

the safeguarding of the share capital, the making of a reasonable profit, and its disbursement upon a *share* basis. The Committee has noted that many present Articles of companies are unenforceable or perhaps void, as they are in conflict with recognized legal principles.

71. Because of those out-of-date Rules or Articles now totally at variance with the aim of the present suppliers, some companies of late have gone into liquidation, re-forming with new Articles.

72. As we have said already, it is most undesirable that liquidation (apart altogether from the cost factor) should be resorted to for the purposes of overcoming what is fast becoming a general problem, particularly if it is agreed that dairy co-operatives should be but service organizations for their districts, in which so many of them have been given absolute monopolies of the supply. It may not always be possible to obtain the necessary resolutions to permit a company so to go into liquidations. In any case, a company having in effect gone to the trouble of liquidating and re-forming might well next day find itself up against another legal difficulty in its Articles requiring a similar remedy for its removal.

73. That Articles are often out of date is best illustrated in the present uneasy position as to the supply of town milk. The gradual inroads of this form of supply, particularly into the cheese milk of quite a number of factories, have encouraged companies to endeavour to form town-milk pools within their own organizations. The constitution of most companies, however, provides that the company shall be a single unit or straight-out organization paying *all* of its members the same rate per pound of butterfat, and thus the necessary differential margin or price for any particular produce is *ultra vires* of the company. It is true that this difficulty might be overcome by individual contracts, as mentioned by Mr. Justice Salmond in the *Shalfoon* case, but, as Mr. Geo. Duncan comments in his work previously quoted, such contracts are unsatisfactory unless all parties sign. The most serious objection, however, is that when any alteration is required new individual contracts again become necessary, and it is the experience of companies that there are always a few who refuse to sign, particularly trustees of supplying estates, notwithstanding that such a variation is overwhelmingly for the good of the company. Another very serious objection is the delay, often fatal, which can occur before such consents are obtained. This aspect was best illustrated in rapid changes in types of manufacture required during the past war, when many necessary things were done by dairy companies outside and even in contradiction of powers contained in their Articles. Any attempt to have regularized those actions or to have varied them would have been frustrated by the few who proved difficult enough during that time of emergency, even if there had been time to have attempted the legal formalities required to bring the action of those companies within their constitution.

74. Apart altogether from possible developments in town milk as part of the set-up of a dairy company, there has been a tendency of late, particularly in purely butter-manufacturing companies, to engage in whole-milk activities such as dried milk or casein. The *modus operandi* is to form a pool or group of suppliers adjacent to the present butter-factory and to pay them a premium for the added cost of such a form of supply but rarely do existing Articles permit this to be done. One company in particular asked all its nearby suppliers to change from cream-supply to whole-milk supply, spent considerable sums on new buildings and plant for the benefit of those nearby suppliers, and promised them the usual whole-milk premium for such supply (a premium generally sufficient only to cover the loss of by-product, cost of changeover, and cost of cartage of whole milk as against the much lower cost of cream). This company now finds that it is in serious legal difficulties with its other suppliers and must regularize its position, but fears (with good reason) that it will be impossible to do so by individual contracts. Again, another company, wishing to do justice to all of its suppliers of one type of