of board activities in these areas to determine the effects of such activity on both farmers and consumers.

A. Quotas

Quota policies of some marketing boards have been highly scrutinized in recent times as some boards have
chosen to make quotas the main facet of their strategy for dealing with the problems of price and income stability in particular sectors of agriculture.\textsuperscript{21}

Quota policies are the means by which marketing boards attempt to regulate the quality and quantity of particular agricultural commodities on the marketplace. Marketing boards have employed two practical methods of regulating supply: The first method involves the allocation of production and/or marketing quotas, which are of two types: (1) a fixed basic quota, established in an historical base, is allotted to each registered producer; (2) a crop quota for quota periods is derived relating to the basic quota. The second method involves the restriction of entry of new producers into the industry.\textsuperscript{22}

Quotas, when adopted by marketing boards, generally fall into one of three distinct categories: (1) those that directly restrict production; (2) those that restrict the supply of commodities to the markets; and, (3) those that rationalize the flow of products to their final destinations.\textsuperscript{23}


\textsuperscript{22} Ibid.

Quotas are employed by boards as a mechanism of supply management. The emphasis of supply management is focused on the aspect of orderly marketing, that is, the orderly delivery and sharing of a particular market among all producers of a commodity so that each benefits from the organized action. 24 Quotas are considered essential for the production of specific commodities such as eggs and broiler chickens, because without an orderly flow of these products to market during season, prices to producers after harvest often tend to be depressed by an oversupply and consequently prices are higher at the end of the season because of the shortages. Because quotas are employed in the production of these commodities, it is felt that more stable prices are achieved. 25 Supply management by marketing boards has been criticized because many boards tend not to restrict the entry of new producers, but instead of expanding the quota, they may decrease the quota to each of the individual producers and allot the new producer an equal share of the quota. Some boards restrict the entry of new producers altogether.

Quotas are the means by which producers are allocated the right to produce a specified commodity. In some instances,

25 Ibid. p. 22.
marketing boards allow producers to sell quota rights and therefore capitalize on the right to produce.26

The sale of quota rights as allowed by certain boards is a questionable practice. The capitalized value of quotas is reflected in costs and costs are one component used to determine the price of the commodity. The reasons for consumer concern over this practice are twofold: (1) the Government has delegated monopoly powers to the producers of the commodity and if these producers are allowed to capitalize on these rights through the sale of a quota which belongs to them, the value of these rights is perceived to be a windfall profit to those producers who were fortunate enough to enter into the scheme at its inception. This represents a cost of production to a new entrant or to a present producer who might desire to expand his operation; and, (2) this increased cost of production is passed along to the consumer in the form of higher prices on the marketed commodity.27

One such board which allows the sale of quota rights is the Ontario Flue-Cured Tobacco Growers' Marketing Board.

27Ibid.
A person who has the right to produce an acreage of tobacco may, on Board approval, sell these rights in any one year to another producer. The price the buyer of the rights is willing to pay is, in effect, the marginal cost the buyer... is willing to pay for producing some additional acreage. 28

In the case of the Ontario Flue-Cured Tobacco Growers' Marketing Board, the quota is determined as a percentage of each individual farmer's basic tobacco acreage. When the amount of poundage to be produced for the year is decided by the Board, a formula is devised by the Board to arrive at a figure for the total number of acres to be planted in the crop year. A basic exemption of three acres of tobacco per farm is subtracted from the total number of tobacco acres to be grown and then the remaining acreage is divided amongst the growers in proportion to their basic tobacco acreage. 29 Each board which employs quotas as a means of supply management follows its own prescribed formula. In this instance, the use of a quota policy implies that the farmer does not have the right to sell or transport tobacco. Since he is unable to sell or transport it, in effect, he cannot grow tobacco unless the right is granted


to him by the Board.  

The issue has been raised by consumer agencies such as the CAC as to whether the adoption of quotas by some of the marketing boards is consistent with the interests of the consumer and to some extent the interests of the much broader public. There is concern that marketing boards are not the appropriate type of institution to be vested with monopoly power of control over the supply of farm commodities. The increasing incidence of the use of quotas has recently stimulated wide-spread concern. Much of the interest concerning quotas arises essentially from imperfect knowledge of their real effects on stability, the distribution of income and economic growth in the industries to which they are applied and the related sectors of the economy.

The Consumers' Association of Canada (CAC) has been very critical of those Boards which employ quota schemes as a means of supply management. The CAC has stated that:

...quota allocation which artificially control supply in order to support a predetermined price are considerably less efficient than straight income transfers or compensatory payments out of our general treasury...CAC supports the concept of aid to smaller

32 Ibid.
agricultural producers but feels that supply management is the wrong and most inefficient way to achieve the goal...supply management is a regressive measure directly contrary to all basic tenets of progressive taxation in which Canada purports to believe so firmly. 33

Although most of the appraisal of quota policies has been negative in scope, one noted researcher stated:

...evidence suggests that several boards, through their quota policies, have been reasonably successful in achieving the stability for which they were primarily adopted...have served to stabilize the use of certain factors of production such as real estate and suppliers of particular farm products...farm prices for certain commodities as well as farm incomes at certain levels have stabilized. 34

However, he also states that:

...the fact that positive effects of quotas are enjoyed by a rather select group of individuals raises serious doubts as to whether the public should tolerate the substantial negative effects of quotas, while benefits occur to a few. Public agencies should therefore formulate an alternative marketing policy that will minimize the negative effects of quotas, while at the same time enhancing the total economic welfare of society. 35

The question as to whether or not quotas serve the interests of both farmers and consumers is difficult to


answer. Farmers feel that their continuance, in the case of certain commodities, is essential to the success of the farmer in the marketplace and to the interests of the public at large as quotas provide a sense of stability in terms of supply that could not be achieved otherwise. The farmer, however, also realizes that the use of a quota restricts the amount of the marketable crop of the commodity he produces. Since the quota is formulated on the basis of changing market conditions, the amount of the quota can change. As well, the new producer is severely handicapped by those Boards which restrict the entry of new producers. Those Boards which allow the entry of new producers usually decrease the amount of quota to the remaining producers and consequently the original producers are handicapped in their attempt to better their income position. Although many farmers express support for quotas, there is a realization that problems do exist which must be dealt with in the near future.

Consumers, on the other hand, are of the opinion that any restriction of supply, whether it be artificially induced by quotas, or any other means, is in direct conflict with the stated goal of any serious consumer; that is, the attaining of goods and services at a fair and reasonable price while at the same time realizing that the farmer is entitled to a fair return on his investment. If the farmer
receives a fair price for his product in the long run, the consumer is guaranteed to some extent a supply of the product. The consumer realizes that a fair return on investment is essential as it allows the continuance of the free-market system which serves the interests of both farmers and consumers.

As to whether the use of quotas is in the much broader public interest, it can only be stated at this point in time that although quotas serve an important function for the farmer in the marketing of his product, it is questionable whether the use of quotas accrues any benefits to consumers. Although consumer interest and farmer interest are two entirely distinct aspects of the public interest, any activity of one interest which is in direct conflict with the interests of the other can only be perceived to be employed to further enhance the interests of the particular interests which initiated it; in this case, the farmers.

B. Price Determination

The setting of producer prices is another area of concern in this study as criticism of this activity by consumers has been noted frequently. The majority of marketing boards in Ontario have been granted authority to set minimum producer prices. Only one board, the Ontario Egg Producers' Marketing Board has authority to establish
fixed prices. The setting of producer prices by marketing boards has a direct impact on the determination of the price at which the consumer must purchase the product. None of the Boards possess authority to establish wholesale or consumer prices but by setting producer prices, the Boards dictate the price at which the farmer must sell his product; albeit they are minimum prices. This ensures the farmer that he will receive a guaranteed minimum return on his investment. Since consumers consistently seek to obtain the lowest possible price for their purchases, the setting of producer prices is in conflict with the avowed goals of consumerism. Since the stated objective of most marketing boards is to maintain or increase the income of the producers that they represent, the setting of producer prices is merely a means of obtaining a guaranteed price for the farmer. Once again, there is conflict present between the interests of farmers and consumers.

Higher incomes for the farmer may be accomplished in several ways: (1) by obtaining a higher price for the product; (2) by reducing seasonal gluts through inventory management or production planning; (3) by expanding demand for the product; and, (4) by spreading the income from a particular product over fewer producers.36 By setting

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producer prices, marketing boards are opting for the most direct route to obtaining higher prices. The setting of producer prices does not necessarily mean that the price will be unduly high. It does mean that the actual setting of a price might raise the price of the product above the price which would prevail if the marketing board chose not to set minimum prices.

Higher incomes for farmers are not necessarily detrimental to the consumer or the public.

Obtaining a higher price for a product may or may not be in the consumer interest depending on the means of obtaining such a price increase. If the price increase is obtained by facilitating an orderly flow of product to the market then the consumer is likely a beneficiary of this price increase to the producer. If, on the other hand, the price increase is obtained by a board having and using an arbitrary power to set prices above a 'fair price' or through an arbitrary restriction in production which increases the market price above a 'fair' level then the consumer interest is being violated. 37

It is unfortunate that very little comprehensive research has been conducted in the area of prices, that is, a determination of the impact marketing boards have on the price at which the farmer must sell his product and also the price which the consumer must pay for a commodity that is regulated by marketing boards. A study of this type

37 Ibid. p30.
involves an examination of the marketing of particular products in a province where the product is marketed without the aid of marketing boards and then compared to the data obtained after the inception of marketing boards into the Province. A study of this type contains certain inherent difficulties and has yet to be undertaken. Until a study of this design is conducted, it is extremely difficult to make definitive statements about whether the authority granted to marketing boards in the area of price determination contravenes the consumer interest or the public interest. One thing is certain from an analysis of the existing data; the farmer interest is at least safeguarded by those Boards which possess authority to set prices. Whether this exercise of authority is in conflict with the consumer interest and the much broader public interest is a matter for future research.

