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# PERMIT ADMINISTRATIVE ADJUSTMENT OF CERTAIN WHEAT ACREAGE ALLOTMENT REDUCTIONS

GOVERNMENT  
Storage

## HEARING BEFORE THE SUBCOMMITTEE ON LIVESTOCK AND GRAINS OF THE COMMITTEE ON AGRICULTURE HOUSE OF REPRESENTATIVES NINETIETH CONGRESS

SECOND SESSION

ON

### H.R. 10591 and H.R. 10685

JUNE 27, 1968

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## PERMIT ADMINISTRATIVE ADJUSTMENT OF CERTAIN WHEAT ACREAGE ALLOTMENT REDUCTIONS

THURSDAY, JUNE 27, 1968

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON LIVESTOCK AND GRAINS,  
OF THE COMMITTEE ON AGRICULTURE,  
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 1301, Longworth House Office Building, Hon. Graham Purcell (chairman of the subcommittee) presiding.

Present: Representatives Purcell, Foley, Montgomery, Brasco, Mrs. May, Dole, Zwach, and Kleppe.

Also present: Christine S. Gallagher, clerk; William C. Black, general counsel; Hyde H. Murray, assistant counsel; and L. T. Easley, staff consultant.

Mr. PURCELL (presiding). The subcommittee will please come to order.

We are here this morning to hear testimony in regard to H.R. 10591, introduced by Mrs. May of Washington, and H.R. 10685, introduced by Mr. Skubitz. These will be made a part of the record at this point.

(H.R. 10591, introduced by Mrs. May and H.R. 10685 by Mr. Skubitz are identical bills, the text of which follows:)

[H.R. 10591, 90th Cong., first sess.]

A BILL To permit the administrative adjustment of certain wheat acreage allotment reductions resulting from action taken by farmers prior to 1965 in good faith reliance upon representations or advice of authorized representatives of the Secretary of Agriculture

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is amended by striking the period at the end thereof and adding the following: " : *Provided,* That to the extent he deems it desirable in order to provide fair and equitable treatment, the Secretary may, effective with respect to the 1968 and subsequent crops of wheat, make available from the national reserve sufficient acreage to increase the acreage allotment for any farm by an amount not exceeding the amount by which the allotment for the farm was decreased under the proviso in section 334 (c) (4) (or prior provisions to the same effect) of the Agricultural Adjustment Act of 1938 as a result of action taken prior to January 1, 1965, in good faith in reliance upon action or advice of an authorized representative of the Secretary."

Mr. PURCELL. We have as our first witness Mr. Ray Fitzgerald, Deputy Administrator for State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

We will be pleased to hear from you at this time.

STATEMENT OF RAY FITZGERALD, DEPUTY ADMINISTRATOR,  
STATE AND COUNTY OPERATIONS, ASCS; ACCOMPANIED BY  
CHARLES FRAZIER, ASSISTANT DEPUTY ADMINISTRATOR; JAMES  
DYESS, AND WEAR K. SCHOONOVER, OFFICE OF THE GENERAL  
COUNSEL, U.S. DEPARTMENT OF AGRICULTURE

Mr. FITZGERALD. Mr. Chairman and members of the committee, I am Ray Fitzgerald, Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, and I appreciate the opportunity to appear before your committee today.

I have with me Mr. Charles Frazier, Assistant Deputy Administrator, State and County Operations, who conducted hearings on the appeal by some Washington producers on this case, Mr. James Dyess, who in 1964 was the Northwest Area Director, and Mr. Wear K. Schoonover of the Office of the General Counsel.

The two bills to be considered, H.R. 10591 introduced by Congresswoman May and H.R. 10685 introduced by Congressman Skubitz, are identical and would amend the application of the "Anfuso amendment" to the Agricultural Adjustment Act of 1938, as amended, passed by Congress in 1958.

I would like to give you some background of the wheat program prior to passage of the Anfuso amendment.

The wheat allotment and marketing quota program which was in effect as a result of the act of 1938 and which continued in effect until the act of 1964, provided that the national acreage allotment of wheat would be apportioned among the States and counties on the basis of acreage of wheat planted and acreage diverted from the production of wheat. The farm base acreage for wheat was established for the 1954 and subsequent wheat acreage programs on the basis of the acreage planted to wheat for harvest in 1951 and 1952 when such programs were not in effect and after they had been suspended during the war and postwar period. The total of the base acreage for all farms in the United States was approximately 78 million acres. In 1954 the acreage allotment was 62 million acres and 1955 through 1963 the acreage allotment was 55 million acres, the minimum provided by law at that time.

Each year the allotment for each State and county was redetermined based on a 10-year average of the acreage seeded and diverted, adjusted for trend in acreage. The county and State history was determined each year by adding the history acreage for each farm in the county and State. This history acreage was determined to be the base acreage for the farm (which, in effect, was the allotment plus the acreage diverted from wheat) for all farms which planted within their allotment. Any farm which seeded in excess of its allotment was given as history the acreage planted to wheat on the farm. In all these years, 1954 through 1963, marketing quotas were in effect which effectively prevented large farms from overseeding their allotment except in those cases in which the farm was overseeded and the excess production was stored as insurance against adverse weather conditions in future years.

All farms seeding 15 or less acres of wheat were exempted from the wheat marketing quota penalties. Therefore, in many instances

farms with allotments of 0, 1, 2, 3, or more acres planted up to 15 acres and each year received that planted acreage as history. Of the more than 1,800,000 farms with either wheat allotments or seeded wheat in 1955, more than 1,200,000 fell in this 15-acre category. It became obvious by 1958 that this provision of reporting history was tending to increase wheat allotments on small farms not subject to marketing quotas at the expense of the commercial wheat farms which were subject to marketing quotas.

This was also moving wheat acreage from the commercial wheat producing States to the soft red wheat producing States east of the Mississippi River where most of the wheat farms fell in the 15-acre category. For example, in the State of Washington the State allotment was gradually decreasing each year. From 1955 to 1960, the allotment declined 33,000 acres in the State. In North Dakota between 1955 and 1960, the allotment declined 22,000 acres. On the other hand, in Illinois between 1955 and 1960, the allotment increased 59,000 acres, and in Missouri between 1955 and 1960, the allotment increased 194,000 acres.

In 1958 the Congress recognized that this continuing trend of shifting of acres was not in accordance with equitable administration, because farmers who cooperated were being penalized and farmers who failed to cooperate with the program were being rewarded for their noncompliance.

The Anfuso amendment, sponsored by Congressman Victor Anfuso of Brooklyn, N.Y., corrected this inequity by penalizing farmers who overplanted their allotment rather than rewarding them.

H.R. 10591 and H.R. 10685 would amend section 326 of the Food and Agriculture Act of 1962 by adding a new sentence at the end thereof. They would authorize the Secretary, beginning with the 1968 crop of wheat, to make available wheat allotment acreage from a national reserve to increase wheat allotments on farms on which the allotments had been reduced because of overplanting farm allotments during any of the crop years 1959 through 1964 under provisions of the Anfuso amendment and on which producers on such farms had overplanted in good faith in reliance upon action or advice of an authorized representative of the Secretary. Any increase in farm allotments under provisions of H.R. 10591 and H.R. 10685 could not exceed the amount by which the farm allotment was decreased under the provisions of the Anfuso amendment.

In a report to Chairman Poage almost a year ago on H.R. 10591, we stated that the Department recommended against the enactment of H.R. 10591. We pointed out the additional national reserve acreage needed to implement the provisions of H.R. 10591 would of necessity result in a lesser amount of allotment acreage available for distribution to States, counties, and subsequently to old wheat farms. Thus, any increase in allotment allocated to farms under the provisions of H.R. 10591 would need to be taken from other wheat farms in the United States, which were in compliance with farm allotments.

During the period when the Anfuso amendment was in effect with respect to farms (1959 through 1964), there were over 3 million cases in the United States which lost wheat history under its provisions and subsequently wheat allotment.

It obviously is not the intent of this proposed legislation to adjust the allotment in all these 3 million farms. Rather the bill limits its

application to those producers who may prove to the satisfaction of the Secretary that they were misinformed by representatives of the Department about the effects of the Anfuso amendment.

To the best of our knowledge, the only persons who have complained to us about misinformation on this score are some of the producers in the State of Washington who overplanted their allotment in 1964 and did not wish to plow back after the enactment of the voluntary wheat program for the 1964 crop year. Therefore, in my testimony, I would like to review the situation with respect to this alleged misinformation to Washington wheat producers.

The problem in the State of Washington is not as much with the theory of the Anfuso amendment but in the application of this amendment in the years 1958 through 1963 because of the pattern of crop rotation used in the Palouse country that is different from rotations used elsewhere in the Nation.

In most dryland wheat States, the rotation pattern is one-half of the wheatland in summer fallow and the other half planted. The acreage is switched each year. The wheat allotment is the same each year. In much of the Palouse country, an odd-even rotation pattern developed over the years. In the pattern, the summer-fallow planted acreage switches from high-fallow acreage 1 year to low the next with the planted acreage switching in the other direction. The wheat allotment for odd-even rotation switches each year so that the average of the 2 years gives the actual acreage in the farm allotment.

Thus, a Palouse farm with a 100-acre allotment might have 150 acres allotted this year and 50 the next. A summer-fallow rotation farm in a Plains State would have a 100-acre allotment each year.

If the plains farmer overplanted his allotment in 1960, he would have been penalized beginning in 1962 with a cut of about 7 percent, or 7 acres. The allotment reduction was carried forward each succeeding year. In 1962 and 1963 his allotment would have been 93 acres each year. He would have been penalized a total of 14 acres in those 2 years.

If the Palouse farmer overplanted in 1960 when his rotation was for 50 acres planted, his allotment in 1962 was cut about 7 percent of the 1960 acreage, or 3.5 acres. His 1963 acreage was not cut at all, and his average allotment for the 2 years was 98.25 acres. He would have been penalized a total of 3.5 acres in those 2 years.

Representatives of the Secretary of Agriculture checked into this situation in 1963 and found that it was not fair, that all wheat farmers were not being treated alike.

In an effort to give every producer ample opportunity to know the effect of overplanting in 1964, numerous informational letters were issued by the Office of the Deputy Administrator, State and County Operations.

In the summer of 1963 prior to planting winter wheat for 1964 crop the national office stressed that overseeding would affect 1966 and future wheat allotments. Notice GR-884 was issued July 16, 1963, to that effect. An exhibit to be sent to committeemen stated clearly that farms overseeding in 1964 would lose in 1966 and future wheat allotments.

After seeding had been started in the State of Washington reports began to come in that farms with zero or very low 1964 allotments on an odd-even rotation intended to seed from fence to fence.

During this time there was much uncertainty as to what type of program there would be for wheat in the future. All that was certain was that there was an allotment and price support at 50 percent of parity for 1964.

In December 1965, the Department advised all State offices of an intention to change regulations to further clarify that Anfusos reductions would apply uniformly to all farm allotments no matter what the rotation system. This revision was published in tentative form in May 1964 and in final form in the Federal Register in July 1964. Under these regulations, the odd-even rotation farmer who overplanted his wheat allotment in 1964 would be penalized about 7 percent of his 1966 allotment and 7 percent of his 1967 allotment, and the penalty would be carried forward.

We do know that producers were adequately informed by general letter in March of 1964 that overplanting of the 1964 allotment would cause a reduction in the 1966 allotment. However, no mention was specifically made of the continuing effect on 1967 and subsequent years. But every county letter issued contained an underlined statement reading :

Emphasis should be placed on the fact this computation is based on present regulations. It does not take into consideration any changes that may be made in the law by future congressional action.

Thus, these producers were put on notice that there was a possibility of change either in the regulations or the law which might affect the computation of the 1967 allotment. Instructions during this period were issued annually and covered rules for setting the next year's allotment only and were not issued as continuing instructions.

As a matter of fact, the regulations dealing with this provision were changed in July 3, 1964. Also, the Food and Agriculture Act of 1965 further changed the method of establishing allotments. That act provides that the allotment for any year shall be based on the acreage of wheat planted and the allotment in effect on the farm for the immediately preceding year with provisions for adjustments for crop rotation, et cetera. Thus, the 1965 act requires that the allotment for 1967 shall be based on the 1966 allotment, with adjustments for crop rotations.

We believe the present provisions of law are equitable and fair to all producers. We oppose the enactment of any legislation which would take allotment from all producers in the country in order to increase the allotment on farms which were out of compliance with the wheat program, and which by their nonparticipation tended to defeat the purposes of that program.

MR. PURCELL. Thank you very much. Are there any questions of this witness?

Mrs. MAY. Mr. Chairman, I think that we might first hear all of the witnesses. They have prepared statements ready to present. They represent the Northwest farmers. It might be easier to come up with questions after we have heard the testimony of the other witnesses who are here.

