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Milked and Bilked: Brailey Odham and the Battle Over Florida's Dairy Industry in the 1950s

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Abstract

Created by the state legislature during the Great Depression, the Florida Milk Commission was authorized to regulate and supervise the state's milk industry. The commission received little public notice until the post-World War II period when "economy and efficiency" became a rallying cry for "good government" in Florida. Detractors claimed that the commission protected the dairy interests at the public's expense in the form of artificially inflated prices. Proponents maintained that abolition would mean industry chaos and the loss of dependable supplies of quality milk.

Critic Brailey Odham's appointment as commission chair initiated a turbulent political battle. While his selection was popular with the public, dairy interests, particularly the big milk distributor and supermarket chain operators abhorred it. Committed to *fair* as well as *free* markets, Odham sought both to help the consumer by eliminating retail price-fixing and to assist the small farmer by enacting producer controls.

Government regulation of economic markets may seem passé to some in an era of neo-liberal hegemony, but regulation characterized much U.S. economic policy for three-quarters of the 20th century. The emergence and growth of such regulation raises various questions: Why did it arise? What drove policymakers to adopt certain regulatory mechanisms and schemes? In whose interest was regulation pursued? Several theories purporting to answer these questions reflect conflicting concerns about market failure, equity and efficiency, the power of big business, and interference by the political state.

The standard textbook explanation is that regulation occurs in the public interest in response to market failure (i.e., externalities, monopolies) or citizen demand. Sometimes portrayed as a victory of popular democracy over an economic elite, this approach was challenged when evidence led scholars to suggest that over time government agencies are captured by the very

industries that they have ostensibly been established to regulate. In turn, researchers critical of a singular focus on private monopoly power have proposed that specific regulations result from the competitive bargaining of contending organized interests.

Thus, government serves the private concern of politically effective groups, promoting their well-being over others in the process. Meanwhile, deregulation portrays the intrusive "hand" of government as less efficient than market forces in promoting both producer and consumer interests.

Less notable than the above four perspectives is the assertion that powerful private interests create regulatory regimes in pursuit of profits. Rather than seizing government agencies, big business actively seeks to establish and works to sustain regulation.¹ The Florida Milk Commission is a case in point, providing a look into the central features of contemporary capitalism: concentration of wealth and centralization of power. Are corporate interests able to take any policy and use it for their own gain? With controls, do they keep profits up with high prices while bureaucratically constraining their smaller competitors? Sans controls, can they price undercut those same competitors? Further, why

might the competitive market solution of individual action not apply to government goals? And if it does not, when should political pragmatism take precedence over political ideology (or vice-versa)?

Early Years

Created by the state legislature in 1933 as the Florida Milk Control Board, and renamed the Florida Milk Commission in 1939, the agency was authorized to regulate and supervise the state's milk industry, including the production, transportation, manufacture, distribution, storage and sale of milk, cream, and milk products. Established, in theory, to protect both industry and public concerns, such commissions were a common response to the collapse of economic markets during the Great Depression.² Weak consumer purchasing power in the early 1930s had caused persistent price wars and declining prices. Reacting to subsequent below-cost selling, dairy interests in Florida turned to government controls to protect themselves. The commission was established to set wholesale and retail prices of milk in an effort to stabilize industry activity.³

The milk commission received little public notice during the initial decade it existed. Encompassing a period

marked by Franklin Roosevelt's New Deal at the beginning and victory in World War II at the end, these years witnessed neither press nor legislative scrutiny of commission activities. Operations were not financed by general appropriations; rather, they were paid for by a tax placed upon milk produced and distributed in areas of the state under the Commission's domain. The 1939 legislation renaming the control board, which had been housed in the Florida Department of Agriculture, reorganized the commission as an independent entity. Absent media attention and public awareness, dairy interests maintained a 3-1 margin over the general public on the seven-member commission with the three remaining slots filled by state officers.⁴ Further, milk marketing jurisdictions established by the Commission were optional. Companies in each region (seventeen original areas were later consolidated into six) could both request Commission controls and petition to abolish them. Prices varied from one marketing area to another, and at no time was the entire state subject to Milk Commission authority.