Summary of Findings

This Chapter has examined the authority delegated to the Boards as well as those areas of concern where potential conflict between farmers and consumers may manifest itself. Both farmers and consumers seem to have valid arguments to support the stand that they adopt. Farmers desire a guaranteed income and employ marketing boards as a means of obtaining their stated objectives. Consumers, on the other hand, desire reasonable prices for those products which they choose to purchase and a guaranteed supply of the product. Marketing
boards supposedly perform the functions for which they were established but whether these functions can be construed to be in the public interest requires even further examination. That is the reason why this study turns now to examine selected indicators of whether the Boards appear to function in the public interest. These indicators are divided into two categories: primary and secondary. Although they are surrogate indicators, it is expected that they will provide some insight into the question as to whether or not there is genuine concern for consumers as well as farmers in the course of Board actions in the marketplace.
Chapter III

Marketing Boards
and the Public Interest:
Primary Indicators

The purpose of this Chapter is to undertake an examination of several indicators which are designated to be of primary importance in determining whether the Marketing Boards of Ontario safeguard and/or promote the interests of both farmers and consumers. The indicators considered to be of primary importance are: (1) control mechanisms; (2) representation; (3) type of Board; and, (4) distribution. These have been designated as primary indicators because an examination of these aspects of the operation of marketing boards should reveal those areas of activity which are felt to be of most concern to the interests of both farmers and consumers. The implications of activity conducted in these areas of concern are of much greater importance to the welfare of both farmers and consumers than indicators considered to be of secondary importance (i.e. (1) national agencies ties; (2) the role of advisory committees; and, (3) the degree of access permitted by the Boards to scrutiny of their activities by means other than control agencies). The abuse of the exercise of authority
in the areas of primary importance are of greater concern to both farmers and consumers because the opportunity for the safeguarding and/or promotion of the interests of either group is more likely to be present in these areas. The manner in which the control mechanisms function are considered to have a more discernable effect on the safeguarding of both farmer and consumer interests than the liaison maintained by some boards with national marketing agencies. Control mechanisms are established to prevent the abuse of authority while the liaison maintained by some boards is merely intended to provide access to relevant information and cooperation from national agencies. Consequently, the farmer and the consumer will be more concerned with any activity in the area of control mechanisms to a greater degree than with the liaison maintained by some boards with national marketing agencies; if for no other reason than a concern for the safeguarding of their interests.

1. Control Mechanisms

The first indicator to be examined is the control mechanisms established by the Ontario Legislature to supposedly ensure that the interests of the public are safeguarded. There are two control agencies established in Ontario to control and regulate the marketing of natural products under local commodity boards. The control agencies are
the Ontario Farm Products Marketing Board and the Milk Commission of Ontario. The Ontario Farm Products Marketing Board receives authority to control the market for selected natural products under enabling legislation. The Farm Products Marketing Act, R.S.O. 1970, c.162, is the current enabling legislation which outlines the authority granted to the Ontario Farm Products Marketing Board to regulate the operation of twenty-one local commodity marketing boards in Ontario. The Act provides for the establishment of marketing plans which provide the basis for the regulation of marketed commodities. Under the Act, it is also the responsibility of the Ontario Farm Products Marketing Board to serve as an appeal body from decisions on any Order, Direction or Decision of a local board. The Milk Act, R.S.O. 1970, c.273, is the current existing enabling legislation which grants to the Milk Commission of Ontario authority to control and regulate the marketing of milk and cream under two local boards. The Milk Commission of Ontario serves as an appeal body in a similar manner as its

1 Upon the recommendation of the Minister of Agriculture and Food, the Cabinet issues an Order-in-Council advising that an appended Regulation be made under The Farm Products Marketing Act. The new Regulation is thus the legislative basis for local marketing plans.

2 The Farm Products Control Act, S.O. 1937, c.23, established the Farm Products Control Board in 1937 but was later changed to the Farm Products Marketing Board in 1946 by The Farm Products Marketing Act, S.O. 1946, c.29.
counterpart, the Ontario Farm Products Marketing Board.

The two control agencies are of concern to this study because it is through these agencies that the local commodity marketing boards are held accountable for their actions. Both farmers and consumers depend on these control agencies to ensure that the interests of both groups are not compromised by the actions of the local Boards. Since the main purpose of the control agencies is to control and regulate the activities of the local Boards, a matter of prime concern then is the manner in which the local Boards are held accountable for their actions. This involves an examination of the formal position of the local commodity marketing boards as set forth in the provisions of the enabling legislation.

The question to be answered from this examination is whether the interests of the farmer and the consumer are effectively safeguarded by this type of control mechanism. This involves an examination of the following items: (a) the authority granted to the control agencies by the legislation to regulate the activities of the local Boards; (b) the filing of reports by the local Boards with the control agencies; (c) the provisions for appeals; (d) the composition of the control Boards; and, (e) the role of the Ontario Legislature in the regulation of the local Boards.

A. Authority Granted to Control Agencies

The Ontario Farm Products Marketing Board is authorized
by The Farm Products Marketing Act to:

(a) ...investigate, adjust or otherwise settle any dispute relating to the marketing of a regulated product between producers and persons engaged in marketing or processing the regulated product;

(b) investigate any matter relating to the producing, marketing or processing of a regulated product;

(c) investigate the cost of producing, processing and marketing any farm product, prices, price spreads, trade, practices, methods of financing, management policies and other matters relating to the marketing of farm products;

(d) require persons engaged in producing or marketing a regulated product to furnish such information relating to the production or marketing of the regulated product, including the completing and filing of returns, as the Board or local board determines;

(e) appoint persons to inspect the books, records, documents, lands and premises and any regulated product of persons engaged in producing or marketing the regulated product. s.4(1).

As outlined in the Act, the Farm Products Marketing Board is granted wide-ranging authority to control and regulate the activities of the local commodity marketing Boards.

B. Filing of Reports

The local commodity Boards must report directly to the Farm Products Marketing Board by filing monthly reports.
In regard to the filing of reports by the local commodity Boards, the Farm Products Marketing Board is empowered to make regulations:

(a) providing for the filing by each local board with the Board of true copies of:

(i) minutes of all meetings of the local board,
(ii) all by-laws of the local board,
(iii) all orders and directions of the local board,
(iv) all reports of annual operations of the local board,
(v) all annual financial statements and audited reports of the local boards, and
(vi) such further statements and reports as the Board requires from the local board;

(b) providing for,

(i) the furnishing to persons engaged in producing, marketing or processing of a regulated product of copies of the annual statement of operations and the financial report of each local board, and

(ii) the publication of the annual statement of operations and the financial report of each local board. R.S.O. 1970, c.162, s.4(2).

and;

Where a local board issues a direction or makes an order or regulation, the local board shall, within five days of issuance or making, file with the Board a true copy of the direction, order or regulation,

and;

Within five months after the close of the fiscal year of a local board, the local board shall file
with the Board a true copy of all reports of its operations for the fiscal year. O. Reg. 197/68, s.4.

In other words, the local commodity marketing boards must report frequently to the control agencies on all facets of their operations. Consequently, as it seems that the control agencies are exposed to all relevant information concerning the activities of the local Boards, it would seem to assure both farmers and consumers that an abuse of the exercise of authority granted to the local boards would unlikely go undetected by the control agencies.

C. Appeals

Since the local commodity Boards report directly to the control agencies, it is essential to the interests of both farmers and consumers that the control mechanisms as so established in the form of control agencies perform those functions for which they were designed. The performance of the control agencies against unjust arbitrary board actions is essential in the safeguarding of the interests of both farmers and consumers. Consequently, the appeal procedure embodied in the legislation is of prime concern to those who feel that they have suffered unfairly from the result of arbitrary board actions. The appeal procedure permits farmers and consumers alike to state their case to the control agencies. The Farm Products Marketing Board and the Milk Commission of Ontario have authority to hear
appeals from decisions of local boards and to investigate disputes and matters related to the production and marketing of regulated products.

The legislation is not explicit in outlining the reasons for which an appeal may be launched or by whom it may be initiated. The Farm Products Marketing Act states:

(1) Where any person considers himself aggrieved by any order, direction or decision of a local board, he may appeal to the local board by serving upon the local board written notice of the appeal:

(2) Where any person considers himself aggrieved by,

   (a) any decision of a local board on an appeal under subsection 1; or

   (b) any order, direction or regulation made by the Board,

he may appeal to the Board by serving upon the Board written notice of the appeal.

The problem encountered in interpreting the intent of the legislation is that it does not define the meaning of the word 'person'. It is assumed that the only logical interpretation is that it means consumers, farmers and processors alike. This interpretation would imply that consumers and farmers are accorded equality in the appeal procedure if it is felt that a local board has acted in an unjust manner.

However, the legislation is not explicit in outlining the reasons for which a 'person' may launch an appeal.
Order, direction and decision are words which are subject to interpretation. If the meaning of these words is that all actions of a marketing board can be construed to be an order, direction, or decision, then the assumption is that prices set by the Boards as well as unfair or unjust arbitrary board actions are subject to appeal by both farmers and consumers.\(^3\)

If the interpretation of the legislation is as outlined in this discussion, it seems that the control mechanisms established by the Government; in theory at least, possess the capability of safeguarding the interests of not only farmers but consumers as well.

There is one aspect of the appeal procedure which is subject to criticism. Assuming that the control agency is impartial in its judgement concerning disputes with the local Boards, there should be no problems which develop as far as consumer faith in the control agencies are concerned. However, as outlined in Section 2 of the appeal procedure, the Farm Products Marketing Board also serves as the final appeal body when appeals are instituted against the decisions of the Board itself. It is difficult to

\(^3\) The Milk Commission of Ontario serves in the same capacity as an appeal body to the two boards under its jurisdiction. Consequently, there is no need to outline the procedure of this body as well.
believe that the Farm Products Marketing Board can act in a completely objective and impartial manner when its own judgement is being questioned. Therefore, the question of the objectivity and the impartiality of the control agencies is one with which consumers should be concerned. This is not to say that the control agencies act in an impartial manner. It is only suggesting that the possibility of such might occur. Generally, the control agencies can be noted as acting in good faith as the following example demonstrates the concern and acute awareness of the Farm Products Marketing Board of the problems of both farmers and consumers.

In January, 1977, the Ontario Egg Producers' Marketing Board was the focus of a controversy which developed over the authority exercised by local boards in regard to loss-leader advertising. A number of supermarket chains were advertising Grade A large eggs at a price below that set by the Egg Board. The price reflected a loss to the supermarkets as the price which they paid the egg producers was only a few cents a dozen less. The Egg Board objected to the use of loss-leader advertising by the supermarkets as a sales gimmick to attract customers. The Egg Board, along with those Boards regulating apples, peaches and pears have issued similar edicts in the past few years restricting supermarkets on loss-leader advertising.
The Egg Board issued a ban restricting the supermarkets from loss-leader advertising on the eggs. The Consumers' Association of Canada expressed immediate opposition to the action of the Egg Board. According to the CAC:

The advertising ban...denies consumers the right to bargain and will hurt consumers without benefiting egg producers whose profits are already guaranteed by the Board. 4

The Farm Products Marketing Board responded immediately to the mounting public criticism of the action undertaken by the Egg Board. The Board revoked controls passed by egg and tender-fruit boards to stop the advertising of supermarket loss-leaders. 5 William Doyle, acting chairman of the Farm Products Marketing Board, stated that, "...the Board felt that the legal authority to pass such regulations was highly questionable." 6 However, those Boards affected indicated that they would probably test the legality of the decision set down by the Farm Products Marketing Board in the Courts. However, it is doubtful such actions have been undertaken as they have not been publicized. As well, the Farm Products Marketing Board has wide-ranging authority to regulate the actions of the local Boards and it is

6 Ibid.
unlikely that the local Boards have much of a basis for their argument.

Although this is an examination of only one incident, it is an indication of the effectiveness of the control mechanism established to regulate the local Boards. Consequently, it would seem safe to assume that the Farm Products Marketing Board is aware of the problems of consumers and will take appropriate action to correct them while still safeguarding the interests of farmers.