MR. PURCELL. Are there any questions of this witness at this time?

MR. ZWACH. No.

MR. KLEPPE. No questions.

MR. FOLEY. No questions.

Mr. PURCELL. Thank you very much. I am sure that you will remain here, anyway; but we would appreciate your being available for any further inquiry that may come up after the other witnesses have been heard.

Mr. FITZGERALD. Thank you, sir.

Mr. PURCELL. At this time, we will hear from a group of witnesses who are representatives of the Washington Association of Wheat Growers. I think that all four of you gentlemen may be seated at the table together and you will present yourselves.

Mr. FOLEY. I would like, Mr. Chairman, to welcome these witnesses from my State and I am sure that both Mrs. May and I will appreciate hearing their testimony. They are from the State of Washington. They are leaders in the industry, and I am sure that we will be glad to listen to their testimony with the same attention that we have heard the testimony of the witness from the Department of Agriculture.

For the record, Mr. Strohmaier is the president of the Washington Association of Wheat Growers, and is a wheat grower in Walla Walla County.

This is Mr. Leonard Gaffney, who is a distinguished member of the Washington ASC Committee; the State chairman of that group.

Mr. Madden is from Wilbur, Wash., a member of the Washington Association of Wheat Growers and a wheat producer in Lincoln County.

Mr. ZWACH. These are all active wheat farmers?

Mr. FOLEY. They are all actually wheat farmers, except for Mr. Rees, who was formerly with the State office of the ASCS of the Department of Agriculture, and he is presently executive secretary of the Washington Association of Wheat Growers. He is a very knowledgeable man on this subject.

Mr. PURCELL. Thank you.

Mrs. May?

Mrs. MAY. Mr. Chairman, I am certainly pleased that the subcommittee is meeting today on the wheat bill that was introduced into Congress by myself and Mr. Skubitz, and since the representatives of the Washington Association of Wheat Growers have put together a very comprehensive documentation of their problem, I will keep my remarks to the minimum at this time.

I would like to point out that I have provided all of you with a two-page statement, briefly outlining the situation and the need for the enactment of this bill, and I hope that this can be made a part of the record, instead of taking the time to read it now.

Mr. PURCELL. Without objection, this document will be made a part of the record.

(The statement of Hon. Catherine May follows:)

NEED FOR ENACTMENT OF H.R. 10591, STATEMENT BY HON. CATHERINE MAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

This bill would permit the administrative adjustment of certain wheat acreage allotment reductions resulting from action taken by farmers prior to 1965 in good faith reliance upon representations or advice of authorized representatives of the Secretary of Agriculture. Following is an explanation of the need for this legislation, with particular reference to the State of Washington.

1. USDA DIRECTIVES ON THE ANFUSO AMENDMENT WERE MISLEADING TO WASHINGTON WHEAT GROWERS

In the State of Washington, the directives from Washington, D.C. in 1963 in regard to the application of the Anfuso amendment to wheat production were interpreted by many farmers, county committeemen, Agriculture Department employees and others to mean that overplanting in 1964 would bring penalties in 1966 and the following even years only, in the same manner as the penalty provisions had been applied in the 1959 to 1963 period.

2. UNEXPECTED PENALTIES WERE APPLIED BY USDA

Although their interpretation of the USDA directives was completely consistent with historical precedent and the local farming practice of odd-even rotation, Washington farmers who overplanted on this basis later learned to their dismay that the U.S. Department of Agriculture took an entirely different view, and intended to invoke penalties annually instead of every other year.

3. THE MISUNDERSTANDING WAS WIDESPREAD, BUT APPEALS HAVE BEEN DENIED BY USDA

As a result of this misunderstanding of the Agriculture Department's intentions, many Washington State wheat growers, through no fault of their own, are faced with annual rather than biennial loss of a portion of their wheat acreage allotments. More than twenty-nine hundred farmers in the State of Washington harvested in excess of their allotments in 1964, compared to years before and after 1964 when Washington was a high complying State. Several of these producers have exhausted every means of appeal to the Department in their attempts to get this inequity corrected, but to no avail. The Department has ruled against every one of them.

4. SECTION 326 ALLOWS USDA TO CORRECT SIMILAR MISTAKES

Section 326 of the Food and Agriculture Act of 1962 (7USC 1339a) provides that if a farmer takes action which puts him out of compliance with a farm program because of his good faith reliance on the advice of authorized representatives of the Secretary of Agriculture, the Secretary can accept that farmer's good faith performance as meeting the program's eligibility requirements for price supports and payments.

5. HOWEVER, USDA CONTENDS SECTION 326 IS NOT BROAD ENOUGH TO PROVIDE RELIEF

The Agriculture Department contends that Section 326 is not broad enough to allow the restoration of wheat allotments lost as a result of farmers' reliance on erroneous, though well-intentioned advice of USDA representatives concerning the penalty application of the Anfuso amendment in 1964. In a letter dated April 11, 1967, ASCS Administrator Horace Godfrey outlined the Department's view on this:

. . . It is the opinion of the Office of the General Counsel that the authority of Section 326 does not extend to relief involving wheat allotment adjustments, or the issuance of additional wheat certificates for 1967 under the circumstances of these cases.

6. H.R. 10591 WOULD BROADEN SECTION 326, AND ALLOW USDA TO CORRECT THIS MISTAKE

The proposed legislation would simply broaden the provisions of Section 326 to give the Agriculture Department authority it says it does not now have to correct this mistake and restore wheat allotments to these farmers who received erroneous advice.

In the administration of farm commodity programs, as in any other endeavor, honest mistakes are bound to occur, but they should always be promptly corrected. In the interests of equity and justice, this mistake should be corrected as rapidly as possible, and its ill effects eliminated for those farmers who were given wrong information by authorized representatives of the Secretary of Agriculture.

For these reasons I urge favorable consideration of H.R. 10591.

Mrs. MAY. At this time, I will not further introduce the four witnesses at the table, as my colleague Mr. Foley has already done so. I

will say that this group will present statements together with supporting depositions by Mr. Ray Danekas who is a member of the Washington Association of Wheat Growers of Adams County and Mr. Gordon Kunz who is, too, a member of the Washington Association of Wheat Growers and chairman of the Lincoln County ASC committee and a wheat producer in Lincoln County.

And we have supporting depositions from the Washington State Grange, Washington State Farm Bureau, Adams County and Lincoln County Farm Bureaus, Washington State Department of Agriculture, and James Stonecipher of Walla Walla County, ASC committee chairman.

I will not make any further remarks, but instead will let the subcommittee hear from the witnesses who have come here for the purpose of supporting these bills.

Mr. PURCELL. We will be glad to hear from you now, Mr. Strohmaier. You all may present your statements in whatever order you think appropriate. I will ask the members of the subcommittee, if agreeable to them, to allow each of you to go through your statements first, before we go back and question you. I think it will make for a more comprehensive record if we follow that method.

So, we will be glad to hear from you at this time.

Mr. Strohmaier.

**STATEMENT OF GARY F. STROHMAIER, PRESIDENT, WASHINGTON ASSOCIATION OF WHEAT GROWERS, RITZVILLE, WASH.**

Mr. STROHMAIER. Hon. Chairman Purcell and honorable members of the Livestock and Grains Subcommittee.

On behalf of the Washington Association of Wheat Growers, I wish to thank you for this opportunity to testify on House Resolution 10591.

At this time, Mr. Chairman, I would like to introduce the gentlemen who will be presenting the official testimony for our commodity organization.

My name is Gary F. Strohmaier. I am the president of the Washington Association of Wheat Growers and a wheat producer from Walla Walla County.

Mr. Jerry Rees, our executive secretary.

Mr. Leonard Gaffney, and Mr. James Madden, members and wheat producers from Lincoln County.

In addition, we have in attendance interested persons of which some have the desire to make a short statement.

We also have with us Mr. Ray Danekas, Mr. Gordon Kunz, and Mr. Glen Hofer.

Our understanding as to the purpose of this hearing is to view the pros and cons on the proposed legislation which was submitted by the Honorable Catherine May on June 6, 1967. The text of this proposal is short, explicit and concise. "To permit the administrative adjustment of certain wheat acreage allotment reductions resulting from action taken by farmers prior to 1965 in good faith reliance upon representations or advice of authorized representatives of the Secretary of Agriculture."

Today, sir, we wish to present evidence which will illustrate as a classic example the first necessity for authority to enable the Secre-

tary of Agriculture to rectify errors due to communication breakdown and misunderstandings.

The classic example which we shall be elaborating on, is the implementation of the Anfuso amendment or penalty. The justification for favorable action of Mrs. May's proposal which we have termed "corrective legislation" will be readily visible and understandable after our descriptive text is completed.

Mr. Chairman, we realize that time is of the essence. Hopefully, we have limited the association testimony to relevant facts. Our text is designed to be presented in four parts—taking on the appearance of a four-chapter book. As the leader of our delegation, I will be asking Mr. Leonard Gaffney to certify the information which he received as State ASC chairman, also, the interpretation and the actions taken by the Washington State ASC Committee relative to the Anfuso amendment.

Next, Mr. Jerry Rees will relate to your committee the nature of information and instruction which he received from the State ASC Committee when he was office manager for Spokane County ASC Committee.

Mr. James Madden will explicate on the nature of information he, as a typical wheat producer, was led to believe and accepted as the truth from his county ASCS personnel.

I then shall conclude our testimony with a synopsis of what the association has done to foster the correction of this particular problem which is a gross financial loss to the economic well-being of the State of Washington and our wheat industry.

Mr. Chairman, I would like to request that Mr. Leonard Gaffney be heard at this time.

MR. PURCELL. Mr. Gaffney, I believe it is indicated that you will now present your statement, and we will be glad to hear from you.

#### STATEMENT OF F. LEONARD GAFFNEY, LINCOLN COUNTY, WASH.

MR. GAFFNEY. Honorable members of the Livestock and Grains Subcommittee. I wish to express my appreciation for the opportunity to appear before this committee relative to the application of the Anfuso penalties on wheat acreage with respect to odd-and-even rotation farms in Washington State on the 1964 crop year.

My name is Leonard Gaffney, and I operate an odd-and-even wheat farm of approximately 1,500 acres in Lincoln County. In June of 1961, the Honorable Orville Freeman appointed me as State chairman of the Washington ASC Committee and I served in that capacity until December 1964. It is the responsibility of this State ASC Committee to insure proper administration of all farm programs and policies as established by Congress and the Secretary of Agriculture.

Considering the fact that I was chairman of this committee during the period when the Anfuso penalty was administered to noncomplying farms, I feel qualified to testify today.

I am appearing before this subcommittee to encourage your favorable action on H.R. 10591.

I was serving as the dryland wheat member of the Washington ASC Committee when the regulation was changed with respect to the application of the Anfuso amendment on odd-and-even rotation farms

in our State. It is my opinion that through error, the farmers were not notified of the change. I also was one of the farmers who planted and harvested wheat in excess of the 1964 wheat acreage allotment.

Washington is one of the great wheat-producing States in the United States. In total production in recent years, we rank among the leading States. Most of the wheat is grown in eastern Washington on non-irrigated so-called odd-and-even rotation farms. Odd and even is a designation used by the U.S. Department of Agriculture and refers to the number of the year. This is in contrast to so-called regular rotation farms, which have the same acreage allotment year after year. Odd-and-even rotation farms have a different wheat allotment every other year, usually because of a difference in base acreage or cropping history.

When allotments were reestablished in 1954, farms such as these used a different base acreage and received a different allotment than in 1955 and subsequent odd-numbered years. In computing allotments, feed grain bases, normal conserving acreages, et cetera, this had the effect of treating these farms as though they were separate units, although often they were listed under one farm number for purposes of USDA records.

I wish to call your attention to how the regulations were applied with respect to the Anfuso penalties from 1959 to 1963. When a farmer overseeded his allotment and did not satisfy the Secretary of Agriculture by surrendering the excess production or storing the excess, he received a penalty, which worked out to seven-plus percent of his future allotments in subsequent odd-number, or even-number years, whichever applied. In short, a farmer had to be in excess production in both an odd- and even-number year to lose the seven-plus percent on both sides of his farm. To repeat, the odd-even rotation followed procedure from 1954, and was due, I believe, in general, because Washington is regarded as a wheat and summer-fallow area—with approximately one-half of the acreage idle in summer fallow every other year. The application was uniform and very generally understood.

Prior to the wheat marketing quota referendum vote in May 1963, the Food and Agriculture Act of 1962, which affected the allotments and prices for the 1964 crop, was very thoroughly discussed. Our Washington State ASCS personnel participated in more than 100 meetings explaining the issues. Frequently, the question of the Anfuso amendment penalties was raised and the application of the penalty to the even year only was offered in reply. This wheat marketing quota referendum failed to receive a favorable vote. In May 1963, this put us, for the first time in the history of farm programs, with wheat acreage allotments in effect and no marketing quotas. This was a time of great controversy and confusion for the wheat grower.