The Commission became a source of controversy in the years following World War II when economy and efficiency became a rallying cry for

good government in Florida. Several large-circulation newspapers and a number of politicians began questioning the purported benefits of price-fixing in the milk industry. On one hand, critics and opponents claimed that it protected the dairy interests at the public's expense by allowing for artificially inflated prices. Some were calling for abolishing such powers by the early 1950s. On the other hand, the Commission and its ally, the Florida Dairy Association (FDA), maintained that abolition would mean industry chaos and the loss of dependable supplies of quality milk. The two argued that peculiar market circumstances -- long-distance hauling and the seasonal character of the state's milk consumption -- justified the use of pricing schemes. Meanwhile, Florida consumers paid the highest milk prices in the nation.⁵

Politics Rising

Florida gubernatorial candidate Brailey Odham (1919-1996) brought further attention to the Milk Commission when he made it an issue in his 1952 campaign. Admitting that he knew little about the Commission after serving two sessions in the state legislature, Odham had become curious about it a year earlier after the Florida Dairy Association helped defeat

a bill requiring bread manufacturers to advertise the vitamin content of their product. In the process of researching the dairy association, he learned about both the milk industry and the Milk Commission. According to Odham:

I studied a bit and asked some questions. I didn't much like what I found out. The milk commission was basically run by the milk industry. The retail price of milk was the same for both home delivery and store sales when it should have been less at the store without the expense of delivering from house to house.⁶

While he lost the race for governor in 1952 to Dan McCarty, the press credited Odham's persistence on the matter with forcing dairy interests to agree to legislation in 1953 altering the Commission's composition. Henceforth, consumer-members outnumbered industry members by 3-2.⁷

In his 1954 bid for governor, Odham proposed abolishing the Milk Commission outright. He marked public appearances by holding aloft bottles of fixed-price milk from Florida and then pointing to bottles from Georgia which had no price-setting and where consumers paid considerably less for milk. At his radio "talkathons" (so-called because he would remain on the air for hours), Odham sat next to an empty chair

challenging his opponents, the milk commissioners, and dairy executives to come to wherever he was broadcasting from and debate the issue with him.

According to Odham, a fundamental principle was at stake. For him, the Commission was a symbol of the "fix where the special interests used the people's power to serve...themselves instead of the public interest."⁸ The press again gave his stand considerable publicity. He recollected, however, that

I couldn't really take credit for what I said about it [the Milk Commission] because it was their [the press'] issue. They had published some news articles and printed a few editorials criticizing the situation. So, the big newspapers, particularly the *Miami Herald* and the *Tampa Tribune*, favored my position and Collins received their endorsements.⁹

Leroy Collins was the favored gubernatorial candidate of the dairy interests in 1954. As a state representative, he had co-sponsored the 1939 legislation abolishing the original control board in favor of an independent commission.¹⁰ He then voted against a proposal in that legislative session to provide for more effective consumer representation. The attempt to increase by four the number of citizens on the Commission was defeated. Later, as a state

senator, Collins opposed 1953 legislation permitting public schools and charitable institutions to buy milk for less than the established public price.¹¹ Throughout the campaign, he defended himself against Odham's attacks pronouncing him the "father" of milk price-fixing in Florida by reminding voters that the original board had been established in 1933, one year prior to his being elected to the state legislature. Nevertheless, Collins' consistent support of the Commission highlighted one of the differences between his insider politics and his opponent's populist tendencies.

Some of the most vigorous opposition to Odham's candidacy came from the Florida Dairy Association. The FDA, which resulted from a 1946 merger between statewide producer and distributor organizations, was the child of trade representative E. T. Lay's efforts to create a united-front in defense of Milk Commission activities favorable to dairy interests.¹² According to Lay, Odham held a "grudge against our organization and our industry."¹³ The FDA urged its members not only to vote against him, but it also targeted feed dealers and equipment companies. Following his failure to make the 1954 gubernatorial run-off, some FDA members were

unhappy that their candidate, Leroy Collins, had accepted Odham's support after they had done whatever they could to defeat him. Others, including FDA president Wilmer Bassett, remembered Collins' state legislative voting record and reassured themselves that he was sympathetic to their needs and concerns.