D. Composition of Control Boards

The composition of the membership of the control agencies is not restricted solely to farmers as are the majority of the local commodity Boards. The members of the two control agencies are appointees of the Lieutenant-Governor-in-Council. The Milk Commission of Ontario consists of one staff member, one university professor, two farmers and one businessman. The Farm Products Marketing Board consists of two staff members and three farmer members. The composition of the Milk Commission indicates that there is greater representation of non-farmer interests which could aid non-farmer interests when decisions are made by the Commission. Although there is a majority of farmer members on the Farm Products Marketing Board, their concern for consumer or non-farmer interests has been
adequately demonstrated in the incident concerning loss-leader advertising.

Consequently, it appears by the composition of the membership of the control agencies that there might be some flexibility in the decisions advanced by the control agencies. Farmer interests would seem to be accorded top priority but the representation of non-farmer interests is a positive sign to many consumers.

E. Role of the Ontario Legislature

The role of the Ontario Legislature in the regulation of the local commodity Boards is minimal. The role of the Cabinet is relegated to the initiating of legislation concerning the various marketing plans on the advice of the control agencies. As outlined earlier, the local Boards report directly to the control agencies and there is no method of direct contact established between the local Boards and the Ontario Legislature. The local Boards, in effect, are directly responsible to only the Farm Products Marketing Board or the Milk Commission of Ontario. It is for this reason that the control mechanisms as so established in the form of control agencies must function in the manner for which they were designed as the farmer or consumer have no direct recourse to the Ontario Legislature; at least on an individual basis. The farmers who are dissatisfied with
the particular marketing plan to which they belong, may, on the basis of a majority vote, direct the control agencies to undertake an investigation of the Plan to determine if the objectives for which the Plan was initiated are being adequately met. If they are not, the farmers may request a discontinuance of the Plan. The consumer or other non-farmer interests are not accorded this privilege. Thus, the control agency becomes a very important mechanism on which the consumer must depend to safeguard his interests.

The examination of the control mechanisms established to regulate and control the activities of the local Boards appears to indicate that both the farmer interest and the consumer interest are adequately safeguarded. The farmer is entitled to question the existence of the marketing plan in which he participates as a willing member while the consumer cannot, and, therefore, must depend on the wisdom of the control agencies to safeguard their interests. The appeal procedure also accords the consumer some means of protection of his interests.

2. Representation

The second indicator to be examined in this discussion are the provisions for representation of both farmers and consumers on the local Boards and on the advisory committees maintained by several of the Boards. Representation of
both interests is essential it is assumed that the Boards are established not only to perpetuate the interests of the farmers but also to operate with the interests of the much broader public as a genuine concern. The representation of both farmers and consumers implies a recognition of the legitimacy of both groups and accords them a viable position in the regulation of the market. The recognition of interests implies a balancing of interests and in the case of marketing boards, a balancing of interests implies representation. If there is a presumption that providing farmers with the legislative means to achieve organized marketing is in the public interest, then representation of consumers on marketing boards and their advisory committees is also in the public interest.

The concept of representation is a basic concept in western democracy as government in the western democracies is built on the idea of representation. The people elect legislators to act as representatives of their interests. The Cabinet of both federal and provincial governments are comprised of members of the legislature which represent various interests: regional, ethnic, urban, labour, etc. The fact that these interests are recognized in this manner accords them a sort of constitutional legitimacy.

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Consumer representation on marketing boards does not imply equal representation. The detailed provisions of the Regulations establishing the marketing schemes ensures that the composition of the Boards enshrines the principle of self-regulation by ensuring a substantial majority of producer-elected members. Significant representation is what consumers seek, not necessarily equal representation.

All of the local commodity Boards in Ontario provide for farmer representation only except the Ontario Apple Marketing Commission. The Apple Commission includes in its membership representatives from all segments of the apple industry: growers, packers, processors, retailers, and consumers, with growers being in the majority. The consumer representative must also be a registered member of the Consumers' Association of Canada. The lack of consumer representation also extends to the advisory committees of the Boards, at least as indicated by the Regulations establishing the individual marketing schemes. Of course, the importance of advisory committees has not yet been determined and if they prove to be virtually unimportant

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the lack of consumer representation on the committees is of no great concern.

The lack of consumer representation on marketing boards is not confined strictly to the Province of Ontario. Ursula Patterson, President of the Saskatchewan Branch of the Consumers' Association of Canada has been critical of marketing boards because of the lack of consumer representation. She has stated that consumers "... have the right and the responsibility to participate in decisions that affect them and should have equal representation with producers on marketing boards." 10

A major contention of consumers is that farmers, who represent a viable economic sector of society, are allowed to regulate the market while consumers, another viable interest in the marketplace are not allowed representation, let alone a role in regulation. Consumers are of the conviction that they should be accorded representation in the regulation of the market for it is they who stand to be the most adversely affected by the activities of marketing boards.

Consumer representation is an essential and important point of concern of consumer advocates. As stated, the CAC has expressed its opposition to the lack of consumer representation.

representation on marketing boards. The Canadian Consumer Research Council in a report on marketing boards\(^{11}\) expressed its concern over the lack of consumer representation. The Report stated,

> The consumer interest is not being overtly represented in marketing boards nor in agricultural policy-making ... We have concluded that only where the recognition that consumer and other interests are legitimate concerns and where these interests are overtly taken into consideration in policy-making will such interest be adequately represented.\(^{12}\)

and,

> Steps should be taken immediately...to include adequate and effective access to board decisions and representation of consumer and other interests.\(^{13}\)

Ignorance of the role of the consumer is widespread and not confined solely to the lack of consumer representation on marketing boards. General agricultural policy-making is indicative of this ignorance. Operation of provincial and federal bodies strongly indicate that there is minimal, if any real consideration of the effect of their policies on the consumer.\(^ {14}\) Although the establishment of federal

\(^{11}\) Canada, Consumer Research Council, Op. Cit. p.44.

\(^{12}\) Ibid.


\(^{14}\) Ibid. p.44.
and provincial Ministeries of Consumer Affairs in recent years indicates that there is a recognition of the legitimacy of the consumer interest in policy-making, meaningful recognition is lacking as there exists a state of almost total lack of consumer representation on marketing boards.

An examination of the provisions for representation of farmers and consumers on marketing boards has revealed an overrepresentation of farmers and virtually minimal representation of consumers. The absence of consumers on marketing boards greatly undermines the legitimacy of board actions in the eyes of the general public. Acceptance of marketing boards is far from complete as politicians continue to support the concept of marketing boards in the face of mounting public criticism. Consumer representation on marketing boards must be permitted if the Boards are to be considered as operating with more than the interests of farmers as a genuine concern.

3. Type of Board

The third indicator to be examined in this Chapter is the type of board. The concern with board type centers around establishing the provisions embodied in the legislation which grant differing degrees of authority to control the market to three types of marketing agencies. As outlined
in the previous Chapter, the three types of Boards which may be established in Ontario are: (1) Agency; (2) Negotiating; and, (3) Promotional. At present, only the Agency type and the Negotiating type exist. As noted earlier, the Agency type takes control of the product and markets it on behalf of the producers.; and, the Negotiating type attempts to get the job done by negotiating the terms and conditions of sale.

Of the twenty-three local commodity Boards in Ontario, there are twelve Agency Boards and eleven Negotiating Boards. As seen in Table 1 of the previous Chapter, those Boards which have been delegated the most authority to control the market are Agency Boards; specifically, the Ontario Egg Producers' Marketing Board; the Ontario Chicken Producers' Marketing Board; the Ontario Milk Marketing Board; and, the Ontario Turkey Producers' Marketing Board. The fact that Negotiating Boards negotiate price and terms of sale indicates that there is a genuine concern for a fair and just agreement whereas the Agency Boards arbitrarily decide price and terms of sale. It is this aspect of the degree of authority exercised by the two Board types which is of concern to this study. An examination of the legislation which provides for the establishment of the different Board types shall reveal whether there is a distinction made in the extent to which each board type reflects the interests
of farmers, consumers, and the public in the exercise of its authority.

An examination of the legislation (Farm Products Marketing Act) and the Regulations of each of the individual marketing schemes is very inconclusive as no mention is made of the intent of each marketing board type. The legislation grants to the Farm Products Marketing Board authority to grant to the local commodity boards to establish whichever type of marketing plan that the farmers feel will satisfy their needs in the market.

The Negotiating Boards establish negotiating committees to negotiate minimum prices and conditions of sale for the regulated product. The negotiating committee meets with buyer representatives and if a price agreement cannot be reached, the two sides appoint an Arbitration Board. It is then the responsibility of the Arbitration Board to determine minimum price and terms of sale.

The Agency Boards, by virtue of taking physical control of the commodity, force the farmers to relinquish any aspect of control in return for the selling of the product.

In the beginning years of the establishment of compulsory farm marketing organizations, all marketing plans were of the negotiating variety. It was not until the Ontario Hog Producers' Marketing Scheme had been established as a negotiating board in 1946 that change occurred. By 1952, the
hog producers requested a change from that of a negotiating board to an agency board.\textsuperscript{15} A negotiating committee consisting of equal representation of producers and processors was established to negotiate price at the inception of the Board. This type of arrangement proved unsatisfactory because agreements on price were hampered by post-war trade agreements which included contracts with set prices. Consequently, in 1952, the hog producers requested authority to establish a marketing agency which could assume direct control over the marketing of hogs through regulating the time and the place at which hogs would be marketed, the services used to transport hogs and the price to be paid.\textsuperscript{16}

Other marketing schemes requested this change of tactic as well and some of the new schemes which came into existence after 1953 adopted the Agency approach as opposed to the Negotiating approach.