In the normal course of events, the ASCS offices, USDA, Washington, D.C., does not correspond directly with the individual farmer. Regulations and procedures are usually sent to the State office, who then inform the county offices and the fieldmen who represent the State office to the various counties. The county offices were ordinarily the only ones who communicated directly with wheat farmers, in farm program matters. From 1961-64, I thought the system was operating quite well.

Following the usual planting pattern, most of the wheat for the 1964 crop was planted in August, September, and October of 1963. To the best of my knowledge, each farmer made his decision independently, on the basis of the information he had received from ASCS, and his own personal reasons.

In October 1963, the Washington State office received grain notice 902 from USDA. This notice appeared to be a change in the application of the Anfuso penalties on odd-and-even farms. It was sent out as wheat notice 22 in our State. I have provided the committee with copies of GR 902 and GR 914 and Washington State wheat notices 22, 23, 26 and 27.

The contents of wheat notice 22 had never been discussed with or by the committee or staff of the Washington State ASCS. It was withdrawn by notice 23 at the request of the State committee to seek clarification. The change in regulation was discussed in two State committee meetings and with the Northwest area office of ASCS, Washington, D.C.

On November 18, 1963, wheat notice 26 was sent to the county offices in Washington State. It was virtually a copy of the Oregon State notice on the same subject. I call your attention to its purpose which was to "obtain recommendations."

On December 19, 1963, Washington State received GR 914 from USDA. This was sent out to our county offices as wheat notice 27.

In retrospect, I believe that we failed, at the State level, to properly evaluate USDA notice GR 914. It had the effect of immediately establishing a very marked and important change in the penalties for excess production of wheat on odd-and-even rotation farms. We failed to recognize this change.

We had what I regarded as an excellent staff at the State office. I thought that the State committee was functioning adequately. However, I believe that we understood the notice to postpone the change in the regulations, fundamentally, as might be read in GR 914 under paragraph 2 of "Background." In trying to recall the events of that period, I can find no record where this notice was ever discussed at any subsequent committee meetings between December 1963 and December 1964. If we had appreciated its full significance, it would have received a high priority in any of our meetings until it was fully understood.

In January 1964, we had meetings with the county committeemen in eastern Washington. In February 1964, we had a State conference in Seattle of all county committeemen, county office managers, and personnel from ASCS, Washington, D.C. This regulation was not discussed.

After signing of the farm bill in April 1964, we held meetings of the county committeemen and office managers of all the Washington wheat counties; to my knowledge, no mention was made of a change in Anfuso regulations.

In short, we sent notice 27 to the counties; but, although we were in almost daily communication with them, we did not outline the gravity of its contents.

In any case, I feel certain that the farmers were not notified in 1964 of the change in the regulation. I received every notice that other farmers received—even though I was serving on the State committee.

I never received notice of a change in regulations in 1964 regarding the Anfuso penalties.

I was notified as late as September 1965, by the county office manager of Lincoln County, that the regulation remained odd-to-odd and even-to-even on the farm rotation, just as they had been in 1959-1963.

When the growers did receive notice that the excess production in 1964 crop year resulted in penalties also in subsequent odd-number years (1967, 1969, et cetera), it caused many appeals. The appeals were all denied on the basis that the Secretary was not authorized to restore acreage, even if USDA personnel had erred.

This results in a loss of acreage even to some growers who never planted any wheat in 1964 because their tract was summer-fallowed, but in the same farm number as excess production portion of a farm.

Wheat allotments are assigned to land rather than to individuals. In a continuing participation of farm programs, they have a value. The loss of a portion of this allotment makes property less valuable. Because the Anfuso regulations have not applied since 1965, excess production in 1964 resulted in the only double penalty on odd and even farms ever in Washington State in spite of the fact that the regulation was changed after the crop was planted and the farmers not properly notified of the change.

To summarize, it is not my intention to place any responsibility for action or inaction on any individual or individuals. It is my intention to recall the relevant events of 1963 and 1964.

In short, a farmer who harvested excess wheat in 1964 received no price support or payments, but now loses 7-plus percent of his allotment on the side of the farm which was not in production in 1964. This acreage was redistributed in all wheat allotments in the United States. It is of little economic gain to the recipient. It is a serious economic loss to the penalized grower. This seems a severe penalty in a continuing wheat allotment program.

I again wish to express my gratitude to the chairman and members of this committee for granting me the opportunity to present this statement.

Thank you.

Mr. PURCELL. Thank you.

Mr. STROHMAIER. At this time, Mr. Chairman, I would like to call upon Mr. Jerry Rees.

Mr. PURCELL. All right, Mr. Rees, we will be glad to hear from you.

**STATEMENT OF JERRY REES, EXECUTIVE SECRETARY, WASHINGTON ASSOCIATION OF WHEAT GROWERS, RITZVILLE, WASH.**

Mr. REES. Mr. Chairman and members of the committee. My name is Jerry Rees; I am executive secretary of the Washington Association of Wheat Growers. My purpose here is to urge for the passage of H.R. 10591 in the hopes that it will result in corrective action by the Secretary of Agriculture.

In 1967, I began work for ASCS at the county level; in 1960, I became ASCS office manager in Spokane County, Wash., one of the major wheat counties in the State. I resigned in 1966 to take my present position as executive secretary.

One of the questions to be answered here is: "Did wheat producers rely on action or advice of authorized representatives of the secretary?"

ASCS county committeemen and ASCS employees are representatives of the secretary. ASCS committees are elected officials. Their sole purpose is to oversee agricultural programs passed by Congress and administered by the U.S. Department of Agriculture. They employ a county office manager, who in turn employs a staff. Both committeemen and employees eligibility to serve is established and ruled upon by USDA. They are paid solely from Federal funds and solely administer Federal programs, including the disbursement of Federal funds. Their work is entirely under USDA regulation, directives and supervision.

We are told by ASCS that 24,000 acres of allotment are lost yearly in Washington State from harvesting over the 1964 allotment. Let's examine one of the factors causing noncompliance. Many farms in Washington State were established on an odd-even allotment rotation by ASC committees to fit planting patterns. When the Anfuso amendment regulations were written, ASCS procedure applied a penalty for overseeding to one side of the rotation only. When quotas were voted out and it was apparent that a large number of farmers were overseeding, ASCS at the national level evidently became concerned and started administrative action to apply the Anfuso penalty to both years of the odd-even rotation. This must have been when Anfuso became known as "confuso."

County committeemen and ASCS offices were sent Notice Wheat 22, October 11, 1963 (after the major portion of wheat was seeded in the State). Notice 23, withdrawing notice 22, was sent October 14, 1963; November 18, 1963, notice 26 was issued. December 23, 1963, notice 27 was issued canceling 22 and also canceling 23 and 26. As late as April 18, 1966—one and one-half years after harvest—notice 87 was issued showing that the penalty would apply to farms having a zero allotment in 1964.

The first direct notice—Wheat 22—issued to the counties was entitled "Compliance with 1964 Farm Wheat Allotments on Odd-Even Rotation Farms."

#### 1. PURPOSE

To inform county committees of the Department's position with respect to changing wheat rotations in 1964 on farms where allotments have been established on the basis of odd and even rotation.

#### 2. BACKGROUND

It has come to our attention that some producers who, in 1964, will be in the low year of their odd-and-even rotation, are considering exceeding the allotment because quotas will not be in effect. Apparently, they feel that the loss of future allotment will be of little consequence since under present procedure it would not effect the allotment established for the high year. This matter is of grave concern to the Department since it would give an unfair advantage to this group of producers over other producers.

#### 3. DEPARTMENT POSITION

We intend to provide authority in the 1965 farm allotment regulations for the county committee to establish a 1965 base acreage reflecting a regular rotation, rather than the odd-and-even rotation presently in effect, in every case where the producer does not maintain his odd-and-even cropping practice in 1964.

This is the first notice of indication of the Department's position and is beyond the seeding date of a vast majority of the Winter-wheat seedings. Immediate objection arose for several pertinent reasons including:

(1) The 1964 overseeded acreage would not be completely determined by the time 1965 allotments were issued. Reference GR 892, issued August 14, 1963:

Under the present provision of law and regulations, noncompliance with the 1964 farm wheat allotment will have an adverse effect on the 1966 and future wheat allotments. It will not have any effect on the 1965 allotment since the 1964 wheat acreage will not be available when such allotments are determined.

(2) Changing the rotations would completely disrupt the farming system on many farms.

(3) It would not apply to many of the producers overseeding in 1964, because they were not changing their rotation by overseeding. (Odd-even rotation farms have all of one side of their ranch in crop one year, and all of their other side of the rotation in crop the next.) In ASCS terminology in Washington State, they were not breaking the rotation. They were only seeding the balance of their available summer fallow to their predominate crop—wheat. They were maintaining what is now known as their normal conserving acreage.

It is also interesting to note that the notice did not alert ASC people in Washington State that they were not relaying the Department's intentions when they stated the penalty for overseeding would start in 1966 and apply every even year (1968, 1970, etc.) as it stated under "Background," "since under present procedure it would not affect the allotment established for the high year."

Wheat notice 22 was canceled on October 14, 1963, by wheat notice 23.

This notice covered change of rotation; not a change in Anfusio penalty, as interpreted.

The Department also felt that authority should be provided in the 1965 Farm Allotment regulations for county committees to establish a 1965 base acreage reflecting a regular rotation rather than the odd and even rotation presently in effect, in cases where the producer does not maintain his odd and even cropping practices in 1964.

We understand county committee recommendations were generally not favorable to the adjustment authority.

December 23, 1963, wheat notice 27 was issued again canceling notice 22 and in addition 23 and 26. It stated:

## 2. BACKGROUND

The Washington office has advised us they have rescinded the provisions of their notice GR 902, which were transmitted to the counties as wheat notice 22. This action was taken because GR 902 was not issued in sufficient time to advise all affected producers of its provisions, prior to planting of the 1964 wheat crop. In view of the fact that some producers on odd-even rotation farms had planted all of their 1964 wheat crop before they were aware of this proposed action, we believe it would be inadvisable to implement the provisions of the notice for the 1965 crop year.

For those committeemen and employees working directly with the program, this was welcome news. The notice went on to say under "Adjustment for Overplanting":

As it did for determining 1964 allotments, Handbook 1—Wheat (Rev. 1) will provide that for 1965 and subsequent years, allotments determined for overplanted odd-even rotation farms will be reduced proportionately in both the high and low allotment year in those instances where history is not preserved by storage or delivery to the Secretary. This action will assure that overplanted farms on odd-even rotation basis will be affected in the same manner as the farms on a regular rotation basis.

This notice provided a different method of penalty than evening the rotation and provided that it would take effect in 1965. This was interpreted as allowing ample time to notify producers of the effect of overseeding in 1965.

From a producer's standpoint when seeding came for the 1964 crop, wheat allotments were in effect; but other program features were out because of the referendum defeat. The next spring a new voluntary program came into effect.

Upon announcement of the new program, the State ASCS scheduled and held program orientation meetings for ASC committeemen and their employees. They, in turn, were requested to hold open meetings to inform farmers of features of the new program.

Because the crop was seeded, the discussion at the meetings centered on, "What happens if we stay out of the program and harvest our crop?" and "What acreage adjustments would we need to make and what would be the program benefits if we sign up for the new program?"

Producers were informed of current regulations and program features and advised to use a sharp pencil in making their decision. At these meetings with representatives of the State ASCS committee in attendance, producers were told in answer to their questions that exceeding the allotment would still result in a loss of allotment for future years; and that the loss would apply every year to regular-rotation farms and every other year (1966, 1968, et cetera) on odd-even rotation farms.

It is important to note that these ASCS sponsored meetings held throughout the State to inform producers were held in the spring of 1964—several months after the series of notices between ASC at the National and State level and between State and county level.

This statement can be easily verified. There are ASCS county committeemen present that participated in these meetings. We also have signed statements from committeemen and employees from all the major wheat areas in Washington State. It can best be summed up from an excerpt from a December 20, 1965, statement by the Columbia ASC County Committee:

It was our understanding in 1964 that the loss of history would apply to the even year only for those who had overseeded in 1964.

It was also understood that the same procedure would be used as in overseeding in prior years.

It further was our understanding that the farmer who was on a regular rotation would likely be penalized every year.

We were not aware that those overseeded in 1964 were going to be penalized every year until recent months.

Producers have appealed the loss of acreage at the county, State, and National level. They have been told: "These regulations have the force and effect of law and are binding upon and cannot be waived by any employee of the Department, even by the Secretary of Agriculture."