Conflicting Concerns

Leroy Collins' defeat of acting-governor Charley Johns in 1954 was primarily the doing of urban voters who lived in areas of the state with the loudest anti-Milk Commission protests. Following his January 1955 inauguration, Collins appointed a Citizens' Committee to study the milk pricing situation and, based upon its findings, the new governor recommended that the "power of the Milk Commission to fix prices at the consumer level be abolished."¹⁴ Proposals to do so, however, never got out of legislative committee. Two years later, Collins, fresh off the heels of his historic 1956 first-primary victory, urged that the "Florida Milk Commission be abolished."¹⁵ If for no other reason than frustration, the governor had adopted Brailey Odham's position on the matter. His battles with the "pork chop" leadership in the Florida legislature and the four pro-

price control votes on the Commission had nullified all efforts to initiate substantive change.

So Odham re-entered the political arena. His Central Florida home-building company had become a remarkable success in a short period of time and he was well on his way to becoming a wealthy individual. His active support for Collins in 1956 had again contributed to the latter's electoral success. Meanwhile, he remained interested in the Milk Commission. Odham said that

I had a couple of newspaper friends who I needed about my being appointed to fill the chairman's position. They put Collins on the spot and he yielded to the pressure by naming me to the post. I think he had a good feeling towards me and he knew my support of him had been important when he was running for the office. He also knew that I didn't want a job, I wanted to do one.¹⁶

Odham's support of Collins had never been about his benefiting from the latter's election. In this instance, Commission members were not paid a salary. Nor did Odham do business with the state government. Thus, his appointment to a so-called "little cabinet" post was far removed from the blatant use of the "spoils system" common to many gubernatorial personnel decisions.¹⁷

Collins' selection of Brailey Odham

on July 30, 1957 to head the Florida Milk Commission was publicly popular. Of course, the dairy industry hated the appointment. As Harmon Zeigler noted, a "more conspicuous opponent of the...Commission could not be found."¹⁸ But efforts by the dairy association, the Florida Farm Bureau, even the state Chamber of Commerce, to change the governor's mind went for naught. Odham recalled that the governor informed him of his appointment one moment and told him that some people "think I'm crazy" the next. He also remembered remarking to Collins that

I know they [dairy interests] are upset with you. Now, I think that I can be judicious, but as I understand this job, it's supposed to be legislative in that we make rules; it's supposed to be executive in that we're going to see those rules enforced; and, it is judicial in that we will hold hearings to decide the imposition of penalties. So tell your friends in the industry that I will function independently of you and your opinion. I will be responsible for my decisions. Tell them because I will do so at the first meeting.¹⁹

Knowledge that his selection had drawn the ire of the milk interests served to strengthen Odham's resolve. Meanwhile, he saw an opportunity to restore free competition in the industry and give the public a break.

New Chair in Town

The new chairman (appointed as a consumer-member) immediately shook up Commission matters by announcing an end to further secret meetings at the first session over which he presided in August 1957.²⁰

According to Odham:

The big Florida dairies were there and those guys had always won. They had some of the best legal minds in the state lined up to tell me that we couldn't hold public hearings on price-fixing. In other words, prices were set behind closed doors. I told them that there was nothing in the law to that effect and that was not how it was going to be so long as I was chairman. By the end of the first day, we had them. We were whipping 'em good.²¹

Collins appointees selected for the expressed purpose of abolishing price-fixing comprised the majority of Commission members. A stormy two-day session that followed in September revealed apparent collusion among big milk distributors. The Florida Department of Education produced figures showing Jacksonville-area dairies bidding higher for school milk in Jacksonville than in Lake City, which was sixty-five miles away, and required them to haul the product.²² Chairman Odham tangled with distributor representative and former Florida Dairy Association president Wilmer Bassett over this matter. The

latter, in an obvious attempt to stifle the chair, who asked most of the questions during the meeting, proposed that all queries be written down and directed at witnesses through the commission's attorney. In characteristic fashion, Odham fired back that he was running the meetings "the way I want" and that if anyone was dissatisfied they could "make a motion and get a new chairman."²³

By October, an audit of milk hauling rates disclosed that some distributors were gouging producers and the Commission issued an order (later upheld in Florida courts) that more reasonable rates be charged.