The original intention of farmers in establishing negotiating type boards was to provide themselves with countervailing power in the marketplace, to achieve efficient, orderly marketing, and to give producers an opportunity to influence the development of their own industry. At first,

\textsuperscript{15}Ontario Pork Producers' Marketing Board, Seminar for Agricultural Officers-Ontario Banks, (Toronto: September 2nd, 1976), (mimeographed), p.4.

\textsuperscript{16}Ibid.
the bargaining position of the farmers improved but as noted, other considerations affected the success of this type of arrangement. Therefore the Agency type of board came into existence and consequently is the object of the consumers' wrath. Negotiating type boards were established to attempt to obtain a fair price for the farmers' produce and consumers recognized this as a legitimate concern. However, the existence of agency boards has subverted the aim for a fair price; at least in the opinion of consumer advocates. By taking physical control of the product and preventing any form of consumer representation on the Agency Boards, the consumer is left with little recourse but to oppose the existence of Agency Boards.

Farmers offer the opinion that Agency Boards which possess authority to establish marketing quotas are essential in the marketing of such commodities as eggs and broiler chickens, because without an orderly flow of these commodities to market during season, prices to producers after harvest often tend to be depressed by an oversupply and consequently prices are higher at the end of the season because of shortages. 18

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As well, commodities such as eggs have a short storage span and must be marketed to prevent spoilage, hence the need for an agency board to take physical control.

The intention of both type of board is to aid the farmer in his struggle for a better income position. The Negotiating type Board, whether intentional or not, operates in the general confines of the public interest, i.e., negotiation and not arbitrary exercise of its authority. It is true that certain commodities cannot be marketed effectively without the existence of such a marketing organization as agency type boards, but if this is the case, there should be safeguards embodied in the system which allows greater control over the activities of marketing boards designated to be of the Agency type, specifically those four Boards which exercise the greatest degree of authority. As stated, the control agencies appear to perform as an adequate control mechanism, but can only act after the local Board has initiated the policy. This is where consumer representation is important; at the policy-making stage. The suggestion here is that consumer representation is essential on Agency Boards. If not on all of the Boards, at least on the four Agency Boards which have been demonstrated to exercise the greatest degree of authority in the marketplace. Consumer representation on these Boards would at least provide the Board with the consumer viewpoint which could be taken
into consideration when Board policy is formulated. Since the goal of the consumer is to attain the lowest possible price, it is those Boards which possess authority to determine price and to set marketing quotas which prevent the consumer from realizing success. Consequently, it is on these Boards which the consumer must concentrate in order to achieve their stated goals. Until consumer representation on these Boards becomes a reality, it is suggested that Agency Boards will continue not to reflect a concern for the interests of the public. Negotiating Boards, although they have no provision for consumer representation, at least attempt to function with more than the farmer interest in mind.

4. Distribution

The fourth and final indicator designated to be of primary importance is that of distribution. One of the basic reasons for the establishment of marketing boards from the farmer's standpoint is to provide a basic mechanism for the orderly flow of products from the farm to the market. Before marketing boards were established, the individual farmer was at the mercy of the buyer to determine how much the farmer would receive for his products as well as the time and place for disposal of the product. As previously seen in the case of the Ontario Hog Producers' Marketing Board, this is not always the best system. Farmers opted
for compulsory control of their products to obtain a guarantee that their products would reach the market. After the Depression, there was a burst of consolidation amongst the farm products processing organizations: milling companies, meat packers, canners, etc. This development meant that the larger firms were absorbing smaller ones which had excess capacity and consequently this meant that there was a reduced number of buyers for agricultural products. 19 Thus to ensure the individual farmer that his product would reach market, marketing boards were viewed as the necessary mechanism.

The consumer is extremely interested in the question of distribution for it is essential to the consumers' desire for stable prices and a guaranteed supply of the product that the distribution of the product is done in an orderly fashion. The question to be considered is whether the distribution system which has developed with the existence of marketing boards is better than other systems.

The Agency Boards, possessing authority to take physical control of the product, by definition, possess the capability to accomplish the task of orderly distribution. By taking physical control, the Agency Board is able to sell the products directly to the consumer who in turn places it on the market for sale to the consumer. The Negotiating Boards,

on the other hand, are primarily concerned with prices. Once the price agreement is reached, the onus is on the farmer to deliver the product to pre-arranged buyers. Two Boards; the Ontario Pork Producers' Marketing Board and the Ontario Flue-Cured Tobacco Growers' Marketing Board employ an auction method to sell their product. An auction is employed by these two Boards as it eliminates any possibility of preferential treatment. The Ontario Pork Producers' Marketing Board employs a teletype system which offers hogs for sale simultaneously to all buyers in the Province. This makes it virtually impossible for any bidder to know the identity of the other buyers bidding on the system. It ensures all buyers, however small, an equal opportunity to purchase his requirements at any time as he sees fit without fear of reprisal from other buyers.20

The basic feature of the distribution system which has developed with the existence of marketing boards is that the system depends on a 'clearing house' idea to distribute the product to the consumer. A large number of producers of any product regulated by marketing boards must depend upon the middlemen in the marketing operation to ensure that the product reaches its final destination; the consumer. Wholesalers and retailers provide a clearing house for the

product.

Whether or not this system of distribution is more effective than other systems is difficult to gauge with any certainty. If the role of the middlemen is eliminated, it would become a monumental task for the marketing boards to distribute the product to the consumer. If marketing boards were eliminated and the individual farmer became the sole supplier of agricultural goods to market, mass distribution would cease to exist. Consequently, at this point in time, it appears that this system of distribution is sufficient to meet the needs of both farmers and consumers. The farmer has been critical of the role of the middlemen: processor's, wholesalers and retailers, but has more or less relegated itself to the fact that under the present system of distribution, the role of the middlemen is essential. Consumers tend to vent their wrath of higher prices on the farmer while the farmer accuses the middlemen of causing the higher prices. Nevertheless, it appears that this distribution system does perform an adequate job of moving the product from the farmer to the consumer. The general consensus seems to be that marketing boards are an effective mechanism in distributing the farmers' product to market and at the same time satisfying the objectives of consumers in the distribution aspect.

Summary of Findings

This Chapter has examined those aspects of the operation of marketing boards considered to be of primary interest to
the general welfare of both farmers and consumers. At this point of the discussion, marketing boards appear to meet certain basic requirements as far as safeguarding the interests of both groups. The control mechanisms appear to perform with the interests of both groups as a major concern and the Boards appear to provide a mechanism which does an adequate job of distributing the product to market. The major criticism of the Boards centers on the question of representation, perhaps the most crucial indicator of whether the Boards truly safeguard the interests of both groups.

The next Chapter of this study examines those indicators of secondary importance in an attempt to provide the full comprehensive picture of whether marketing boards are the proper mechanism to safeguard the interests of both farmers and consumers.
Chapter IV

Marketing Boards and the Public Interest: Secondary Indicators

The purpose of this Chapter is to undertake an examination of several indicators which are designated to be of secondary importance in the determination of whether the Marketing Boards of Ontario safeguard and/or promote the interests of both farmers and consumers. The indicators considered to be of secondary importance are: (1) national agency ties; (2) the role of advisory committees; and, (3) the degree of access permitted by the Boards to scrutiny of their activities by means other than control agencies. These have been designated as secondary indicators because an abuse of authority in these areas of concern should not have the implications to the welfare of the interests of both farmers and consumers than in those areas of primary importance where the opportunity to abuse the exercise of authority would seriously compromise the interests of either farmers or consumers. Nevertheless, these designated indicators are essential to this study as they provide relevant information which can be employed in conjunction with the primary indicators to aid in the determination of whether the Boards
safeguard the interests of both farmers and consumers.

1. **National Agency Ties**

The first indicator to be examined are the national agency ties maintained by three of the local commodity Boards, i.e., the Ontario Egg Producers' Marketing Board; the Ontario Milk Marketing Board; and, the Ontario Turkey Producers' Marketing Board. An examination of the relationship should reveal the benefits of such association to both farmers and consumers. Based on the findings of this study to date, it would be expected that such an examination should reveal that the three local Boards which maintain a working relationship with the national marketing agencies do so in an effort to provide farmers, and to some extent, consumers with some benefits in the marketing of the particular commodities which the local Boards regulate. Whether this is the case or not shall be determined throughout the course of this examination.

Besides the three Boards already mentioned, there is evidence of recent action by local boards to initiate the establishment of national agencies for chickens and vegetables. The three national agencies which maintain a working relationship with the local Boards are: the Canadian Egg Marketing Agency; the Canadian Turkey Marketing Agency; and, the Canadian Dairy Commission. The first two agencies are under
the jurisdiction of the National Farm Products Marketing Council, the national control agency.

The National Farm Products Marketing Council reports to Parliament through the Minister of Agriculture. It was established under The Farm Products Marketing Agencies Act, S.C. 1972, c.65. The duties of the National Farm Products Marketing Council are:

(a) to advise the Minister of all matters relating to the establishment and operations of agencies under this Act with a view to maintaining and promoting an efficient and competitive agriculture industry;

(b) to review the operations of agencies to ensure that they carry out their operations in accordance with their objects set out in Section 22; and

(c) to work with agencies in promoting more effective marketing of farm products in interprovincial and export trade. 1

The Act also authorized the Federal Government to establish other national farm product marketing agencies to regulate interprovincial trade or export trade when it deemed necessary.

National marketing agencies arose as a result of the

increasing difficulty experienced by the Provincial Boards in the regulation of the marketing of certain commodities across provincial boundaries and international boundaries, particularly in the marketing of eggs and turkeys.

In theory, national marketing agencies are established with the intention of providing more orderly marketing of certain agricultural commodities. Therefore, it is expected that the benefits of this orderly marketing are enjoyed by farmers and consumers alike. It is expected that farmers are the beneficiaries of this orderly marketing as it results in more stable prices and a market for their product. Consumers are supposedly the beneficiaries of guaranteed supplies of the products that they wish to purchase.

However, a subsequent examination of the ties maintained by local Boards with national marketing agencies reveals that the assumptions do not hold true. Generally, farmers express satisfaction with the existence of the national marketing agencies but admit that "the only reason we are looking at a national marketing scheme is because the Federal Government is not doing anything for producers". ²

There is considerable dissatisfaction with national marketing agencies expressed by consumers. The most vocal critic is the Consumers' Association of Canada (CAC).