We are hopeful with the adoption of H.R. 10591, the Secretary will take action that will apply the effects of the Anfusio penalty as stated by his authorized representatives.

Mr. PURCELL. Thank you, Mr. Rees.

Mr. STROHMAIER. Mr. Chairman, at this time I would like to present Mr. James Madden.

Mr. PURCELL. We will be glad to hear from you now, Mr. Madden.

**STATEMENT OF JAMES MADDEN, WHEAT FARMER, LINCOLN COUNTY, WASH.**

Mr. MADDEN. Chairman Purcell and distinguished committee members, my name is James Madden. I am a 35-year-old Lincoln County, Wash., wheat farmer who, along with nearly 3,000 wheat farmers from around our State, are deeply concerned with favorable action by your subcommittee on H.R. 10591.

In a nationwide marketing referendum in May of 1963, farmers, like myself, not only failed to give the USDA's wheat program for 1964 its required two-thirds vote but we rejected it outright by a 52-percent majority. Because of this, there was no Government program in effect during the fall of 1963. I had been told by the Secretary of Agriculture, through press, radio, and TV releases, if market quotas were voted out, wheat allotments would still be in effect and the price of wheat could drop to as low as 80 cents per bushel. With only 378 acres allotted me out of 620 acres of land that could be seeded to winter wheat, I found myself faced with a financial disaster. Many of us, including myself, decided even after receiving instructions from our county ASCS office employees about the consequences of overseeding our allotments, proceeded to seed all of our summer fallow acres to winter wheat. In so doing, we accepted the fact that overplanting in 1964 would result in a reduction of our 1966 wheat allotment of about 8 percent, and would continue to have its effect on every even-numbered crop year thereafter. Because of this managerial decision that was being thrust upon me, I wrote a letter to Senator Henry M. Jackson on September 16, 1963:

I am a Big Bend wheat farmer who has 620 acres of summer-fallow land that is ready to be seeded to winter wheat right now. The ASCS office in Davenport, Washington, informs me that I can only plant 378 acres of this land in order to stay within my wheat allotment. Should I choose to overplant, I will lose my wheat allotment in future years by approximately eight percent.

Here I was concerned with the part of my summer fallow farm that I had been saving moisture on. There can be no question about what is written here as far as semantics are concerned. I was explaining the cropping problem that I was confronted with on this particular part of my farm.

During the following week, on Monday, September 30, 1963, Senator Jackson forwarded my letter to the Secretary of Agriculture, Mr. Orville Freeman, for the Secretary's comments:

I am enclosing a letter I have received from Mr. James P. Madden of Creston, Washington, concerning problems he is facing in making plans to plant winter wheat.

I would appreciate receiving your comments on this matter in order that I may best answer Mr. Madden.

It is now apparent during the same week that my letter to Senator Jackson was forwarded to the Secretary of Agriculture, Mr. Orville Freeman, for his comments, a departmental position on this matter was taken on Friday of that same week—Notice GR 902, dated October 4, 1963.

According to this notice, the ASCS in Washington, D.C., acknowledged the fact that some odd-and-even-year wheat producers were considering exceeding their 1964 wheat allotment. Mr. Freeman had one inquiry from a Lincoln County, Wash., wheat farmer in his office at the time this position was taken. This matter was of great concern to the Department and they intended to take some positive action in 1965 to stop or alleviate this condition. They also asked that producers, like myself, be notified of their action in each county. Why, then, after all this positive action was taken by the ASCS in Washington, D.C., did I receive from Senator Jackson a personal letter he had received from the Administrator of ASCS, Mr. Horace Godfrey, stating:

Overplanting in 1964 will result in a reduction in his 1966 wheat allotment of about 8 percent.

This was the same answer I had received from the local county ASCS department employees in Lincoln County. It was the way over-seeding of winter wheat allotments had been handled in the past in our county up until 1963. The application of the Anfuso amendment had in each case applied to an odd-or-even-year loss of wheat allotment. In no case did it ever apply to both the odd and even years. Yet, today, in the State of Washington, we are being subjected to an unjust application of this Anfuso amendment on the odd year of our summer-fallow farms. It has cost us 24,000 acres of wheat allotment; and when fully implemented, we could lose nearly \$3 million of gross income on the odd year of our summer-fallow farms.

Chairman Purcell, you said in a ballroom filled to capacity at our WA WG State convention in Spokane, Wash., several months ago, that it was the people's responsibility and duty to present themselves before their Government with the facts and figures necessary to help render justice; and if properly done, they would receive their justice. So, we believe no administrative department of our Nation, State, or county agencies should ever be allowed to reach the point of infallibility by the laws they have to administer. If and when departmental employees make honest errors, let the laws they have to administer be written so that they may correct, if need be, any errors which arise.

Such an error has occurred. A mistaken interpretation, and because of it a lack of communication by the State and county ASCS officials ultimately resulted in the loss of wheat history to nearly 3,000 farmers in our State. It is our belief that the language written into H.R. 10591 will allow the U.S. Department of Agriculture to specifically correct this unjust application of the Anfuso amendment on the odd side of our summer-fallow farms. In so doing, the Department of Agriculture will restore much of the confidence that many farmers have lost in their local ASCS offices because of this regrettable error.

In the introduction to H.R. 10591, these words are written:

To permit the administrative adjustment of certain wheat acreage allotment reductions resulting from action taken by farmers prior to 1965 in good faith reliance upon representations or advice of authorized representatives of the Secretary of Agriculture.

Let us examine "the actions taken by farmers prior to 1965 in good faith."

Because of the climatic conditions in the State of Washington, the largest number of acres farmed in this State produce Winter wheat by a summer fallow rotation method of farming. We receive so little rainfall each year, it is necessary to store the moisture in the soil profile for 2 years in order to produce a crop. We, in a sense, have two separate farming operations within one farm. On one side of our farm, we are saving moisture while on the other side we are growing our cash crop for the year—wheat. Through the years of farming, we have become solidly entrenched in this summer fallow rotation of odd and even cropping years. There are approximately 1,280 wheat farms in Lincoln County, the second largest wheat producing county in the United States, and during 1963, all 1,280 of these wheat farms were on a summer-fallow rotation method of farming.

We have been advised for years by the local county ASCS departmental employees, what you do in the odd year does not affect the even crop year. What you do in the even year does not affect the odd crop year. We are talking about this piece of ground—it has its own cropping history in acres as well as production in bushels. This land is always very carefully located on aerial photos, measured and staked in our fields. One year this piece of land has a crop on it. The next year, it lies dormant without any wheat production coming from it whatsoever. From this, we have grown accustomed to speaking about a summer-fallow rotation of odd and even years.

In the fall of 1963, I, like many other hundreds of Washington State wheat farmers, was asking our county ASCS departmental employee what effect overseeding of 1964 wheat allotments would have on our farms' future wheat history. We were faced with an economic problem that could, and has had, real financial consequences for us. For 2 years, we worked to save enough moisture to plant our winter wheat crop at just the right time to receive maximum profit. Now we found ourselves running out of prime seeding time and we had to take some decisive action regardless. At this point, in the production of a crop, we have an approximate investment of \$22 per acre involved. The land has already been subsoiled, plowed, spring toothed, rod weeded, fertilized, and is now ready to plant to winter wheat. Because our area is best suited for growing winter wheat at a profit, to lose 8 percent of our wheat allotment is a very serious financial matter. Good class 1 plowland in my area will sell today for \$225 to \$300 per acre if you can find it to buy. To lose the wheat history off 34 acres of this type of wheatland because of a departmental error is a matter to be reckoned with completely.

Chairman Purcell, we have appealed this loss of wheat history to our county, to our State, and to our national ASCS officials, and now to the legislative branch of our Congress. In so doing this, sir, we have followed the normal democratic process in our country to seek relief from this unjust application of the Anfuso amendment on the odd year of our summer-fallow farms. If we fail here, our last recourse will be in the courts.

When you consider the fact that 34 acres times 45 bushels per acre times \$1.80 per bushel equals \$2,754 a year financial loss to me, and there are nearly 3,000 other Washington State wheat farmers who

have been affected by this same unjust application of this amendment, is it any wonder, sir, why we are deeply concerned with favorable action by your subcommittee on this bill? To prevent this loss from recurring, we strongly urge you and other distinguished members of your subcommittee to act favorably on H.R. 10591.

Mr. PURCELL. Thank you, Mr. Madden.

Mr. STROHMAIER. If I may, I will now resume with the text of my statement.

#### STATEMENT OF GARY F. STROHMAIER—Resumed

Mr. STROHMAIER. Mr. Chairman, the Washington Association of Wheat Growers has been actively pursuing any and all avenues of approach for correction of this communication breakdown since October 7, 1965. Our organization is representative of nearly 4,000 Washington wheat-producing members. Therefore, we consider ourselves the true spokesman for the Washington wheat industry.

Through convention procedures, our membership instructed its officers, directors, and staff to avail itself of any opportunity that may arise to present the facts of this problem before the Congress of the United States, which we are doing today.

To recap history, our first step was to try to obtain the reasoning and justification for the Agriculture Department's decision to inflict penalties on producers after the wheat crop was harvested, in the bin, and in some cases sold and delivered. This investigation was accomplished by writing correspondence and personal contact with both the Department of Agriculture at all levels, and our congressional representatives. A letter was written to President Lyndon B. Johnson on April 19, 1966, advising him of the administration's actions and appealing for a sense of equity and fairplay. The result of this letter proved to be fruitless in the satisfaction of our problem.

Since October 7, 1965, we have collected, and have on file, information from every imaginable source, working to build a solid case of authentic facts to prove that the Washington wheat producer did not act on impulse or hateful emotions toward Government programs, but that his actions were initiated from the influences of misgiven information.

The next action taken by the association was to encourage producers, which were affected by this double penalty, to file an appeal at the county, State, and National levels of USDA. As a result of this recommendation, hearings were scheduled for those that followed through to the national level. These hearings were held in Washington, D.C., during the week of February 27, 1967. The indications which we received from the USDA hearing board gave us an optimistic view as to the success of our presentation. However, a few days later we were notified that all appeals had been refused on the grounds that "authority for correction was nonexistent."

What at one point appeared to be a successful endeavor, upon our part, actually turned out to be a failure. Representative Catherine May, realizing the necessity for relief from this penalty, created proposed legislation, which immediately received the support and adoption of not only the wheatgrowers association but the support of the Washington State Grange, the Washington State Farm Bureau,

Adams County and Lincoln County Farm Bureaus, and the Washington State Department of Agriculture.

The above-mentioned organizations or agencies have submitted their statements to me. For the conservation of time, I shall not read their statements but request that they be entered into the official records of this hearing.

In addition, Mr. Chairman, we have included within our folder copies of statements by Mr. Ray Danekas, chairman for Adams County ASC Committee; Mr. Gordon Kunz, chairman for Lincoln County ASC Committee; and Mr. James Stonecipher, chairman for Walla Walla County ASC Committee.

Also included in our text is a copy of all notices, supporting statements, correspondence, and articles which were referred to in our testimony.

I would like to request that these publications be entered into the official record.

We have one copy of a document prepared in 1966 for the Department of Agriculture and it was submitted to Mr. Edwin A. Jaenke, Administrator, ASCS, January 18, 1966. The title of this brief is "Relief of Wheatgrowers From Improper Penalties," and it contains signed statements by committeemen and employees from many county ASC offices verifying the validity of our claims of improper information and misunderstanding. Mr. Chairman, this copy will be surrendered to you.

Mr. PURCELL. At this point, the statements from the various organizations and individuals which you have indicated were supporting your position, without objection, will be allowed to go into the record.

(The documents enumerated above follow:)

WASHINGTON STATE GRANGE—79th ANNUAL CONVENTION, JUNE 10-14, 1968,  
RESOLUTION, SUPPORT OF H.R. 10591

(1) Whereas the enforcement of the Anfuso Amendment has placed a hardship on the wheat producer in the summer-fallow; and

(2) Whereas a hearing is being held in Washington, D.C., on June 27 in the Livestock and Grains Subcommittee; therefore be it

(3) Resolved (1) that the Washington State Grange support the legislation H.R. 10591 to correct the Anfuso problem.

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STATEMENT BY WASHINGTON STATE FARM BUREAU

Because of obvious inequities or perhaps inadvertent interpretations of the Anfuso Amendment, Washington wheat growers have been burdened with economic disadvantages over which they have no control.

The Washington State Farm Bureau, with several hundred members in the major wheat producing area of Washington, joins the Washington Association of Wheat Growers in support of H.R. 10591 as a means of correcting what we believe to be an unjust situation.

We are of the opinion that H.R. 10591 is designed to provide adjustment of the Food and Agriculture Act of 1962 in a manner that will be agreeable with, and of value to, Washington State wheat growers.