Additionally, a study of the Commission's own pricing structure indicated what Odham had been saying for years: the price of milk at stores and the price of milk delivered to the home were the same. The study further revealed that distributors delivering to retailers were engaged in the illegal practice of kick-backs in exchange for volume accounts and continuing contracts. As Odham said,

milk distributors all over Florida are granting discriminating discounts and rebates, amounting in some instances to 15% of the published prices on sales of milk, cream and other milk products to supermarkets and other large customers.²⁴

He went on to criticize the Milk Commission for having failed to establish a lower retail price for store-bought milk. Calling the Commission a "creature of the milk industry," he asserted that its policies allowed "discounts to flourish" but that the time had come for the milk distributors "to obey the law."²⁵

Market Oligopoly

Florida's dairy industry in the 1950s was controlled by a so-called Big Three of distributors - the Borden Company, Foremost Dairies, and the Sealtest Company.²⁶ They had become dominant when the industry concentrated and consolidated during the two-plus decades in which the Milk Commission provided protection from excessive competition. A system of specialization developed simultaneously in these years as dairy farmers increasingly contracted to supply only one distributor. All segments of the dairy industry supported price controls until Odham became the Commission chair.²⁷ The producers feared that competition at the retail level would mean a drop in price and, subsequently, result in a loss of revenue. The smaller distributors were concerned about their ability to compete on the basis of wholesale price with the larger

companies. For their part, the large distributors not only controlled sizeable market shares, they also commandeered the Florida Dairy Association and were the principal influences on the Milk Commission itself. Finally, both small and large retailers supported controls, although, as with the distributors, for different reasons. The former did so to protect themselves from below-cost sales while the latter benefited from the practice of discounting that was used.

Before becoming a member of the Florida Milk Commission, Brailey Odham's opposition to price-fixing extended to the wholesale as well as the retail level. Shortly thereafter, however, his position on the former changed, much to the delight of two potential allies, state Department of Health member Robert Carter and consumer-member and labor organizer Howard Walton. Both expressed concern about the plight of the dairy farmer and as Odham recounted,

When I got inside the thing, I learned that the producers had not really been represented. Each milk distributor had a district and there were dairy farmers who supplied each distributor with milk in each district. Each producer had a base depending upon production. Base was the percentage that a producer was allocated for a particular distributor. It was important because it determined the

percentage of milk that a farmer was paid for. The distributors made the farmers in their district fight each other every year for base. The price [paid] to a farmer for a gallon of drinking milk (Class I) was 42-43 cents. The distributor kept the books and the farmer didn't know if the price being paid was fair because he wasn't in on the allocation.²⁸

Odham discovered that producers did not know what percentage of their sales was in Class I drinking milk. No audit to determine how much distributors diverted product to butter or ice cream had ever been done. Somewhat ironically, given the anti-controls majority sitting on the board, the Commission moved to establish comprehensive regulations by bringing Class II and Class III milk (surplus used for other dairy products) under its authority. Desiring an over-all higher yield for producers, Odham sought a formula that would stabilize and bring a uniform price for the purchase of surplus milk.²⁹ Later, when Borden and Foremost threatened to stop buying surplus milk at fixed-prices, he issued his own warning that refusal would result in the revocation of their operating licenses.

Eliminating Retail Price Controls

In the aftermath of the October rebate revelations, Odham planned for an examination of the entire retail

pricing structure of the state's milk industry. To this end, twenty-six supermarket chain owners and milk distributors were subpoenaed to appear before the Commission the next month. Rebating was a violation of the Robinson-Patman Act and violators were subject to fines of triple damages in federal court.³⁰ As Odham recalled,

three or four days before the hearing, A. D. Davis of Winn Dixie [supermarket chain] came to see me at my office in Sanford. He said you will break every milk distributor and every grocery chain in Florida. He asked me if that was what I wanted. I replied no, my intent was to get rid of retail price-fixing and I asked him if he was speaking to me for himself or on behalf of the industry.³¹

The two men proceeded to forge an agreement whereby the milk industry executives would admit no incrimination on kickback activity in exchange for their cooperation as witnesses before the Commission. They reached an impasse, however, on what course to pursue regarding the establishment of a home delivery/store bought price differential to which Odham and several others on the Commission were committed.