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The CAC is a voluntary non-profit organization of some 85,000 Canadian consumers. One of its primary functions is to provide a means of collecting and expressing consumer interests and opinions. The basis for the criticism is as stated:

...Our Association has consistently opposed the establishment of commodity boards on a national scale because provincial mechanisms exist to allow for orderly production and marketing... in this time of great concern over galloping inflation in food prices, it seems highly appropriate to rethink the logic behind the creation of national marketing boards which have as their single outstanding goal the establishment and maintenance of a product price level which exceeds the average of prices that would prevail in the Board's absence. CAC sees this as one of the admittedly large number of elements in rising food prices--one which could be beneficially withdrawn. 4

The criticism voiced by the CAC is directly aimed at those national marketing agencies established since 1972. The Canadian Dairy Commission, a national dairy authority, was established in 1967. As is the case in Ontario, the marketing of milk at the national level is accorded a unique position separate from that of other agricultural commodities, presumably due to the complexities


4 Ibid., pp.2-3.
of milk marketing.

Most of the policies and programmes of the Canadian Dairy Commission are concerned with the industrial milk sector. Fluid milk rarely moves across provincial boundaries and, therefore, is generally under provincial jurisdiction. The Canadian Dairy Commission possesses broad authority which includes the purchasing and resale of dairy products; the making of payments to producers for stabilization purposes; the provision for marketing of a dairy product on a quota basis; and, the fixing and imposing of levies. The objectives of the Canadian Dairy Commission are to provide efficient producers of milk with the opportunity of obtaining a fair return for their labour and investment, and to provide consumers of dairy products with a continuous and adequate supply of dairy products of high quality.

The Canadian Dairy Commission acts in conjunction with the Agricultural Stabilization Board. Parliament sets the price support levels and voted the necessary stabilization funds to the Board. In turn it gives these funds to the

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6 Agricultural Stabilization Act, (1966), S.C.
Canadian Dairy Commission for the purpose of carrying out its responsibilities in dairying.

It is the responsibility of the Ontario Milk Marketing Board to represent Ontario milk producers in dairy policy development at the national level. The Canadian Dairy Commission and the Dairy Farmers of Canada are two organizations with which the Ontario Milk Marketing Board confers.

The Ontario Milk Marketing Board also has ties with three other national bodies. These are the Canadian Milk Supply Management Committee, the Canadian Co-ordinating Board on Milk Recording and the Canadian National Committee of the International Dairy Federation.\(^7\) The most important of these three bodies, at least as far as farmers are concerned, is the Canadian Milk Supply Management Committee. It is chaired by the Chairman of the Canadian Dairy Committee and is made up of representatives of producers' organizations and provincial governments. The major responsibility of the Committee is to manage the national Milk Market-Sharing Quota Program.\(^8\)

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\(^7\) Hurd, Op. Cit. pp.12-14. The Canadian Co-ordinating Board on Milk Recording establishes basic minimum and uniform standards for milk recording. The Canadian National Committee of the International Dairy Federation is responsible for Canada's participation in the IDF.

\(^8\) Ibid.
The national ties developed by the Ontario Milk Marketing Board are much more extensive than those developed by the other local Boards; specifically, the Ontario Egg Producers' Marketing Board and the Ontario Turkey Producers' Marketing Board. The Ontario Egg Producers' Marketing Board maintains liaison with the Canadian Egg Marketing Agency, as do other provincial egg boards. One of the major functions of the CEMA is supply management of the egg industry. The CEMA is also responsible for the establishment of import quotas on imported eggs and egg products. The CEMA has been the focus of much controversy over the past several years, due primarily to the inept manner in which the CEMA allowed millions of stored eggs to spoil, thus reducing the supply available for market.

The now defunct Food Prices Review Board was extremely critical of egg marketing agencies in Canada. A report by the Review Board stated that:

A number of basic marketing and pricing problems exist in the Canadian egg industry, and indications are that these problems have intensified...unfortunately, the structure of egg boards, and the market environment in which they operate, have combined to

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produce the unsatisfactory performance of the past year. 10

The Review Board, however, placed most of the blame on the Provincial and Federal Governments, "The principal responsibility for the problems lie, not with the boards, but with the Federal and Provincial Governments which adopted the concept which has permitted the boards to mismanage rather than manage the industry." 11 The Food Prices Review Board concluded that, "overall, the long-term interests of producers and health of the industry in Canada have been jeopardized by policies and activities of the egg boards...not to mention the interests of consumers who have been subjected to higher than warranted egg prices." 12

The Ontario Turkey Producers' Marketing Board maintains liaison with the Canadian Turkey Marketing Agency. The CTMA represents turkey producers on a national level in all provinces except Prince Edward Island and Newfoundland. The CTMA is responsible for the establishment of import quotas and the regulation of turkeys marketed in interprovincial

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11 Ibid. p.45.
or export trade. The establishment of a national turkey marketing agency was met with criticism from the CAC. The CAC stated,

...Our contention is that provincial boards act to inject a slight degree of competitiveness within the market but that a national agency...would be completely monopolistic...our Association is not arguing that producers' income should not be raised.

In reply to these criticisms of the CAC, a spokesman for producers has said,

I am sure that a Canadian turkey marketing agency, once established, will, as the egg producers plan to do, not only protect producers from these losses and uncertainties, but to ensure to consumers a regular supply of product at fair prices, and contribute to the continued healthy development and improved efficiency of the industry.

Since there has been minimal criticism of the CTMA by either farmers or consumers since its inception in 1973, it might be safe to assume that, generally speaking, there is little dissatisfaction of the operation of the Canadian

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15 Statement of the National Farm Products Marketing Council on Proposed National Turkey Marketing Plan of the National Turkey Co-ordinating Committee, (Ottawa: February 15, 1973) pp.53-54. The statement was made by John Hyde, President of the Canadian Egg Producers' Marketing Council.
Turkey Marketing Agency and the relationship which exists between the Ontario Turkey Producers' Marketing Board and the CTMA.

Much of the recent criticism of national marketing agencies has centers around the proposed establishment of a national chicken marketing agency. In late 1976, proposals were made by chicken producers to establish a national chicken marketing agency. The proposed new national board would have co-ordinated chicken marketing of the nine provincial chicken producer marketing boards and would have been responsible for establishing the size of the national market, setting provincial quotas, regulating interprovincial and international chicken trading, buying and selling chickens for international trade and establishing a cost of production formula to decide how much producers should be paid. 16

The Consumers' Association of Canada once again expressed its opposition to a national marketing agency. In an attempt to prevent the establishment of such a board, Ruth Lotzkar, CAC President, said, "...marketing boards hold prices at artificially high levels and contribute to rising prices. Chicken prices have doubled during the last four years and provincial marketing boards are mainly responsible for the

increase."\textsuperscript{17}

These remarks were met with opposition by various members of the agricultural community. Charles Munro, President of the Canadian Federation of Agriculture, termed the remarks as "irresponsible and untrue."\textsuperscript{18} He also claimed that a report prepared by the Federal Department of Agriculture for the Cabinet and leaked to the CAC "never saw the light of day outside of the economics branch of Agriculture Canada; because of the inadequacy of its analysis, and was never forwarded to Cabinet."\textsuperscript{19}

Mrs. Lotzkar had previously stated that, "consumers were being gouged on food prices because of marketing boards and were spending $470 million in unnecessarily high prices."\textsuperscript{20} Mr. Munro referred to the federal brief which actually stated that marketing boards "do not have the power to raise food prices significantly."\textsuperscript{21} This, it was suggested, was because: (i) most boards do not attempt to control supply, or manage only the products of their own provinces; (ii) most boards deal with products which are also imported, thereby limiting any effect on prices; (iii) prices for feed grains, a major factor in establishing live-stock product

\textsuperscript{17} \textit{The Windsor Star}, 4 November 1976.
\textsuperscript{18} \textit{The Windsor Star}, 8 November 1976.
\textsuperscript{19} Ibid.
\textsuperscript{20} Ibid.
\textsuperscript{21} Ibid.
prices, are established in international markets; (iv) prices for wheat, the major food grain, are held below international prices for domestic use; and, (v) fish are also priced on international markets. Mr. Munro stated that to attack marketing boards was scandalous, and what the CAC and other groups have done "is wrong and unfair, and can be justly considered to be doing an indignity to the producers of those products which they do not deserve... the injury is compounded... when arguments used to support such attacks are distorted and unfactual." The CAC has also been criticized as being biased against marketing boards before it had seen the proposal for the national chicken marketing agency.

Canadian vegetable growers have also expressed a desire for the establishment of a national vegetable marketing board because of the lack of concern for the growers by the Federal Government. What is of interest to this study are the remarks made by one of the vegetable growers.

Larry Jorgenson, manager of the British Columbia Coast

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22 The Windsor Star, 8 November 1976.
23 Ibid.
Vegetable Marketing Board said, "the irony is that the public does not like national boards and we don't like the thought of one either." He was particularly upset over the lack of federal action to impose surtax legislation to protect western potato producers from cheap United States imports. He said,

> If the legislation is intended to protect the industry it has to be made meaningful. If they don't, the only other alternative we have got is a national marketing scheme which scares us and a number of others.

Although vegetable producers have sought the establishment of a national marketing agency, they themselves realize that the establishment of such a body is not the best possible alternative and it is one that is certain to irk most consumer advocates. Consequently, it is conceivable that producers of other commodities which are regulated by national marketing agencies share the same view.

An examination of the present state of the relationships fostered by three of the local commodity marketing Boards in Ontario with national marketing agencies as well as an examination of the general acceptance of national marketing agencies by farmers and consumers alike has revealed several

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items of interest. First of all, consumers are critically and unalterably opposed to the concept of national marketing agencies, if for no other reason than the added cost of production that the farmer must pay in order to maintain such agencies. This added cost of production to the farmer translates into a higher price for the consumer. Secondly, farmers realize that national marketing agencies are not the ideal mechanism to regulate the national and international market. Farmers concede that stronger leadership by both federal and provincial governments is required if a successful Canadian agricultural policy is to be developed. Finally, there is nothing to suggest that the best interests of consumers are being considered by the operation of national marketing agencies. It is apparent from the intent of the legislation establishing national marketing agencies that the interests of farmers are to be given primary consideration. Consumers are dissatisfied with the operation of national marketing agencies; and, although the national agencies are created, ostensibly, to regulate the supply of commodities on a national scale, there is little to suggest that the consumer is the beneficiary of such actions. Consequently, there appears to be a genuine animosity which exists between consumers and farmers over the importance of national marketing agencies. There is little empirical evidence available to support the claims of either group. Therefore, conclusions
as to the usefulness of national marketing agencies and whether they provide farmers and consumers some protection of their interests are contingent on further empirical study.