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STATEMENT OF KENNETH HAYES, MEMBER, STATE BOARD OF DIRECTORS,  
WASHINGTON STATE FARM BUREAU

Mr. Chairman and honorable committee members, I am Kenneth Hayes, Member of the State Board of Directors of the Washington State Farm Bureau, rep-

resenting Lincoln and Adams counties' Farm Bureau units. These are two of the major wheat producing counties in the nation.

Lincoln and Adams County Farm Bureaus wish to accent Washington State Farm Bureau's support of the Washington Association of Wheat Growers in their efforts to get H.R. 10591 passed.

As you are well aware, or soon will be, there exists in the State of Washington a very unhappy and costly situation, caused by a mistake made by the State ASCS office or a vague directive from the U.S.D.A. in Washington, D.C., in regards to the way the Anfuso Amendment would be applied to non-compliers of the 1964 (voluntary) wheat program.

The wheat growing area of Washington is in a semi-arid region and for the most part on a summer-fallow basis; this being the case, many wheat farmers had to decide in the fall of 1963 whether to seed fence to fence on his summer-fallow ground giving him his allotted acres of wheat, plus a cover crop to reduce soil erosion; or just seeding the allotted acres to wheat and leaving the ground bare and exposed to winter erosion.

In the spring of 1964, the wheat farmer found himself faced with more electives on the best way to choose how to operate his farm since Congress had passed the 1964 (voluntary) Wheat and Feed Grains program. This is where the trouble started. Across the state of Washington, ASCS committees were explaining the benefits and penalties of the program and urging the farmer to use a sharp pencil when figuring whether he should comply or not. The monetary benefits for complying with the program were not too hard to understand, but the penalties for non-compliance weighed heavily on the farmer's mind; so he asked time after time for clarification and received the same answer—non-compliance results in No Government Payment and will receive an approximate eight percent loss in allotment in the even year (1964, 1966, 1968) and so on with no allotment loss for the odd years (1965, 1967, 1969) since they being in summer fallow had no wheat history for the even years.

With this information, the farmer went home and using the facts given to him by the ASCS and the factors and conditions on his farm and in his area, reached his decision. A large number of farmers, especially in the more arid areas, decided to forego the government payments and take their eight percent loss in allotments for the even years rather than risk the wind erosion by tearing out their wheat cover and planting barley which many times doesn't grow high enough to harvest even if the wind doesn't blow it and the soil away. Later after the 1964 crop was harvested, these farmers were informed that the decisions they made were based on faulty information given out by the U.S.D.A. and its representatives.

The fact that many farmers drove over forty miles to get their misinformation certainly doesn't alleviate the feelings they have about the unjust treatment meted out to them by the U.S.D.A.

In considering the above mentioned situation and circumstances, we respectfully urge you to pass H.R. 10591.

Thank you.

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STATE OF WASHINGTON,  
DEPARTMENT OF AGRICULTURE,  
*Olympia, June 21, 1968.*

HON. GRAHAM PURCELL,  
*Chairman, Livestock and Grains Subcommittee, U.S. House of Representatives,  
Longworth House Office Building, Washington, D.C.*

DEAR REPRESENTATIVE PURCELL: We wish to record our support of HR 10591 and upon passage urge the U.S. Department of Agriculture to restore the allotment on the odd-crop year of effected odd-even rotation farms within the State.

We are well aware of the problem and financial loss created within Washington State by the administrative change, a change made without notification to producers until more than a year after harvest.

The State of Washington is an agricultural producer. State land is leased by the Department of Natural Resources to bona fide wheat producers. They have a competent staff to administer State land operations. It was their understanding, after attending several ASCS-conducted meetings throughout the State, that over-seeding penalties (Anfuso Amendment) would only apply to the even-year farms with odd-even rotations.

Their records for 1964 show they had fifty operators in 1964 that exceeded the wheat allotment on State land. Eighteen of these operators have State land in

wheat on the even year only. It is understood that they are to lose allotment on all subsequent even years.

The remaining thirty-two operators that overplanted the State allotment in 1964, farm part of the State allotment in the odd year. Therefore, by reason of the misunderstanding, the State is losing allotment and certificate payments on 6,282 acres.

Not only is the income important to individual producers, but it is also important to the State of Washington. It is used to support our State School system.

Your favorable consideration will be appreciated.

Sincerely,

DONALD W. MOOS, *Director.*

WAITSBURG, WASH., *June 18, 1968.*

Subject: Individual statement, pertaining to Anfuso Amendment.

By: James A. Stonecipher, Chairman, Walla Walla County ASC Committee.

Recently Mr. Gary Strohmaier, President of the Washington State Wheat Growers Association, asked that I write a statement pertaining to the effects of the Anfuso Amendment in Walla Walla County.

I very much regret the misunderstanding and difficulties that have arisen from misinformation on our part, lack of information, and our misinterpretation of wheat base computation methods.

The Walla Walla ASC Office and our County Committee, of which I was at that time Vice-Chairman, verbally informed farmers in numerous cases that an excess seeding of wheat in 1964 on odd and even rotation farms would affect only a reduction of wheat base on even numbered years. In the written material sent to farmers, we failed to point out the loss of base acreage for both years, and in this material we did mention that over planting in 1964 would not affect 1965 wheat bases. This in itself could mislead a producer into believing that odd year bases would not be affected.

During the winter of 1963-64, we received advance notices on proposed procedure changes that would affect Wheat Bases on odd and even rotation farms.

These notices proved to be rather confusing. Wheat Notice-23 cancelled Wheat Notice-22. Wheat Notice-26 cancelled Wheat Notice-23. About a month later Wheat Notice-27 cancelled Wheat Notice-26. It seemed that the Department couldn't determine the course they wanted to take on changing wheat base computations.

With the seeming uncertainty on this matter, and the confusion caused by the lateness in announcing the 1964 Wheat and Feed Grain Program, probably we paid far too little attention to the changes in computing wheat bases.

Procedure Amendment 9 of Handbook 1-Wheat did not arrive at the county office until June 3, 1964. Even then we probably did not take the time necessary to fully digest the effects of these changes on wheat bases in the future.

We knew that 1965 wheat bases would not be affected and in our busy schedule of trying to administer the 1964 program, it is obvious we failed to pay proper attention to the effect on future years.

We know that a sizeable number of farm operators and managers in this county spent a great deal of time computing estimated results of the economics of compliance or non-compliance where farms had been seeded fence to fence with wheat in the fall of 1963. This even included local banks who manage estates and trusts in this area. These computations were being made based on what we had told the producers early in the spring of 1964.

No doubt, there was a lack of proper communications in getting the correct information to our wheat producers. On one hand, we misinformed the producers and on the other we failed to give them the correct information on a timely basis.

We know that many difficulties have arisen as a result of this misinformation and misunderstandings; such as, affect on land sales, disruption of long range planning on income and hard feelings between landlords and tenants.

I have served nearly thirteen years on the Walla Walla County Committee with a strong desire to serve our farmers faithfully and properly. I have also made every effort along with our county office personnel, to administer the programs as directed to us through proper channels. I would hope that the people in the Agriculture Department who send the regulations to our counties do not think for one moment that we made this mistake intentionally. I would further hope that when we do make an unintentional mistake, the people in the Department

would make every effort to correct it with the least possible hardship on the part of our farmers.

I sincerely hope that a fair and equitable solution to this problem can be resolved.

JAMES A. STONECIPHER,  
*Chairman, Walla Walla County ASC Committee.*

COMPLIANCE WITH 1964 FARM WHEAT ALLOTMENTS ON ODD AND EVEN ROTATION  
FARMS

[Notice Wheat-22]

U.S. DEPARTMENT OF AGRICULTURE,  
WASHINGTON STATE ASCS OFFICE,  
*Spokane, Wash.*

To: County office managers.

Approved by: Stanton H. Ganders, State executive director.

1. PURPOSE

To inform county committees of the Department's position with respect to changing wheat rotations in 1964 on farms where allotments have been established on the basis of odd and even rotation.

2. BACKGROUND

It has come to our attention that some producers who, in 1964 will be in the low year of their odd and even rotation, are considering exceeding the allotment because quotas will not be in effect. Apparently, they feel that the loss of future allotment will be of little consequence since under present procedure it would not affect the allotment established for the high year. This matter is of grave concern to the Department since it would give an unfair advantage to this group of producers over other producers.

3. DEPARTMENT POSITION

We intend to provide authority in the 1965 farm allotment regulations for the county committee to establish a 1965 base acreage reflecting a regular rotation, rather than the odd and even rotation presently in effect, in every case where the producer does not maintain his odd and even cropping practice in 1964.

4. COUNTY ACTION

Where farm wheat bases have been established on the basis of an odd and even rotation, notify producers on such farms that regular rotation bases will be established beginning with 1965 if the odd and even rotation system is broken in 1964.

5. DISPOSAL DATE

COMPLIANCE WITH 1964 FARM WHEAT ALLOTMENTS OF ODD-AND-EVEN-ROTATION  
FARMS

[Notice Wheat-23]

U.S. DEPARTMENT OF AGRICULTURE,  
WASHINGTON STATE ASCS OFFICE,  
*Spokane, Wash.*

To: County office managers.

Approved by: Stanton H. Ganders, State executive director.

1. PURPOSE

To withdraw Notice Wheat-22, issued by this office 10-11-63.

2. ACTION

Withdraw from your files at once Notice Wheat-22, dated 10-11-63, and disregard any information thereon until further advice from this office is received.

## 3. DISPOSAL DATE

When above action is completed.

COMPLIANCE WITH THE 1964 FARM WHEAT ALLOTMENTS ON ODD-AND-EVEN-ROTATION FARMS

[Notice Wheat-26]

U.S. DEPARTMENT OF AGRICULTURE,  
WASHINGTON STATE ASCS OFFICE,  
*Spokane, Wash.*

To: Eastern Washington County Office Managers.

Approved by: Stanton H. Ganders, State executive director.

## 1. PURPOSE

To obtain recommendations from county committees on the problem of farms that are on an odd and even rotation, and have a zero or relatively small base for the 1964-crop year.

## 2. BACKGROUND

Wheat Notice-22 was sent to the counties but was rescinded by Wheat Notice-23 because the State Committee felt further clarification of the notice was necessary before county committees could take action on odd and even rotation farms. The Department felt that some producers who had a low year in their odd and even rotation would be given an unfair advantage over producers who were on a regular rotation, or where the difference in the odd and even rotation was small.

The Department also felt that authority should be provided in the 1965 Farm Allotment regulations for county committees to establish a 1965 base acreage reflecting a regular rotation rather than the odd and even rotation presently in effect, in cases where the producer does not maintain his odd and even cropping practices in 1964.

We have been advised that the adjustment authority would apply only in those cases where the wheat allotment in the even years is zero or relatively small, and in the odd years all the allotment or a relatively large allotment is applicable.

## 3. COUNTY COMMITTEE ACTION

County committees should review the odd and even rotation farms in their particular counties where the allotment is zero or is small compared to the allotment in the odd year, and should make recommendations to the State Committee as to the level at which adjustments should apply on odd and even rotations to provide equality of treatment to all producers in the county.

## 4. DISPOSAL AUTHORITY

January 1, 1964.

COMPLIANCE WITH 1964 FARM WHEAT ALLOTMENTS ON ODD-EVEN FARMS

[Notice Wheat-27]

U.S. DEPARTMENT OF AGRICULTURE,  
WASHINGTON STATE ASCS OFFICE,  
*Spokane, Wash.*

To: County office managers.

Approved by: Stanton H. Ganders, State executive director.

## 1. PURPOSE

To cancel wheat notices 22, 23 and 26.

## 2. BACKGROUND

The Washington office has advised us they have rescinded the provisions of their Notice GR-902, which were transmitted to the counties as Wheat Notice-22.

This action was taken because GR-902 was not issued in sufficient time to advise all affected producers of its provisions, prior to planting of the 1964 wheat crop. In view of the fact that some producers on odd-even rotation farms had planted all of their 1964 wheat crop before they were aware of this proposed action, we believe it would be inadvisable to implement the provisions of the notice for the 1965 crop year.

### 3. ADJUSTMENT FOR OVERPLANTING

As it did for determining 1964 allotments, Handbook 1-Wheat (Rev. 1) will provide that for 1965 and subsequent years, allotments determined for overplanted odd-even rotation farms will be reduced proportionately in both the high and low allotment year in those instances where history is not preserved by storage or delivery to the Secretary. This action will assure that overplanted farms on an odd-even rotation basis will be affected in the same manner as the farms on a regular rotation basis.

### 4. DISPOSAL AUTHORITY

March 1, 1964.