At the November hearing, Odham deliberately did not ask if any distributors or retailers had individually participated in rebates; rather, he

queried them on whether they had heard of such practices in their industry. Prefacing the questioning with an extended set of remarks, he reiterated to a packed audience that

I have said many times in the past how I personally disapprove of any law that regulates your [dairy industry] business...and I hope the day is not too far in the distant future when there will no longer be [such] a law. I think that a competitive enterprise is the best system of business management... Most of the time during my life I thought that you could just have men get together and simply state the truth and out of that you could work out a problem and that is all there would be to it, but it isn't so. If you come and tell all the truth about your personal activities, I know that you open yourselves to prosecution from many courts in the land. It is not my purpose to uphold or condone what you have done [rebating] but I would be less than honest if I failed to place a full part of the blame on the law, and the law in my opinion, a full part of the blame for the law, rests with you. So it is in essence something of your own making. It is chickens coming home to roost...And I hope we will clean out the hen house or the cow barn...before we finish.³²

Thereafter, a string of dairymen and grocers conceded that they had heard rumors about rebating but none admitted to any personal knowledge of the practice.³³ The Commission then moved to enact a three-cent per quart

home-store price differential even though the stalemate on this issue between representatives of the industry and several board members - - Odham, Carter, and Walton -- had not been resolved. A pre-hearing meeting between the two groups had left them, at best, a penny apart on the matter.³⁴ Odham initially favored a five-cent per quart home-store differential while the distributors indicated opposition to anything above one-cent. He then agreed to support state Health Department member Robert Carter's three-cent proposal. The distributors later asked consideration of a two-cent differential but the Chairman refused the offer.

Rather than agree to a three-cent differential, Florida's dairy industry representatives expressed, for the first time in the twenty-five year history of the Milk Commission's existence, support for ending all milk price controls. Led by the powerful Big Three, large and small distributors and grocers alike came out for eliminating the Commission's price-setting powers. Borden's W. J. Barritt complained that controls could not be enforced and, for that reason, he favored a free market while Winn Dixie's Davis stated that he would rather operate without milk controls as well.³⁵ The blanket switch

demonstrated how unhappy the big distributors were with the diligence of the Odham commission as well as providing a display of their influence in the industry. Significantly, the motion to end controls on milk bought at either the store or through home delivery was made by distributor-member Wilmer Bassett with a second by producer-member Wilbur Casey.³⁶ Upon bringing the matter to a vote, the Commission approved the motion 6-1 with only state Health Department member Robert Carter holding out for lowering the price of store-bought milk before eliminating all controls.

In his case study of the Florida Milk Commission, political scientist Harmon Zeigler maintains that Bassett's action took Odham completely by surprise. Zeigler writes that

Having been appointed Chairman to achieve free competition against the stubborn opposition of the industry, Odham did not expect that there would come from his ostensible opponents a motion which he himself was not yet prepared to make. As Bassett expected, Odham...had no choice but to support the substitute motion... Odham had achieved his goal [removal of retail price controls], but he had not been the initiator...Bassett's motion, which granted everything Odham originally demanded, forced Odham into a position more extreme than he would have preferred at the time.³⁷

Interestingly, given Zeigler's perspective, the hearing transcripts indicate that Odham responded to Bassett's motion by saying that "I would love to have a second for discussion."³⁸ Then, prior to voting on the matter, he made extended remarks reiterating his competitive market views and chastising the monopolists while suggesting that the Commission should take advantage of the opportunity to get rid of the controls. Odham acknowledged afterwards that the timing of Bassett's motion disturbed him. After all, there was something suspicious about the distributors, after many years of fighting the abolition of controls, asking for a free market.³⁹ He had previously suggested, however, that the dairy interests might try to abolish the Commission because "as long as I'm chairman, they are not going to control it."⁴⁰ After almost forty years, Odham maintained that getting rid of the commission was his ultimate objective but that he "supported moderate positions at times" in hopes of "educating people about the milk situation."⁴¹ And, while Odham may have initially been taken aback by the rapidity of the decision to eliminate controls above the producer level, he was soon encouraged by certain developments, several of which were

by no means foreseen.