At the present time, national marketing agencies appear to be only a stop-gap measure employed by the Federal Government to compensate for the lack of federal policy at the national level. Because there are only a few national marketing agencies, it would appear that the majority of commodity producers at the Provincial level do not possess the conviction that national marketing agencies are the answer to the problems of marketing. All that can be said about the benefit of national marketing agencies to the general welfare of both farmers and consumers is that both groups tolerate the existence of such agencies until a more viable alternative to their existence occurs.

2. The Role of Advisory Committees

In this Chapter, the second indicator to be examined is the role of advisory committees. Not all of the local commodity boards have advisory committees. The purpose of advisory committees is to provide some sort of guidance to the body which it has been connected to by statute. Advisory committees are formed to seek access to sources of information which will allow it to form educated and constructive opinions on those matters for which the
committees must consider. In the case of marketing boards, advisory committees are concerned with the optimum methods possible for the marketing of agricultural commodities. Since advisory committees to several of the local boards are concerned with the marketing of various commodities, it is assumed that farmers and consumers alike are the recipients of the collective wisdom offered by these committees.

There are twenty-three local commodity Boards in Ontario. Of these twenty-three boards, only eight of these boards are known to maintain an advisory committee. This fact is effectively illustrated by Table 1 in the second Chapter. The Farm Products Marketing Act, the enabling legislation for twenty-one of these boards, authorizes local boards to establish advisory committees. The Act states that local boards are granted authority,

providing for the establishment, in connection with any plan, of advisory committees that may be empowered to advise and make recommendations to the local board or to any person or organization represented on the committee in respect of,

i. the promotion of harmonious relationships between persons engaged in the production and marketing of the regulated product,

ii. the promotion of greater efficiency in the production and marketing of the regulated product,

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27 Ontario Farm Products Marketing Board. List supplied by Michael Loh, Research and Development Officer, Ontario Ministry of Agriculture and Food.
iii. the prevention and correction of irregularities and inequities in the marketing of the regulated product,
iv. the improvement of the circulation of market information respecting the regulated product,
v. the improvement of the quality and variety of the regulated product, s.19.

Consequently, advisory committees have been established by eight of the local boards to undertake these specific tasks. There has been very little scrutiny of this aspect of marketing boards and unfortunately this study is a victim of this lack of research. It would appear that due to the lack of research available on advisory committees, and the fact that only eight boards are known to have established committees, that the importance of the role of the committees is not all that important. This is not to suggest that those committees in existence at this time are unimportant in the role they assume for the particular board which established them. It is suggesting that based on the information available at this point in time, that advisory committees are not considered an essential element in the operation of marketing boards as far as the safeguarding of the interests of both farmers and consumers is concerned. The potential exists for the committees to perform as an adequate safeguard mechanism but it appears that this potential is yet untapped.

However, once again, there appears to be an exception
to the rule as the Ontario Milk Marketing Board is unique among the local boards as there are five advisory committees to the Milk Board. Three of these advisory committees are statutory committees while two are not. The existence of these committees further emphasizes the necessity of regular consultation between the various sectors of the industry. In the case of milk marketing, the Government recognizes the stakeholders in the industry and creates a formal mechanism for them to come together to apply their expertise. The three statutory committees are concerned with milk, transportation and cheese aspects of marketing. The two non-statutory committees are concerned with the Protection Fund for Milk Producers and the Central Milk Testing Laboratory. The first one is advisory to the Milk Commission of Ontario and the second one is advisory to the Milk Industry Branch.

The Ontario Milk Marketing Board came into existence in late 1965. It replaced three other boards; these were: the Ontario Whole Milk Producers League, the Ontario 'Concentrated Milk Producers' Marketing Board, and the Ontario Cheese Producers' Marketing Board. The Ontario Milk Marketing Board is financed by the Province's milk

producers and consists of twelve members elected by milk producers to represent each of the twelve regions of the Province, along with one member appointed by the Minister of Agriculture and Food to represent the Ontario Cream Producers' Marketing Board.

All policy matters involving the Milk Marketing Board are discussed with the appropriate advisory committee before implementation. The Board seeks agreement on policy matters with the advisory committees but the Board is not bound by the decisions of the committees. If the Board disregards advice offered by the committees, its decisions may be appealed to the Milk Commission of Ontario. In an appeal, the Commission has authority under The Milk Act to order the Milk Marketing Board to take such action as it considers proper in the circumstances, and it may substitute its opinion for that of the Board.29

Consequently, it would appear that the advisory committees established for the Milk Marketing Board do indeed form a viable alternative to the decisions set down by the Board. As there is very little research which outlines specific actions of these advisory committees, it is difficult to conclude that the committees perform in a manner conducive to the safeguarding of farmer and consumer interests. As the role of advisory committees appears to be of secondary

29 Ontario Ministry of Agriculture and Food, Annual Report for the Year ending March 31, 1975, p.35.
importance to the majority of the local Boards, it would appear that the potential benefits which could be derived from their existence are not realized by either farmers or consumers.

3. Degree of Access Permitted by Boards to Scrutinization by Means other than Control Agencies

The third and final indicator designated to be of secondary importance is the degree of access permitted by the local commodity Boards to scrutinization by means other than control agencies. Any corporate body displays a need to conduct its business in relative anonymity to permit its effective operation free from the constraints of overzealous competition. This is understandable, but, since marketing boards are afforded an almost monopolistic position in the marketplace and are considered to be quasi-public bodies in that they are delegated legislative authority to control the market, it is expected that the Boards would display a certain degree of responsibility to the public. This is not to suggest that the Boards should permit unlimited access to their files. It is, however, a suggestion that the Boards display a genuine concern for the wishes of the public to have access to information which affects their position as consumers in the marketplace.

A certain degree of reluctance was encountered when attempts at scrutinization of board activities was
undertaken by means of a questionnaire. Of the twenty-three boards contacted, one indicated that it is presently inactive. Of the remaining twenty-two boards, seven boards refused to comply with a request for a list of the individual Directors of the Boards.

Of the seven boards that refused to send a mailing list, questionnaires were mailed in bulk to the Board offices for distribution. Of these seven boards, only two boards responded. Consequently, the response rate is much less than desirable and reflects a general reluctance by the marketing boards to permit access to any information concerning the activities undertaken by the Boards.

30 A questionnaire adapted from one employed by Professor Lloyd Brown-John, Associate Professor of Political Science, University of Windsor, in his study of Regulatory Agencies in Canada, was designed to question the individual Directors of the Ontario local commodity marketing boards in an attempt to obtain some information on the attitudes of the Directors of the Boards. The data obtained from this questionnaire will be employed at a future date as a subset of Professor Brown-John's Regulatory Agencies Project.

31 Correspondence, Ontario Berry Growers' Marketing Board. October, 1976. The Board, "is presently inactive due to the fact that no raspberries and strawberries in Ontario are being marketed for processing. This has been the situation since 1976."

32 The seven Boards are: The Ontario Apple Marketing Commission; The Ontario Burley Tobacco Growers' Marketing Board; The Ontario Fresh Fruit Growers' Marketing Board; The Ontario Fresh Grape Growers' Marketing Board; The Ontario Potato Growers' Marketing Board; The Ontario Seed Corn Growers' Marketing Board; and, The Ontario Soya-Bean Growers' Marketing Board.
Table 2

Response of Marketing Board Directors to Questionnaire (n=241)

<table>
<thead>
<tr>
<th></th>
<th>Boards Permitting Individual Mailing of Questionnaires</th>
<th>Boards Requiring Bulk Mailing of Questionnaires</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Questionnaires</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Returned</td>
<td>87 (54.7%)</td>
<td>5 (6.1%)</td>
<td>92 (38.2%)</td>
</tr>
<tr>
<td>Not Returned</td>
<td>72 (45.3%)</td>
<td>77 (93.9%)</td>
<td>149 (61.8%)</td>
</tr>
<tr>
<td>Total</td>
<td>159 (100%)</td>
<td>82 (100%)</td>
<td>241 (100%)</td>
</tr>
</tbody>
</table>

The overall response rate was determined to be 38.2%. This reluctance to permit scrutinization of board activities is also further evidenced when the data obtained from two questions contained in the questionnaire is analyzed. The two questions were designed to obtain information from the Directors of the Boards on the sense of obligation felt by the Directors towards public scrutinization of their Board's activities. In response to the following question: "Do you
consider it necessary for your Board to make written records of its meetings available to the public?", Table 3 illustrates that the majority of respondents do not feel it necessary to make records available for public scrutiny.

Table 3:
Accessibility of Records to the Public (n=91)*

<table>
<thead>
<tr>
<th>Accessibility</th>
<th>Type of Board</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agency</td>
</tr>
<tr>
<td>Yes</td>
<td>18</td>
</tr>
<tr>
<td></td>
<td>(31.0%)</td>
</tr>
<tr>
<td>No</td>
<td>36</td>
</tr>
<tr>
<td></td>
<td>(62.1%)</td>
</tr>
<tr>
<td>Do Not Know</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>(1.7%)</td>
</tr>
<tr>
<td>Unknown</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>(5.2%)</td>
</tr>
<tr>
<td>Totals</td>
<td>58</td>
</tr>
<tr>
<td></td>
<td>(100%)</td>
</tr>
</tbody>
</table>

*n=91; Although nine-two replies were received, the Board type for one reply could not be determined.

The overall response rate was definitely a factor in the data obtained from this question as only 36.3% of the respondents indicated that they felt it was necessary
to make Board records available for public scrutiny as compared to 53.2% who did not feel that it was necessary. The data illustrates a slight difference in the responses of the Directors of the two Board types. The Directors of the Negotiating type of Board were slightly more receptive to the idea, as 45.5% felt that it was necessary to make records available to the public as compared to 31.0% of the respondents of the Agency type of Board.

Public scrutiny of Board records apparently is not considered desirable as it might tend to undermine the autonomy of the Boards. As for the differences which exist between the responses of the two Board types, they might be attributed to the fact that since the Negotiating type does not possess the authority to regulate the market that the Agency type does, the respondents are more willing to allow public disclosure of records as they are not likely open to as much criticism as the Agency type would be expected to receive. Many of the respondents which indicated that they do not favour public disclosure of their Board's records indicated that there is a provision in the legislation which forces the local Boards to file a monthly report with the control agencies, and, that in their opinion, this method was sufficient. Perhaps, this is sufficient to the Directors, but since the Boards have been delegated authority
to control the marketing of most agricultural products, it would be expected that some measure of public scrutiny is entitled to interested parties; namely consumers.