## COMPUTATION OF WHEAT BASES AS A RESULT OF HAVING WHEAT FOR HARVEST IN EXCESS OF 1964 ALLOTMENT

[Notice Wheat-29]

U.S. DEPARTMENT OF AGRICULTURE,  
WASHINGTON STATE ASCS OFFICE,  
Spokane, Wash.

To: County office managers.

#### 1. PURPOSE

To clarify computation of wheat bases in 1966 and subsequent years for producers having wheat for harvest in excess of 1964 allotment.

#### 2. COMPUTATION OF ALLOTMENT

For the producer having wheat for harvest in excess of the 1964 allotment, the 1964 allotment will become the 1964 history for the farm. The first year that the 1964 history will be used will be in 1966. Under present regulations computation of the 1966 base would be as follows: (1) for odd and even rotation farms the computation will be 80% of the 1964 wheat base and 20% of the 1964 history, and (2) for regular rotation farms it will be 80% of the 1965 wheat base and 20% of the 1964 history. Use of the above formula will result in approximately an 8% reduction in 1966 base.

#### 3. COUNTY OFFICE ACTION

Inform wheat producers of the above method of computing 1966 bases. *Emphasis should be placed on the fact this computation is based on present regulations. It does not take into consideration any changes that may be made in the Law by future congressional action.*

### 4. DISPOSAL AUTHORITY

September 1, 1964.

## WHEAT FARMS CONSIDERED OVERPLANTED IN 1964

[Washington Notice Wheat-88]

U.S. DEPARTMENT OF AGRICULTURE,  
WASHINGTON ASCS STATE OFFICE,  
Spokane, Wash.

For: County offices and county committeemen.

Approved by: Stanton H. Ganders, State executive director.

#### 1. BACKGROUND

The Washington Wheat Association has been endeavoring to secure the names of wheat producers who were considered overseeded in 1964. Although we have

interpreted this information as being restricted under paragraph 100 of Handbook 1-CA, it now appears possible that this interpretation may be reversed. According to our records, the following counties had overseeded farms as indicated:

Adams	219	Klickitat	30
Asotin	10	Lewis	9
Benton	118	Lincoln	313
Chelan	3	Okanogan	16
Clallam	2	Pend Oreille	2
Clark	11	Skagit	21
Columbia	78	Snohomish	2
Douglas	68	Spokane	325
Ferry	10	Stevens	122
Franklin	133	Thurston	1
Garfield	57	Walla Walla	178
Grant	440	Whatcom	5
Island	8	Whitman	353
Kittitas	70	Yakima	323

## 2. ACTION

Keeping in mind the policy outlined in paragraphs 96.5 and 97 of Handbook I-CA, each of the above counties is requested to prepare, in the following format, a listing of each farm considered overseeded in 1964. When completed, send this listing (original and one copy) to this office for final assembling and determination of disposition.

*Format:* Use 8" x 10½" paper, show the name and address down the left-hand margin and the following categories across the top, from left to right.

Name and address	Less than 15 acres allotment	Over 15 acres allotment	Zero allotment	Odd and even rotation		Basis of excess determination		
				Low side	High side	Measure on 578	Producers certification on 222 card	No reply to 222 card

Place a check mark (✓) opposite the producer's name in the applicable categories.

### SUPPLEMENTAL INSTRUCTIONS FOR ESTABLISHING 1967 PRELIMINARY FARM WHEAT ALLOTMENTS

[Washington Notice Wheat-89]

U.S. DEPARTMENT OF AGRICULTURE,  
 AGRICULTURE STABILIZATION AND CONSERVATION SERVICE,  
 WASHINGTON ASCS STATE OFFICE,  
 Spokane, Wash.

For: County committeemen and county office managers.

Approved by: Stanton H. Ganders, State executive director.

#### 1. BACKGROUND

In 1964 some farms under odd-even rotations had a zero allotment but, nevertheless, produced an acreage of wheat. Since the 1966 allotment was also zero, there was no opportunity to apply an appropriate overplanting penalty until 1967.

#### 2. REVISED PROCEDURE

Circled instruction 1B on page 3 of Exhibit 2, Handbook 25-GR, is being amended as follows:

B. For odd-even rotation farms, enter the product obtained by multiplying the preceding year allotment, column (6) by the applicable odd or even year special rotation factor. If the preceding year allotment is zero:

1. For 1967, reduce the 1965 farm allotment by the same percentage reduction by which the 1966 county allotment was reduced below the 1965 county allotment. Enter the results in column (4) on the current year line.

2. If the farm had wheat acreage in 1964 multiply the entry in column (4) times 93 percent, and enter the results immediately above the column (4) entry. Draw a single line through the original entry.

3. For 1968 and subsequent years enter the farm allotment for the second year preceding the current year as the preliminary allotment in column (4).

### 3. ACTION

County offices will apply the revised procedure to all cases in which a 1964 zero wheat allotment was overplanted.

### 4. NOTICE DISPOSAL

July 1, 1966.

## COMPLIANCE WITH 1964 FARM WHEAT ALLOTMENTS ON ODD AND EVEN ROTATION FARMS

[Notice GR-902]

U.S. DEPARTMENT OF AGRICULTURE,  
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE,  
Washington, D.C.

For: State committees.

Approved by: Ray Fitzgerald, deputy administrator, State and county operations.

### 1. PURPOSE

To inform State and county committees of the Department's position with respect to changing wheat rotations in 1964 on farms where allotments have been established on the basis of odd and even rotation.

### 2. BACKGROUND

It has come to our attention that some producers who, in 1964 will be in the low year of their odd and even rotation, are considering exceeding the allotment because quotas will not be in effect. Apparently, they feel that the loss of future allotment will be of little consequence since under present procedure it would not affect the allotment established for the high year. This matter is of grave concern to the Department since it would give an unfair advantage to this group of producers over other producers.

### 3. DEPARTMENT POSITION

We intend to provide authority in the 1965 farm allotment regulations for the county committee to establish a 1965 base acreage reflecting a regular rotation, rather than the odd and even rotation presently in effect, in every case where the producer does not maintain his odd and even cropping practice in 1964.

### 4. STATE ACTION

In those States where base acreages have been determined for any farm under paragraphs 61 B and C of 1-Wheat (Rev. 1), notify county committees of the Department's position.

### 5. COUNTY ACTION

Where farm wheat bases have been established on the basis of an odd and even rotation, notify producers on such farms that regular rotation bases will be established beginning with 1965 if the odd and even rotation system is broken in 1964.

### 6. DISPOSAL DATE

January 1, 1964.

COMPLIANCE WITH 1964 FARM WHEAT ALLOTMENTS ON ODD AND EVEN  
ROTATION FARMS

[Notice GR-914]

U.S. DEPARTMENT OF AGRICULTURE,  
AGRICULTURE STABILIZATION AND CONSERVATION SERVICE,  
Washington, D.C.

For : State committees.

Approved by : Ray Fitzgerald, deputy administrator, State and county operations.

1. PURPOSE

To rescind the provisions of Notice GR-902, dated 10-4-63.

2. BACKGROUND

It has come to our attention that Notice GR-902 was not issued in sufficient time to advise all affected producers of its provisions, prior to planting of the 1964 wheat crop. In view of the fact that some producers on odd-even rotation farms had planted all of their 1964 wheat crop before they were aware of this proposed action, we believe it would be inadvisable to implement the provisions of Notice GR-902 for the 1965 crop year.

3. ADJUSTMENT FOR OVERPLANTING

As it did for determining 1964 allotments, Handbook 1-Wheat (Rev. 1) will provide that for 1965 and subsequent years, allotments determined for overplanted odd-even rotation farms will be reduced proportionately in both the high and low allotment year in those instances where history is not preserved by storage or delivery to the Secretary. This action will assume that overplanted farms on an odd-even rotation basis will be affected in the same manner as the farms on a regular rotation basis.

4. STATE OFFICE ACTION

Advise county committees of the contents of this notice in those States where base acreages have been determined for any farm under provisions of Paragraph 61B and C of 1-Wheat (Rev. 1).

5. NOTICE DISPOSAL

March 1, 1964.

U.S. DEPARTMENT OF AGRICULTURE,  
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE,  
OFFICE OF THE ADMINISTRATOR,  
Washington, D.C.

To: Chairman, Washington ASC State committee.

From: Deputy Administrator, State and county operations.

Subject: Notice GR-902.

As you are aware, it was necessary to rescind the above notice because it was not issued in sufficient time to advise all affected producers of its provisions prior to planting of the 1964 wheat crop.

The delay in issuing the notice occurred in your State where the notice was issued to the counties, then called back and not finally released for about a month. This delay caused the Department to change its policy in all States with odd and even crop rotations, after the farmers had been notified which was not only embarrassing to us but confusing to both producers and county ASC committees.

Please advise us as to the identity of the person or persons responsible for this apparent violation of instruction, of the reason for calling the notice back after it was issued to the counties and for the delay in finally releasing it.

RAY V. FITZGERALD.

SPOKANE, WASH., January 14, 1964.

Mr. RAY V. FITZGERALD,  
Deputy Administrator, State and County Operations, Agricultural Stabilization  
and Conservation Service, Building W, U.S. Department of Agriculture,  
Washington, D.C.

DEAR MR. FITZGERALD: In reply to paragraph 3 of your memorandum dated January 10, GR 902 was sent out as Wheat Notice 22 by the State Office. It was the responsibility of the three members of the State Committee for calling back the notice, the reason being for clarification as stated in Wheat Notice 26.

The subsequent delay in finally issuing Wheat Notice 26 came about through securing clarification, and the time element between State Committee meetings. Final approval to Wheat Notice 26 was made during the November Committee Meeting. The time lag in getting out Notice 26 did not appear to be of great significance at the time, because Fall planting begins in Washington in August and is largely completed in October.

If the actions of the Washington State Committee in this matter constituted a violation of instructions, we wish to assure you that it was done unwittingly and unintentionally. We deeply regret any embarrassment we may have caused the Department.

Respectfully yours,

F. LEONARD GAFFNEY,  
Chairman, State Committee.  
WALTER A. LEPAGE,  
Member, State Committee.  
W. JAMES WYLIE,  
Member, State Committee.

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#### ANFUSO APPEAL HEARING—ODD-EVEN ROTATIONS

Gentlemen, my name is Jerry Rees. I am Executive Secretary of the Washington Association of Wheat Growers. I would like to introduce Bob Zimmerman State President and Gary Strohmaier First Vice-President. The Association is representing Washington wheat growers who overseeded in 1964 and were on established odd-even rotations and specifically Stan Wilcox, H. O. Wilson, Raymond Smith, George Reinbold, Robert L. Praetorius, William Sutherland, Erwin A. Bliesner, and Arnold Mittelstaedt. James Madden is also attending today. He has his individual hearing set for tomorrow that will be presented separately. Also attending is Robert Kramer who overseeded in 1964, but did not appeal to this level.

We appreciate the opportunity to appear before you. We realize that the ten-day period requesting a hearing by producers had expired before we were able to advise them of our assistance. We appreciate the extension in time for this meeting.

We wish to present our information on the basis of the State-wide problem pertaining to overseeding of the 1964 crop on Washington State odd-even rotation farms rather than on specific farm acreage detail.

#### BACKGROUND ODD-EVEN ROTATIONS

Odd-even rotations for farms were established by committeemen when allotments were established. In almost all cases, this was necessary to fit their type of farming pattern being carried out. In some cases, however, the acreage on both years is almost identical, but never the less established as odd-even. In some counties in Washington State, every farm is established as odd-even. Odd-even in Washington State means the rotation established for the odd numbered years and for the even numbered years (odd to odd) (even to even). This system has been indoctrinated into the producer, committeemen, and ASCS employees down through the years. A producer has been told that what he does on the odd year does not effect the even year and vice versa. This has been particularly true on allotment appeals where producers were required to appeal only the odd-year allotment on an odd-numbered year and even allotment on an even-numbered year.

I worked full time for ASCS from 1957 into 1966 and the philosophy has always been the same. It was part of my basic training as a new employee and drilled into me as an office manager trainee.

1964 was not the first year the Anfuso Amendment was in effect. We had many marketing quota exemption farms that overseeded their allotment in 1960 through 1963. They were on odd-even rotations. Through ASCS Interpretation of the regulation, they only lost history on an every other year basis as it fit their rotation.

We feel that the pattern was clearly established through the years by ASCS, and that both ASCS people and producers associated odd years with only odd years and even years to even years.

We also wish to make it clear that we respect ASCS employees and committeemen at the county and State level.

#### BASIS OF APPEAL

For 1964 overseeding, producers on odd-even rotations were told by ASCS employees and committeemen that they would lose base only on the even years—1966, 1968, 1970, etc. We also hope to show that this is entirely possible even with your efforts to administer the Anfuso Amendment in a different manner.