Pursuing Reform

With respect to the Milk Commission itself, Odham effected a re-organization by convincing Governor Collins to replace both the chief and deputy administrator with individuals he believed less sympathetic to the industry. According to Odham

Lowry [chief administrator Dexter] and Nicholas [deputy administrator L. K.] tried to keep me in the dark. Lowry told me that I didn't need to learn the ins-and-outs of the industry because I could depend on him for the answers. Well, I soon learned that he got all his information from the milk distributors. I could never live with that.⁴²

At the chairman's behest, Collins appointed consumer-representative and former trade unionist, Howard Walton, to be the new administrator. On the industry front, a milk price war in the Jacksonville area led to a rupture in the Florida Dairy Association between small independent distributors and the Big Three who were less vulnerable to sharp price declines that followed de-control.⁴³ When the smaller operators presented evidence that below-cost selling could drive them out of the market, Odham began to sense that the absence of all retail market controls could lessen

competition by concentrating even more economic power into the hands of the few large distributors. Meanwhile, dairy farmers were emboldened by revelations that distributors created artificial surpluses to drive down producer prices and manipulated production contracting through a patronage system. They formed their own organization, the Florida Dairy Farmers Federation.⁴⁴ The new group, which was explicitly anti-large distributor, offered the chairman a friendly industry interest.

Over the course of the next year, the business records of Florida's milk industry were subjected to Commission review for the first time since the original law granting such authority had been passed in 1933. Additionally, the Milk Commission initiated its own record-keeping, something that had never been done either. Thus, when Odham issued a progress report to Governor Leroy Collins in December of 1958, he could state with confidence that the regulation enacted to control the price that dairies paid to the farmer for Class II and III milk had given the latter an additional \$1.8 million in revenues.⁴⁵ He could also point to the \$2.25 million dollars in savings to the state's consumers that followed de-control of retail pricing.⁴⁶ Commission

figures showed that a quart of milk was selling at four to five cents less than it had been a year before while half-gallons had dropped as much as twelve cents in some areas of the state. Significantly, the cost of store-bought product had fallen below that which was home-delivered and, while many people continued to pay the higher price for delivery, milk buyers had been afforded an option.

The Distributors Strike Back

Dairy interests filed multiple lawsuits challenging Milk Commission action during Brailey Odham's tenure as chairman "fell like raindrops in a downpour."⁴⁷ While the dairy industry eventually lost every single court case, it stalled commission attempts to enforce several new policies (i.e., producer prices for Class II and III milk) by successfully petitioning judges to issue temporary injunctions restraining the board's authority.⁴⁸ In the process, the Commission was forced to commit time and effort (and funds from a limited operating budget) to fight a series of legal battles and found itself asking the state legislature for an additional \$90,000 in order to absorb the costs incurred.⁴⁹ The legal route was but one tactic that large distributors and grocery chains used in an all-out assault on the Odham-led

Commission. Both the Pensacola and Tallahassee area milk sheds were withdrawn from Commission control when firms in those regions petitioned (as allowed by law) to be free.⁵⁰ In the latter instance, Odham's charge that the dairy companies pressured farmers into voting for the move was supported by one producer who said that he was told that if he refused to sign the petition he could "sell his cows on the market."⁵¹

As a last resort, the big milk distributors lobbied Florida's legislature to abolish the Milk Commission and transfer its powers to the Commissioner of Agriculture. A multi-faceted battle ensued in which the industry again split along distributor-producer lines, the breach between the Commission's pro and anti-industry factions widened further, and the governor and the legislature disagreed over the appropriate course of action to take. For his part, Odham recommended that the legislature remove the Commission's retail price-fixing powers from the statute books to prevent them from being reinstated in the future.⁵² With the major statewide newspapers urging that nothing be done, the legislature passed a compromise bill that left the Commission intact and included the chairman's proposal, but also provided

for a price floor as well as emergency price control powers.⁵³ With Odham's encouragement, Governor Leroy Collins vetoed the measure. Neither man could accept what each believed to be a first step in actually re-establishing retail controls even though a veto meant retention of the Milk Commission's authority to set prices if members so chose.