The second question asked respondents the following: "Do you feel that Boards in general should explain their activities more regularly to: (i) the public; (ii) legislators; (iii) the press; and, (iv) interested groups?" (Data Displayed: Table 4):

Table 4
Should Boards Explain Their Activities? (n=188)

<table>
<thead>
<tr>
<th>Explain Activities To</th>
<th>Agency</th>
<th>Negotiating</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public</td>
<td>43</td>
<td>14</td>
<td>57</td>
</tr>
<tr>
<td>(31.2%)</td>
<td>(28.0%)</td>
<td>(30.3%)</td>
<td></td>
</tr>
<tr>
<td>Interested Groups</td>
<td>32</td>
<td>11</td>
<td>43</td>
</tr>
<tr>
<td>(23.2%)</td>
<td>(22.9%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Press</td>
<td>30</td>
<td>10</td>
<td>40</td>
</tr>
<tr>
<td>(21.7%)</td>
<td>(21.3%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legislators</td>
<td>27</td>
<td>9</td>
<td>36</td>
</tr>
<tr>
<td>(19.6%)</td>
<td>(18.0%)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unknown</td>
<td>6</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>(4.3%)</td>
<td>(12.0%)</td>
<td>(6.4%)</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>138</td>
<td>50</td>
<td>188</td>
</tr>
<tr>
<td>(100%)</td>
<td>(100%)</td>
<td>(100%)</td>
<td></td>
</tr>
</tbody>
</table>
The majority of respondents indicated more than one choice; consequently, the figures in Table 4 indicate the number of mentions each of the four groups received. As illustrated, the vast majority of respondents are receptive to the idea of explaining Board activities to the four groups listed. This seems to be in direct contrast with the data obtained from the question on the accessibility of records. The respondents have indicated a general preference for explaining board activities to the public and interested groups as opposed to the press and legislators.

Of course, when analyzing the data, it must be realized that there is a distinction between making records available for public scrutiny and explaining activities. Written records are subject to interpretation and it appears that the respondents feel that such interpretation should be left to the Directors of the Boards. Interpretation of records by the uninformed public might possibly lead to needless criticism of Board policy. By explaining Board activities to the public, this needless criticism may be avoided. The data appears to indicate that the Directors of the Boards should explain Board activities at their initiative.

The conclusions which may be drawn from the data displayed in the previous three tables are that there appears to be a general reluctance by the marketing Boards to permit
public scrutiny, but that, given the opportunity to account for various Board activities, the Boards will do so. The fact that there is a tendency towards a desire to explain activities rather than provide unlimited access amongst the respondents is none too surprising when it is taken into consideration that by replying to the questionnaire, the respondents are, in effect, explaining their viewpoints to the researcher. The act of replying is a commitment to explain Board activities.

Summary of Findings

This Chapter has examined three indicators considered to be of secondary importance in the determination of whether marketing boards in Ontario operate in the general confines of the public interest, that is, whether they safeguard and/or promote the interests of both farmers and consumers. The examination of the three indicators demonstrates a greater concern for the farmer than the consumer. This is to be expected because, after all, the Boards are established to aid the farmer in the marketing of his product. There appears to be a genuine lack of concern for the interests of the consumer exhibited by the marketing Boards. The existence of national marketing agencies and the relationship of such agencies with local boards does not establish any benefits accruing to the consumer. The perceptible benefits received from the existence of these national agencies is also open to further question. The
role of advisory committees, in all but one case, is virtually a nominal role and the consumer does not appear to benefit from the existence of such committees. The reluctance of some of the Boards to permit greater access to information concerning Board activities is unfortunate as it jeopardizes the public faith in the Boards.

If the results of the examination of the secondary indicators are combined with the results of the examination of the primary indicators, it appears that the Boards, as they presently exist, can not be considered to be the optimum mechanism to effectively safeguard the interests of both farmers and consumers. Although the control agencies appear to have the interests of both groups in mind and the local Boards are the only logical alternative at this point in time in terms of providing a distribution system, the one glaring blemish on the record is the almost arrogant refusal to permit consumer representation on the Boards (except for the Apple Commission). The farmer appears to be the prime benefactor of the existence of marketing boards. The consumer interest, whether intentional or not, has been relegated to a role of secondary importance.

This study has focused on an examination of selected aspects of the public interest to determine if marketing boards in Ontario can be considered to operate in the public interest. The next Chapter attempts to summarize the findings of this study as well as draw some pertinent conclusions.
Chapter V

Conclusion

The objective of this thesis has been to undertake an examination of natural products marketing boards in Ontario in an attempt to ascertain whether the Boards safeguard and/or promote the interests of both farmers and consumers. Since an acceptable definition of the concept of the 'public interest' has proven to be elusive to most academics, this study has sought to examine two selected aspects of the public interest; namely, farmer interest and consumer interest.

Farmer interest has been defined as the farmers' desire for stable prices, orderly distribution and adequate returns. It is also the farmers' desire for protection from the risks which reduce the returns he desires. Consumer interest has been defined as each individual's very broad and diffuse interest in all facets affecting his role as a consumer in society. The consumer evaluates the economy in terms of how well it fulfills the wants of the consumer. In other words, the consumer evaluates marketing boards in terms of how well the Boards satisfy the needs of the consumer in the marketplace. Consequently, the question as to whether or not marketing boards
function in the public interest can only be answered by how well the Boards satisfy the demands and expectations of both the farmer and the consumer.

Since the area of marketing boards is relatively new to academic scrutiny, the purpose of this study was twofold: (1) to determine if marketing boards are the proper mechanisms to safeguard the interests of both farmers and consumers while operating in the general confines of the public interest; and, (2) to enhance the prospects for future research in this area by stimulating academic interest and concern over the activities of marketing boards in the marketplace.

Summary and Conclusions

The first major area of concern in this study focused on the fundamental decision to establish marketing boards. The enabling legislation which provided for the establishment of compulsory farm marketing in Ontario was the result of a recognition by Government that farmers needed protection in the market from severe price fluctuations which undermined the farmer's ability to successfully supply the market with agricultural products. Consequently, authority to regulate the market was granted to farmers in Ontario.

The marketing agencies as they were established were seen as a means of providing the farmer with an improved bargaining position in the marketplace. Marketing boards were seen as a pragmatic response to the problems encountered in a system dependent on the individual farmer to market his product.
The second Chapter of this study also examined the specific authority granted to marketing boards in Ontario and focused on those areas where the exercise of authority has caused considerable criticism to be voiced by consumers. It was illustrated that the authority to set quotas and to determine producer prices had various implications in the marketplace. The authority to set quotas meant that marketing boards could artificially limit supply, and therefore affect price. The authority to set producer prices also meant a higher price than would have been the case without marketing boards. It was found that four boards exercised the greatest degree of authority. They are: the Ontario Egg Producers' Marketing Board, the Ontario Turkey Producers' Marketing Board; the Ontario Chicken Producers' Marketing Board; and, the Ontario Milk Marketing Board. Consumers and consumer agencies have been highly critical of these particular Boards as they all practice supply management. This is in direct contradiction to the stated goals of most consumers.

In order to determine whether the Boards safeguard the interests of both farmers and consumers, it was necessary to undertake an examination of selected surrogate indicators which would provide some insight into the question. The indicators were divided into two categories; primary and secondary. The reason for this approach is that in examining the fundamental decision to establish marketing boards,
it was discovered aspects of the operation of marketing boards were considered more important to the welfare of the interests of the two groups. An abuse of authority by the marketing boards in any one of these areas would compromise the interests of one or both of the groups. Those indicators designated to be of primary importance were considered to be those aspects of the operation of the Boards which possessed the optimum potential for the safeguarding of either group's interests as well as providing the severest implications to the welfare of either group's interests if the authority possessed by the Boards in these areas was abused. Those indicators designated to be of secondary importance were considered to be those areas of the Boards which would not compromise the interests of either group to as great a degree as those areas involved in the primary indicators. In other words, the functions performed in these areas were not as essential in the safeguarding of either group's interest.

The subsequent examination of the primary indicators: (1) control mechanisms; (2) representation; (3) type of board; and, (4) distribution produced several pertinent findings. First of all, the examination of the established control mechanisms revealed that the interests of both farmers and consumers appear to be adequately safeguarded;
specifically, by the control boards which regulate the activities of the local commodity Boards and by the appeal procedure which appears to accord the consumer equality in the appeal process with the farmer or processor. The control boards have access to all information concerning all aspects of marketing by the local Boards, and consequently, it would appear that the control function of the Board is operating in the general confines of the public interest, i.e., equality of interests. The composition of the membership of the control boards is another indication of fairness towards non-farmer interests as there are provisions for non-farmer representation on the control boards. Since the Ontario Legislature has no direct control over the operation of the local Boards, it is of vital importance to both groups that the control mechanisms function in the manner for which they were designed. It was suggested that, based on this examination, the control mechanisms as so established appear to operate with the broad interests of the public in mind while adequately safeguarding the interests of both groups.

An examination of the system of distribution which has developed appears to indicate that at this point in time, it is the best method for the distribution of the product from the farmer to the consumer. However, it is difficult to determine whether an alternative would perform this function better.
The examination of the first two indicators appears to suggest that the interests of both groups are adequately served by the Boards. However, an examination of what is probably the most crucial of the primary indicators; representation, would appear to suggest otherwise. On all but one of the Boards, there is a virtual lack of representation of non-farmer interests. Representation implies both legitimacy and a balancing of interests in the marketplace. Since there is a lack of consumer representation, there is an implication that the legitimacy of the consumer interest is not recognized.

An examination of the intention of each board type in the marketplace appears to indicate that some Agency Boards; those previously outlined, possess considerable authority to regulate all aspects of marketing. Agency Boards and Negotiating Boards were granted differing degrees of authority commensurate to the needs of the various commodity producers. Agency Boards are viewed by some as the only effective mechanism which can ensure the success of the marketing of such commodities as eggs and broiler chickens. Negotiating Boards attempt only to negotiate a price which is considered fair for the farmers. Consequently, consumers have not focused their attention on the activities of Negotiating Boards. Whether or not it is the intention of the Agency Boards, they do not appear to reflect a concern for non-farmer interests.
An examination of the four primary indicators tends to suggest that in aspects of the operation of marketing boards which are considered to be of most concern to the welfare of the interests of both farmers and consumers, the farmer and consumer are benefactors of two areas; that of the effective operation of the control mechanisms and the system of distribution of products to market. However, the lack of consumer representation on any of the Boards, and more importantly, on specified Agency Boards, tends to undermine the importance of the other benefits derived from the existence of marketing boards.