#### STATEMENT SUPPORTING APPEAL

The interpretation and application of regulations were nearly identical in all counties in Washington State—we have signed letters supporting this statement from committeemen in Franklin, Douglas, Lincoln, Columbia, Spokane, Garfield, Grant, Klickitat, Adams, and Whitman counties—these represent the major wheat counties in Washington State. Some of these were submitted in an original brief, some of these have been obtained since. Verbatim hearing transcript taken at State ASCS hearings also support this fact.

We have tried to show that those familiar with odd and even rotations in Washington State have established a mental image of odd and even rotations and their application. You ask why we didn't realize the application was not equitable to producers on regular rotations? I suppose it is because we grew into the situation over a period of years. You are well aware, also, that each year when allotment procedure came out, ASC committeemen, employees, and others would actively request procedure changes that would fit our odd-even situation—the changes requested were needed—and normally approval of the requests were received. We were also equally aware of new inequities between producers and also just as quick to point these out. Sometimes these were changed; sometimes they were not because of national requirements or because of the law.

October 11, 1963, the first direct notice (Wheat-22) was issued to the counties. It was entitled, "Compliance with 1964 Farm Wheat Allotments on Odd-even Rotation Farms."

#### *1. Purpose*

"To inform county committees of the Department's position with respect to changing wheat rotations in 1964 on farms where allotments have been established on the basis of odd and even rotation.

#### *2. Background*

"It has come to our attention that some producers who, in 1964 will be in the low year of their odd and even rotation, are considering exceeding the allotment because quotas will not be in effect. Apparently, they feel that the loss of future allotment will be of little consequence since under present procedure it would not affect the allotment established for the high year. This matter is of grave concern to the Department since it would give an unfair advantage to this group of producers over other producers.

#### *3. Department position*

"We intend to provide authority in the 1965 farm allotment regulations for the county committee to establish a 1965 base acreage reflecting a regular rotation, rather than the odd and even rotation presently in effect, in every case where the producer does not maintain his odd and even cropping practice in 1964.

#### *4. County action*

"Where farm wheat bases have been established on the basis of an odd and even rotation, notify producers on such farms that regular rotation bases will be established beginning with 1965 if the odd and even rotation system is broken in 1964."

This is the first notice of indication of the Department's position and is beyond the seeding date of a vast majority of the winter wheat seedings. Immediate objection arose for several pertinent reasons including:

(1) The 1964 overseeded acreage would not be completely determined by the time 1965 allotments were issued. Reference GR 892, Exhibit 2, Issued 8-14-63: "Under the present provision of law and regulations, non-compliance with the 1964 wheat allotment will have an adverse effect on the 1966 and future wheat allotments. It *will not have any effect* on the 1965 allotment since the 1964 wheat acreage will not be available when such allotments are determined."

(2) Changing the rotations would completely disrupt the farming system on many farms.

(3) It would not apply to many of the producers overseeding in 1964, because they were not changing their rotation by overseeding. (Odd-even rotation farms have all of one side of their ranch in crop one year, and all of their other side of the rotation in crop the next. In the terminology we use, they were not breaking their rotation. They were only seeding the balance of their available summer fallow to their predominate crop—wheat. They were maintaining what is now known as their normal conserving acreage.

It is also interesting to note that the notice did not alert ASC people that they were not relaying the Department's intentions when they stated the penalty for overseeding would start in 1966 and apply every even year, 1968, 1970, etc., as it stated under BACKGROUND. "Since under present procedure it would not affect the allotment established for the high year."

Wheat Notice-22 was cancelled on October 14, 1963, by Notice Wheat-23.

November 18, 1963, Notice Wheat-26 was issued requesting county committees to review odd and even rotation farms, "where the allotment is zero or is small compared to the allotment in the odd year" and to make recommendations.

Again it can be noted that it is covering change of rotation not a change in the Anfuso penalty as interpreted. "The Department also felt that authority should be provided in the 1965 Farm Allotment regulations for county committees to establish a 1965 base acreage reflecting a regular rotation rather than the odd and even rotation presently in effect, in cases where the producer does not maintain his odd and even cropping practices in 1964."

We understand county committee recommendations were generally not favorable to the adjustment authority.

December 23, 1963, Notice Wheat-27 was issued again cancelling Notice 22 and in addition 23 and 26. It stated:

#### "2. Background

"The Washington office has advised us they have rescinded the provisions of their Notice GR-902, which were transmitted to the counties as Wheat Notice-22. This action was taken because GR-902 was not issued in sufficient time to advise all affected producers of its provisions, prior to planting of the 1964 wheat crop. In view of the fact that some producers on odd-even rotation farms had planted all of their 1964 wheat crop before they were aware of this proposed action, we believe it would be inadvisable to implement the provisions of the notice for the 1965 crop year."

For those committeemen and employees working directly with the program, this was welcome news. The notice went on to say under Adjustment for Overplanting:

"As it did for determining 1964 allotments, Handbook 1-Wheat (Rev. 1) will provide that for 1965 and subsequent years, allotments determined for overplanted odd-even rotation farms will be reduced proportionately in both the high and low allotment year in those instances where history is not preserved by storage or delivery to the Secretary. This action will assure that overplanted farms on an odd-even rotation basis will be affected in the same manner as the farms on a regular rotation basis."

This again was "welcome news" as it provided a different method of penalty than evening the rotation and provided that it would take effect in 1965. This allowed ample time to notify producers of the effect of overseeding in 1965.

It is our contention that producers were not advised of the Department's notices on odd-even rotations and that producers with odd-even rotations were told that overseeding in 1964 would cause loss of history beginning in 1966—and it would continue to apply in 1968, 1970, etc. This is the reason why letters from the Department stating the penalty would apply beginning in 1966 meant 1966, 1968, 1970, etc., to Washington producers on odd-even rotations; not 1966, 1967, 1968, 1969, etc.

Mr. Stanley R. Wilcox in his appeal to the State Committee was told in his letter of denial that: "There was also evidence that the appellants had not been told during the time that they seeded their 1964 crops or prior to the 1964 disposition date that the 1964 overseeding would result in a decrease in their 1967 allotments. Apparently the appellants were told of the decrease in the 1966 allotments, but were not given any positive advice about the effect in 1967." The letter further states that: "The State Committee was aware of the effect of the overseeding in 1967 as early as October, 1963." The Chairman of the county committee from Mr. Wilcox's county was attending the same appeal hearing appealing a 1964 overseeding. F. Leonard Gaffney who was Chairman of the Washington State ASC Committee, also found it necessary to appeal his 1964 overseeding on the grounds of misunderstanding. His appeal was held October 24, 1966. We quote from the verbatim transcript in part (pages 9 and 10) \* \* \*

"Mr. CARLSON. But you weren't informed by the County Committee, you don't feel, until last fall, in any way, shape or form?"

"Mr. GAFFNEY. This is correct. As a matter of fact, I have to suggest that I misadvised some farmers apparently in the summer of 1963.

"Mr. CARLSON. Well, not the summer of 1963.

"Mr. GAFFNEY. Yes.

"Mr. CARLSON. I don't think anybody—you couldn't really call it misadvising them, could you? That is the way the regulation was then, it was effective every other year.

"Mr. GAFFNEY. Right. I stand corrected, but I mean advising them, I never went back and corrected my advice. The question was raised frequently during the last market quota referendum. I know I answered it in Harrington at the local grange, and I heard the answer somewhere else.

"Mr. CARLSON. I don't think there is any question about it that during the referendum of 1963 that it was explained on an odd-even basis to farmers and it may have been that some were more careful in explaining it than others, that it would be first effected in 1966 with the implication that it would be 1968 and so on, but I think in a lot of cases it was a pretty definite statement that it would be just on the even year.

"Mr. GAFFNEY. I agree, Mr. Chairman.

"Mr. CARLSON. We haven't been able to find anybody that doesn't say that is about the way it was at that time."

(Pages 16 and 17) . . .

"Mr. GAFFNEY. That isn't exactly my question. I am sorry if I framed it wrong. What I am saying is, my next door neighbor is on odd and even. He may have overseeded in 1961 and 1963 and he lost acreage only on the odd number years. I overseeded in 1964. This is the only year in which the odd and even farmer is caught with a penalty on both years.

"Mr. CARLSON. Well, I'll have to ask Tom if that is correct up until now, but what has happened now to a man who overseeded in those years?"

"Mr. PARKE. What years do you mean?"

"Mr. CARLSON. Well, 1961, 1963, or 1962.

"Mr. PARKE. They would have lost it just in the even to even and the odd to odd.

"Mr. CARLSON. What happened to them when you come up to now, when the regulation changed?"

"Mr. PARKE. They would have lost it.

"Mr. CARLSON. Would they start looking at every year now?"

"Mr. PARKE. No.

"Mr. WYLIE. They didn't refer to them.

"Mr. PARKE. It was only referred to the ones in 1964.

"Mr. CARLSON. That is what I was thinking. The rule says 1959 and subsequent years.

"Mr. PARKE. But the actual loss of history would only have been the even to even, and odd to odd.

"Mr. CARLSON. Prior to 1964?"

"Mr. PARKE. Prior to 1964.

"Mr. WYLIE. So what you are saying, Tom, those other years there is nothing changed as far as they are concerned.

"Mr. PARKE. No."

The statements here show that:

(1) The State Committee was not aware, at least the Chairman from the wheat area, that loss of history would apply on both sides of the rotation;

(2) That statements were made by ASC people that it could be only every other year and;

(3) That "actual loss of history would only have been the even to even, and odd to odd" prior to 1964.

We have continued to bring this to the attention to the Department (U.S.D.A., ASCS) because correspondence indicated that we were not obtaining clear understanding of our problem. We are not criticizing you for this because we realize what a big job this is in dealing with national programs.

Typical correspondence was a September 6, 1966, letter to Senator Jackson from the Department: . . .

"There evidently was a general misunderstanding in the Washington summer-fallow areas that overplanting a 1964 allotment would not result in a history loss for allotments approved in subsequent odd-numbered years."

We agree—there was a general misunderstanding.

"Such an interpretation is contrary to the clear legal intent of the Anfuso Amendment and nothing issued or released by the Department gave effect or credence to this improper interpretation."

Regulations issued by the Department and applied by ASCS people in 1960, 1961, 1962, and 1963 do not support this statement. Regulations, notices, and letters to clarify the Anfuso penalty did not clearly spell out the effect on odd-even rotations.

"Even though there were very few cases in which it was necessary to apply the provisions of the Anfuso Amendment prior to the defeat of the 1964 marketing quota referendum, handbook instructions issued on February 12, 1963, to our State and county offices clearly specified that when an overplanting penalty applied to a given year of an odd-even allotment, the farm wheat base for the next succeeding year would also be reduced by a proportionate amount. On the enclosed copy of a page from Handbook 1—Wheat (Revision 1), we have marked the pertinent paragraph."

There were many cases where it was necessary to apply the provisions of the Anfuso Amendment prior to the defeat of the Referendum. The penalty in Washington State was applied on every other year of the odd-even rotation. It is true that these were basically marketing quota exemption farms, but it did establish a pattern. The attached procedure also applies to "adjustment of computed base when a previous year's marketing quota penalty is paid or becomes due after the 1963 allotment notification." It is doubtful this provision would be checked unless a case was being considered—I know of none in Washington State where this would have applied.

"This clearly shows that at a time well in advance of the time of the 1964 Referendum or the planting of the 1964 wheat crop, administrative instructions had been issued to assure that a loss of history for overplanting would affect each subsequent year allotment for an odd-even rotation farm just as it does a regular rotation farm."

We don't believe in light of this review and to the actual happenings in Washington State that it clearly shows the statement here is supported by fact.

Many of these same statements were included as an attachment with the letter answering the appellant's request for appeal at the national level. In addition, it stated:

". . . In areas where most wheat allotments were based upon odd-even rotations, this facet of the law was misinterpreted by some producers of 1964 crop wheat. Thus, the theory that an overplanting in an even numbered year (1964) would only result in loss of allotment in subsequent even numbered years (1966, 1968, 1970, etc.) became a popular belief."

If this clearly was a misinterpretation, it was by ASC employees and committeemen and became popular belief through their action.

". . . Prior to and during the 1964 wheat crop planting season, instructional notices to county offices and letters furnished to all wheat producers emphasized that overplanting in 1964 would reduce farm allotments beginning with the 1966 farm allotment and that future allotments would be reduced."

This also is the crux of the problem—when it is stated: "1966 farm allotment and that future allotments would be reduced." It was understood to mean as we have been trained, 1966, 1968, 1970, etc.

". . . The application of the overplanting provision has always been uniform no matter what type or kind of wheat allotment was involved. The misunderstanding and misinterpretation that has occurred is extremely unfortunate since there is no justifiable basis for granting considerations to odd-even rotation producers when regular rotation producers must bear the full reduction dictated by law."