Conclusion

Brailey Odham tendered his resignation as Milk Commission chair in the summer of 1959, about two years after he was appointed. He agreed, however, to a reappointment the following year, stating that he would remain in the position until the end of Collins' gubernatorial term in January of 1961.⁵⁴ He passed on running for governor in 1960 despite widespread speculation in the Florida press that he might win given the positive correlation between his name recognition and the Milk Commission's increased public esteem. With one exception, that being the issue of small independent distributors and retailers being driven out of business by under-priced milk, the last phase of Odham's chairmanship was marked by an absence of controversial issues and unspectacular hearings. Before leaving, however, his commitment to

fair as well as free markets led him to vote to establish a retail price floor of 46 cents a half gallon in order to protect the weaker operators.⁵⁵ As Odham suggested

Corporate interests are able to take any policy and use it for their own gain. With controls, they keep profits up with high prices. Without controls, they undercut the little guy and drive him out of business. Then they raise their prices as a monopoly.⁵⁶

Perhaps unintentionally so, these remarks are decidedly radical in pointing to a central feature of contemporary capitalism: concentration and centralization of wealth and power. And, they are in contrast to the public interest, capture, and special interest accounts of government regulation.

The Milk Commission years provided Brailey Odham with an opportunity to pursue progressive-populism in the setting of public policy. Always on the side of those he perceived to be the underdogs, he sought both to help the consumer by eliminating retail price-fixing and to assist the farmer by enacting producer controls. His chief antagonists were always the big operators, whether milk distributors or supermarket chains. In fact, concern with protecting the small from the large dairy interests explains

his apparent contradictory vote in support of the price-floor measure near the end of his tenure. In Odham's view, pragmatism outweighed ideology

when the latter did not fit the facts as he understood them. As for the Florida Milk Commission, the state legislature abolished it in 1969.

End Notes

¹ Gabriel Kolko, *The Triumph of Conservatism* (Chicago: Quadrangle, 1967); George J. Stigler, "The Theory of Economic Regulation," *Bell Journal of Economics and Management* 2 (1971): 3-21.

² Bruce L. Gardner, *The Governing of Agriculture* (Lawrence: Regents Press of Kansas, 1981); Kenneth J. Meier, *Regulation: Politics, Bureaucracy, and Economics* (New York: St. Martin's, 1985).

³ L. Harmon Zeigler, *The Florida Milk Commission Changes Minimum Prices* (Tuscaloosa: University of Alabama Press, 1963), 3. When established, the original seven-member board consisted of a milk producer representative, a milk distributor representative, a producer-distributor representative, a state health board representative, a state agricultural department representative, a consumer representative and an administrator with voting rights.

⁴ *Ibid.*, 3. Appointments to the commission were compromised by the fact that the dairy industry provided lists of acceptable names from which governors chose members. In practice, the only really free selection was the consumer representative.

⁵ *Miami Herald*, May 17 & 22, 1955. Journalist Bert Collier reported that Florida produced the richest milk in the country.

⁶ Brailey Odham, interview by author, April 2, 1994.

⁷ Zeigler, 6. The Commission remained seven in number. Eliminating the producer-distributor representative made room for a second consumer-representative. Further, the Administrator's voting rights were removed and those rights were granted to a consumer-member appointed to serve as Commission chair. Three, rather than one, of the governor's appointees were theoretically free of dairy interest control.

⁸ Zeigler, 6. He does not cite the original source of Odham's quotation.

⁹ Odham interview, April 2, 1994.

¹⁰ *Journal of the House of Representative of the State of Florida* (Tallahassee: State of Florida, 1939), 927.

¹¹ *Journal of the Senate of the State of Florida* (Tallahassee: State of Florida, 1953), 872.

¹² Zeigler, 4. FDA executive secretary Lay went so far as to say that "I have had to give so much thought to the Milk Commission...that I possibly think I am on the Milk Commission staff."

¹³ Zeigler, 7.

¹⁴ Leroy Collins, *Florida Across the Threshold: the administration of Governor Leroy Collins* (Tallahassee: State of Florida, 1961), 340. Excerpt from a message by Governor Leroy Collins to the 1955 Florida legislature.

¹⁵ *Ibid.*, 340. Excerpt from a message by Governor Leroy Collins to the 1957 Florida Legislature.

¹⁶ Odham interview, April 2, 1994.