The examination of the secondary indicators proved to be less conclusive. The secondary indicators were designated to be: (1) national agency ties; (2) the role of advisory committees; and, (3) the degree of access permitted by the Boards to scrutinization of their activities by means other than control agencies. The subsequent examination of the indicators tends to suggest that there is very little embodied in these aspects of marketing which would provide adequate safeguards for the interests of consumers, and in some instances, those of farmers. One thing is certain; the farmer interest is of primary concern in any of these areas.

National agency ties maintained by several of the Boards do not seem to enhance the welfare of either group
The major criticism is that the Boards duplicate the efforts of the Provincial Boards; at an added cost to both farmers and consumers.

The role of advisory committees is a nominal one in that their ability to influence Board decisions, in most cases, is negligible. Slightly more than one third of the local Boards maintain advisory committees; another indication that the importance of the committees is not all that relevant to those interests promoted by the Boards. It would seem that the potential for both interests to be adequately safeguarded could be done so by advisory committees if they were so fashioned to perform that function. A revamped committee system which granted committees specific authority to question board decisions might prove beneficial to both groups.

Marketing Board Directors appear to exhibit somewhat of a reluctance to permit public scrutiny of their activities. This reluctance was anticipated as many business-oriented organizations have a tendency to be unfamiliar with the goals of academic research. This general reluctance was further emphasized by the data generated from two questions contained in the aforementioned questionnaire. The data tends to suggest that the Directors would rather explain board activities than permit public access to files, possibly to avoid criticism. This reluctance to permit scrutinization of activities is a reflection of what might appear to be a lack of concern for
non-farmer interests by the Board Directors. Since the Board Directors comprise the policy-making body of the Boards, it is essential that non-farmer interests be considered in all Board decisions. Whether or not this reluctance is an intentional expression of the Directors can only be ascertained by further examination of the Directors; their motives and their attitudes.

The examination of the secondary indicators has demonstrated that little benefit accrues to consumers and other non-farm interests from activity in any of these areas. National marketing agencies would appear to be the area in which the consumer should concentrate efforts to seek changes. At present, the existence of the agencies means very little to the welfare of consumers. The cost of these agencies is indirectly passed on to the consumer and there is no substantive evidence to indicate that the existence of these agencies is of any great benefit to the consumer. National marketing agencies do not appear to serve the interests of either group to the extent possible for them to achieve with the guidance of a more concerned Government.

The examination of seven indicators of varying importance provides somewhat mixed results. The one fact which appears to be obvious is that the farmer interest is of prime concern and the bulk of activity carried out by the Boards is meant
to satisfy the needs of the farmers that the Boards represent. Of course, this comes as no surprise as the Boards were initially designed to pursue those objectives. The concern has been whether the Boards provide adequate safeguard mechanisms for non-farmer interests; specifically that of consumers. If the safeguard mechanisms are present, it would be an indication that the Boards are operating in the public interest and that the interests of non-farm groups is not a concern which has been neglected. The comprehensive picture obtained from the examination of the indicators shows that, numerically speaking, three areas may be considered to be detrimental to the consumer interest; two areas beneficial to the consumer interest; and, two areas of seemingly equal benefit to both groups. However, the determination of whether the Boards function in the public interest involves a complex weighing of more important factors than mere numbers. The implications of activity in the areas discussed are the factors to be weighed. Since they are considered to be surrogate indicators, the conclusions drawn from them can only suggest that the Boards function more so in one direction than another.

Therefore, based on the examination of the seven surrogate indicators, it is suggested that marketing boards in Ontario, as they presently operate in the marketplace, appear to display a noticeable lack of concern for the welfare of the non-farmer
interest in the marketplace. The apparent lack of adequate safeguards in the system for the non-farmer interest reinforces this finding. This would tend to imply that the Boards do not operate in the public interest. However, since the concept of the public interest is not easily operationalized, it is not possible to make such a definitive statement. The results of the examination suggest that the public interest might be better served by changes in the marketing board system. Until an attempt is undertaken at providing some empirical evidence to support the findings of studies like this one, the conclusions which may be drawn are tentative in nature. It would appear that the marketing Boards in Ontario do not provide adequate safeguard mechanisms for non-farmer or consumer interests. The farmer interest is the overwhelming benefactor of the existence of such boards. This presumably will remain to be so until some provision is made to allow consumer representation on the Boards. Naturally, the farmer interest will still remain as the major benefactor, but, consumer representation will at least provide the consumer with a means of input into the policy-making stage.

Recommendaations

The results of this analysis permits some recommendations to be made concerning changes in the present marketing board
system. The major recommendation of this study is the development of provisions for access by consumers to representation on the Boards. Varying degrees of access to the Boards would be necessary. The more complex Boards; those requiring possession of technical knowledge of the operation of the Board in specific areas would tend to limit the quality of representation provided by consumers. The input into policy-making on these Boards would be subjected to these constraints. The less complex boards would prove to be less of a challenge to most consumers and the quality of their representation would not suffer. Those Boards which exercise the greatest degree of authority in the marketplace; the Ontario Egg Producers' Marketing Board, the Ontario Turkey Producers' Marketing Board, the Ontario Chicken Producers' Marketing Board and the Ontario Milk Marketing Board should also provide consumers adequate and significant representation which would permit some form of input into the policy-making stage of these Boards.

A second recommendation is that the Federal and Provincial Governments should re-assess the role that marketing boards have assumed in the marketplace. These levels of government should exhibit a greater degree of leadership and guidance in the formulation of board policies. This implies a need for a strong and well-structured national agricultural policy with stated objectives and goals within which the Boards
can structure their own policies.

A third recommendation is that each local commodity marketing board should establish advisory committees which are concerned with gauging the impact of the particular board that they represent on the community at large. This of course implies the establishment of feedback mechanisms which would serve to keep the committees better informed. The information obtained from public hearings or submissions could be considered when formulating board policy. As is the case in the milk marketing industry in Ontario, the control agency is able to weigh the advice of the advisory committees against the decisions of the Milk Marketing Board. This procedure should be considered by the other control agency, the Farm Products Marketing Board, as a means of providing adequate safeguards for both the farmer and the consumer interest. The existence of effective advisory committees could become instrumentally responsible in altering the basic focus of many decisions made by the Boards. The existence of an effective committee system could become an invaluable source of newly-found expertise on which the Directors would be obliged to consider.

Avenues of Future Research

As for future research, it should concentrate on three
of concern. First of all, since prices are the means by which many consumers gauge the performance of marketing boards, a study devoted to the impact of marketing boards on prices at all levels should be undertaken. Studies have been conducted on the impact of marketing boards on various aspects of price: the value of quota rights and the impact of tariffs on market price. However, there has been very little empirical research on whether the prices paid by the consumers for regulated products are unduly high. Studies such as this will permit the researcher to make definitive conclusions.

Secondly, research on the optimum distribution system which would best suit the needs of the market economy as it now exists in Canada would be immensely beneficial. An examination of alternatives to the marketing board system would provide decision-makers a choice of directions to pursue in future policy.

Thirdly, research aimed at the policy-making bodies of the marketing Boards would enhance the prospects of understanding to a better degree the policies adopted by the Boards. Research aimed at the Directors of the Boards could focus on the considerations involved in the policies advanced by the Boards, as well as a determination of trends in the development of policy in recent times. Case studies of board types would be a valuable research tool in this area.

Finally, future research should be concerned with de-
termining whether the farmer perceives the marketing board system to be an effective means of satisfying his expectations. This study has been primarily concerned with determining whether the interests of both farmers and consumers were adequately safeguarded by marketing boards. It has not examined whether the farmer in general feels whether the system as it presently operates is performing to the expectations of the farming community. A study which focuses on the farmer's view of marketing boards would provide some basic insight into the weaknesses of the system when examined in conjunction with studies of the type undertaken here.

This study has sought to provide some insight into the activities of marketing boards in Ontario and to attempt to determine whether the Boards safeguard the interests of both farmers and consumers. It appears that the consumer interest is not adequately safeguarded by the Boards. Consequently, the objective of this study has been realized, although the need for future research in this area is of paramount importance.
## APPENDIX

### CHRONOLOGICAL LISTING OF SIGNIFICANT CANADIAN FEDERAL AND PROVINCIAL MARKETING LEGISLATION AND JUDICIAL DECISIONS

<table>
<thead>
<tr>
<th>Legislation or Decision</th>
<th>Year</th>
<th>Purpose</th>
<th>Constitutional Validity</th>
</tr>
</thead>
<tbody>
<tr>
<td>British Columbia Produce Marketing Act</td>
<td>1927</td>
<td>to establish compulsory marketing agencies</td>
<td>ultra vires</td>
</tr>
<tr>
<td>British Columbia Dairy Products Sales Adjustment Act</td>
<td>1929</td>
<td>to equalize milk prices</td>
<td>ultra vires</td>
</tr>
<tr>
<td>Canada: Natural Products Marketing Act</td>
<td>1934</td>
<td>to regulate marketing by local boards</td>
<td>ultra vires</td>
</tr>
<tr>
<td>British Columbia Natural Products Marketing Act</td>
<td>1934</td>
<td>to regulate marketing by local boards</td>
<td>intra vires</td>
</tr>
<tr>
<td>Ontario Farm Products Control Act</td>
<td>1937</td>
<td>to regulate marketing by local boards</td>
<td>intra vires</td>
</tr>
<tr>
<td>Ontario Farm Products Marketing Act</td>
<td>1946</td>
<td>to change name of 1937 Act; establish basis for present system</td>
<td></td>
</tr>
<tr>
<td>Canada: Agricultural Products Marketing Act</td>
<td>1949</td>
<td>to delegate to local boards authority in interprovincial and export field</td>
<td></td>
</tr>
<tr>
<td>The Attorney General for Nova Scotia v. Attorney General for Canada</td>
<td>1951</td>
<td>to delegate authority in specified fields from one level of government to another</td>
<td>ultra vires</td>
</tr>
<tr>
<td>Legislation or Decision</td>
<td>Year</td>
<td>Purpose</td>
<td>Constitutional Validity</td>
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<tr>
<td>Prince Edward Island Potato Marketing Board v. H. B. Willis Inc.</td>
<td>1952</td>
<td>to delegate authority from Federal Government to an administrative board of a Provincial Government</td>
<td>intra vires</td>
</tr>
<tr>
<td>Ontario Milk Act</td>
<td>1965</td>
<td>to establish marketing agencies for the marketing of milk and to establish the Milk Commission of Ontario</td>
<td></td>
</tr>
</tbody>
</table>

* Constitutional validity is listed only if referred to either the Supreme Court of Canada or a Provincial Supreme Court to determine if the legislation was within the jurisdiction of the level of government which passed the legislation. The two judicial decisions arose as the result of legislation passed by one of the Provincial Governments.
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