¹⁷ David Colburn and Richard K. Scher, *Florida's Gubernatorial Politics in the Twentieth Century* (Tallahassee: Florida State University Press, 1980), 132-149. The "little cabinet" was not a formal institution. Traditionally, it consisted of the major state agencies whose directors and boards were appointed directly by the governor. Among the more prominent boards and commissions were the Road Board, the Beverage Commission, the Racing Commission, the Hotel Commission, the Citrus Commission, the Game and Fresh Water Fish Commission, and the Board of Regents.

¹⁸ Zeigler, 12.

¹⁹ Odham interview, April 2, 1994. Odham went on to say that the "conventional thing for me to have done would have been to say I know they don't like me, but I'm gonna be a good boy and I won't upset them. I'll see to it that their interests are served."

²⁰ *Orlando Sentinel*, August 18, 1957.

²¹ Odham interview, April 2, 1994.

²² *Orlando Sentinel*, September 13, 1957.

²³ *Ibid.*

²⁴ *Orlando Sentinel*, November 15, 1957.

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- ²⁵ Ibid.
- ²⁶ *Orlando Sentinel*, November 20, 1957.
- ²⁷ Zeigler, 3-4.
- ²⁸ Odham interview, April 2, 1994.
- ²⁹ "Transcript of Proceedings of the October 15, 1957 Public Hearing of the Florida Milk Commission" (Tallahassee: Florida State Archives).
- ³⁰ Zeigler, 14.
- ³¹ Odham interview, April 2, 1994. A. D. Davis was the president of Winn Dixie. The chain operated over 200 stores in Florida and hundreds in other southern states at the time.
- ³² "Transcript of Proceedings of the November 19, 1957 Public Hearing of the Florida Milk Commission" (Tallahassee: Florida State Archives).
- ³³ *Orlando Sentinel*, November 20, 1957.
- ³⁴ Zeigler, 15
- ³⁵ *Orlando Sentinel*, November 20, 1957.
- ³⁶ *Orlando Sentinel*, November 21, 1957.
- ³⁷ Zeigler, 16.
- ³⁸ "Transcript of Proceedings of the November 20, 1957 Public Hearing of the Florida Milk Commission" (Tallahassee: Florida State Archives). The transcript does indicate that two "off the record" discussions occurred immediately following member Casey's second of the motion. I assume that these moments serve as the basis for Zeigler's claim that Odham had let down his guard.
- ³⁹ *Orlando Sentinel*, November 21, 1957.
- ⁴⁰ *Orlando Sentinel*, September 17, 1957.
- ⁴¹ Odham interview, April 2, 1994.
- ⁴² Ibid.
- ⁴³ Zeigler, 17.
- ⁴⁴ Ibid, 18.
- ⁴⁵ *St. Petersburg Times*, December 12, 1958.
- ⁴⁶ *Tampa Tribune*, December 13, 1958.
- ⁴⁷ *St. Petersburg Times*, January 27, 1959. Quoted fragment is from a letter written by Brailey Odham to Governor Leroy Collins.
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- ⁴⁹ *Tampa Tribune*, November 13, 1958; *Tampa Tribune*, June 24, 1959. The Milk Commission's budget was supported by a tax on milk distributors and producers. Specifically, the Commission requested a sliding scale tax from .10 of a cent per gallon of milk (the existing rate at the time) to .20 of a cent per gallon for the 1959-1961 biennium. About two-thirds of the request for an additional \$90,000 was later eliminated when Governor Leroy Collins vetoed a bill that included the proposed tax increase.
- ⁵⁰ *Tampa Tribune*, May 6, 1959. The Miami area, which was under a federal marketing agreement negotiated prior to Odham's appointment as Milk Commission chair, was also outside of the agency's jurisdiction. Almost 40% of Florida's milk was produced in this region of the state
- ⁵¹ *Tampa Tribune*, May 6, 1959. Arbitrarily threatening to "cut off" a producer was in violation of Commission just cause rules that required a hearing and board approval. In light of evidence suggesting tampering, Odham urged the state legislature to provide for secret ballots in determining whether areas of the state were to be under control or not.
- ⁵² *Orlando Sentinel*, February 20, 1959.
- ⁵³ *Tampa Tribune*, June 23, 1959.
- ⁵⁴ *Orlando Sentinel*, August 2, 1960.
- ⁵⁵ Zeigler, 31.
- ⁵⁶ Odham interview, April 2, 1994.