The application has not always been uniform.

## SUMMARY

(1) Farmers were told of the effect of the Anfuso Amendment by ASC on odd-even rotations—the effect was a penalty every other year (verbatim transcript of all hearings show a definite State-wide uniformity).

(2) Farmers financial decisions were based on ASCS information—at planting—whether or not to participate in the program passed by Congress on April 17, 1964—and prior to harvest.

(3) Releases did come out to committeemen, offices, and in some cases to farmers—they were not clear to those who have lived and worked directly with odd-even rotations.

It is odd that specific notices to farmers on odd-even rotation losses did not mention both sides of the rotation—or that the important procedure change was not explained to committeemen or managers in 1963 or 1964 when many, many informational meetings were held by the State ASCS.

(4) The Washington Association of Wheat Growers has felt that this has been a moral issue—inquiries started quietly and then built-up from there simply because we just couldn't believe that so many would be penalized for basing decisions on ASCS supplied information—this was a pencil decision, \$ and ¢—not an emotional decision.

Two-thousand and nine-hundred plus harvested over their 1964 allotment in Washington State—prior to 1964 and after 1964 we have been a high complying State.

Why then 1964?—Because—And I repeat myself—It was a mathematical decision—taking into consideration loss of history on odd-even rotation farms for 1966, 1968, 1970, etc.

(5) Over the years an understandable working relation has developed between ASCS and the producer. When a mistake is made by ASCS employees or committeemen, they have stood behind their work or statements. When the producer erred, he paid by plowing up acreage or by taking some other corrective action.

## SOLUTION

(1) That the loss of allotment be redistributed to the State, to the county, and in turn to each individual farm effected in the State.

(2) When this was first brought to your attention, it would not have been too difficult—we realize that it would be more difficult now. We do, however, hope it can be corrected, and we would work with you for a solution effective for 1969.

Mr. STROHMAIER. I would like to make one point clear at this time. The Washington Association of Wheat Growers and the appellants do not advocate the complete removal of the Anfuso penalty. It was completely understood, by all concerned in our State, that the reduction of allotments would affect only the even-numbered years commencing in 1966. These noncompliers were willing to accept a 7-percent reduction every other year. What we do advocate is this removal of the penalty that was inserted after the ballgame was over.

Mr. Chairman, I would like to read a notice which in itself proves that neither humans nor machines are infallible. This notice pinpoints the responsibility of the Department of Agriculture by the admittance that an error was actually implemented which created mass confusion. The text of this notice is as follows:

JANUARY 10, 1964.

To: Chairman, Washington ACS State Committee.  
From: Deputy Administrator, State and County Operations.  
Subject: Notice GR-902.

As you are aware, it was necessary to rescind the above notice because it was not issued in sufficient time to advise all affected producers of its provisions prior to planting of the 1964 wheat crop.

The delay in issuing the notice occurred in your state where the notice was issued to the counties, then called back and not finally released for about a month. This delay caused the Department to change its policy in all states with odd-and-even crop rotations, after the farmers had been notified which was not

only embarrassing to us but confusing to both producers and county ASC committees.

Please advise us as to the identity of the person or persons responsible for this apparent violation of instruction, of the reason for calling the notice back after it was issued to the counties and for the delay in finally releasing it.

RAY FITZGERALD.

The underlying reason for our presence at this hearing is to solicit the support of our congressional leaders. We hereby request the enactment of legislation which could correct the impositions of retroactive administration of the Anfuso amendment.

Speaking for the wheat producers of Washington State, thank you for the opportunity to present our case in an effort to seek justice by legislative relief.

Thank you.

Mr. PURCELL. Thank you.

At this point, I wish to say I have a request from Congressman Joe Skubitz asking that his statement on these bills which he forwarded to the subcommittee be incorporated in the record. Without objection, the statement submitted by Congressman Skubitz will be made a part of the record.

(The statement submitted by Mr. Skubitz follows:)

STATEMENT OF HON. JOE SKUBITZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. Chairman, I urge your subcommittee to favorably consider the identical legislation introduced by Mrs. May, a member of this subcommittee, and me. These bills—H.R. 10591 and H.R. 10685—provide relief for many wheat farmers who acted in good faith upon advice given them by representatives of the Secretary of Agriculture, and later lost wheat history and acreage as a result of their action.

PRECEDENT FOR THIS LEGISLATION

There is ample precedent for this legislation. Section 326 of the Food and Agriculture Act of 1962 (7 USC 1339a) flatly states that good faith performance by a farmer in following the advice of USDA officials should not cause him to lose allotment. *Such good faith performance should be considered the same as meeting program requirements.*

Although this precedent exists, in one situation involving hundreds, and perhaps thousands of wheat farmers, advice taken from the Department of Agriculture has cost valuable wheat history and acreage allotments.

ANFUSO AMENDMENT DIRECTIVES WERE MISLEADING

Directives from Washington, D.C. in the fall of 1963 caused some farmers to believe, under administration of the so-called Anfuso Amendment, they would lose acreage and suffer penalties in *even or odd years only*, if they over-planted in an *even or odd year*. Since, in many areas, an odd-even planting cycle prevails, this interpretation was entirely consistent with local planting practice. After it was too late to comply with acreage requirements, these farmers learned that USDA intended to penalize them every year, instead of every other year.

The Directives from Washington changed the interpretation of the Amendment—but the farmers could not change the history of their planting and harvesting with the same administrative ease—so they lost valuable acres of wheat through no fault of their own.

USDA REASONING FAULTY

Mr. Chairman, the Department of Agriculture has recommended against this legislation in their Departmental report. The Department seems to feel there are too many farmers who lost wheat history during the administration of the Anfuso Amendment to make this legislation practical. *I would suggest it is the*

*burden of the farmer, not the government, to prove his case and show that he had acted in good faith in his erroneous interpretation of the Anfuso Amendment.*

FARMER MUST PROVE HIS CASE

If the farmer cannot show he was misled by directives from the Department of Agriculture, he should not be granted additional acreage. But if he can show he acted in good faith in overseeding, there should be no rule, regulation, or administrative procedure denying him his rightful wheat acreage.

The department seems to feel those who did *not* lose wheat history during the six years of the Anfuso Amendment would be unfairly treated under my bill.

I categorically reject this reasoning. If a single wheat farmer has been *unjustly* denied wheat history, there is no basis for any suggestion that he should not be granted relief. Equal treatment and just administration of the wheat allotment acreage is all this legislation seeks to provide. On that basis, Mr. Chairman, I ask this subcommittee to report this legislation favorably.

Mr. PURCELL. Let me say before asking any specific questions that, in my judgment, I have never seen a better prepared statement than these statements we have just listened to.

At this point we will allow questions by members of the subcommittee of these four witnesses.

Mr. Foley?

Mr. FOLEY. You gentlemen do not in any way argue against the so-called Anfuso amendment. Is that correct?

Mr. STROHMAIER. That is correct.

Mr. FOLEY. There are people who have taken exception from time to time with the Anfuso amendment in terms of the severity of the penalty, and because of the continuing penalties, but you are not doing that; you are not here for that purpose?

Mr. STROHMAIER. No, sir.

Mr. FOLEY. Nor are you here suggesting that every person who is penalized under this Anfuso amendment, as he was in 1964, should necessarily be restored to his full wheat acreage? You are not suggesting that, are you?

Mr. STROHMAIER. No, sir.

Mr. FOLEY. What you are, in effect, saying is that there was a great deal of confusion and a great deal of misunderstanding at the time these regulations were changed or made more specific in 1964 and that confusion was natural and understandable, and you just want the Secretary to be able to correct if, in his good judgment, good-faith effort was made in reliance on instructions of representatives of the Department; is that it?

Mr. STROHMAIER. Yes, sir.

Mr. FOLEY. Under Mrs. May and Mr. Skubit's proposed legislation, is it not correct that the Secretary, as you understand it, would still have to make individual judgments on each particular case?

Mr. STROHMAIER. That is my understanding, yes, sir.

Mr. FOLEY. You are not trying to suggest anything else?

Mr. STROHMAIER. No, sir.

Mr. FOLEY. Let me ask a couple of other questions.

Mr. Madden suggested that in 1964 there was a wheat referendum which was voted down rather substantially nationally. What has been the extent of participation in the Food and Agriculture Act program in the State of Washington?

Mr. STROHMAIER. Mr. Foley, I would like to call on an ASC committee chairman, Mr. Danekas to answer that.

Mr. DANEKAS. In the State of Washington, we had one of the highest percentages of compliance.

Mr. FOLEY. That is, the highest in the United States? Is that not true?

Mr. DANEKAS. Yes, sir.

Mr. FOLEY. What was your sign-up?

Mr. DANEKAS. I believe it was 94.7—something like that.

Mr. FOLEY. It was over 90 percent, was it not?

Mr. STROHMAIER. Yes, the highest in the Nation.

Mr. REES. Yes, 94.9 percent.

Mr. FOLEY. Is that not the highest in the United States?

Mr. REES. Yes, it is.

Mr. FOLEY. So, there has been a history of cooperation and compliance with the wheat programs by the farmers in the State of Washington?

Mr. STROHMAIER. Yes, sir.

Mr. FOLEY. And your organization, Mr. Strohmaier, has supported and continued to support the Food and Agriculture Act of 1965?

Mr. STROHMAIER. Yes, sir; that is correct.

Mr. FOLEY. I do not want to belabor the point, but is it not true that the summer-fallow crop rotation in the State of Washington is virtually universal?

Mr. STROHMAIER. Yes, sir.

Mr. FOLEY. And that the experience of the farmers who participated in the program prior to 1964 was very specific: If they overplanted or overseeded that the penalty of the so-called Anfusio amendment would apply on the even year or on the odd year from whatever year they overseeded on?

Mr. STROHMAIER. Yes, sir, that is correct.

Mr. FOLEY. And some farmers deliberately overseeded with the expectation and the agreement that they would then incur the penalty on the odd or even year; is that correct?

Mr. STROHMAIER. Yes, sir.

Mr. FOLEY. And what we are talking about here is the clarification or the change of the rules in the middle of that process in which many of the farmers, in your judgment, were not aware of and were confused during this period and have, as a consequence, suffered a double penalty over what would have been normal in the past?

Mr. STROHMAIER. Yes, sir.

Mr. FOLEY. I will say, Mr. Chairman, that I think it is obvious to many of the members of this subcommittee that these regulations are very technical, and I am sure that the members of this subcommittee, in hearing the testimony, can understand this difficulty as to exactly understanding what the regulations mean. So it would seem to me that it is inevitable that there would be some confusion.

In addition, I want to say, in general, that what is requested here is extremely modest. It does not attempt to prejudice this matter. It does not attempt to make any decisions for the Secretary. It simply gives him the legal authority to do whatever in his judgment he thinks is the fair thing to do. In English law, in common law, the final and ultimate appeal was to the Crown where the sovereign could correct any action that was taken by the government or by any of the ministers which were improper. In European countries, they now have

“ombudsmen” who have the authority to reverse any action. This is modern government. I would say that this principle could be universal, so far as I am concerned. I do think that every department of government should have a provision of this kind in every regulation that it issues.

I very strongly urge the subcommittee to consider this legislation favorably. However, it is up to the Secretary to make these decisions. We are not asking him to do anything except to use his own good judgment.

Mr. PURCELL. Mr. Foley is an expert on wheat and on farm matters and a very adept student of history, as he has shown. In addition I have never known him to be so familiar with European terms, and I now see that he is an expert on preconstitutional law.

At this time, I will call on Mr. Brasco.

I want you to realize that he is a follower of Mr. Anfuso.

We have distinguished men on this committee from many well-known places. He is from the borough of Brooklyn.

I now present to you our best known Brooklyn farmer, Mr. Brasco.

Mr. BRASCO. Thank you, Mr. Chairman.

As you can imagine, we have not had this problem in my district.

One thing concerns me very much, even without the comments made by my colleague, whom I respect and admire very much—particularly in matters of agriculture—but it seems to me that what you are saying here is that these farmers deliberately violated the Anfuso amendment that caused a penalty, as I understand it, on either the even or the odd years, depending upon in what year the violation took place. It was a deliberate violation. Everyone knew that this law was in effect, and that he had overseeded or overplanted in violation of regulation and they deliberately did that knowing there would be a penalty. Is that correct?

Mr. STROHMAIER. Yes, sir; they did.

Mr. BRASCO. Now, they are coming in here complaining and saying “Wait a minute. We would not have done this if we had known there was a penalty that applied to both the even and the odd years.”

I just do not know that that is a just and proper defense, because, if I may draw an analogy, let me say that I am no expert on farming, and I do not know how much expertise I may have in law, but I do have some background in law. I practiced criminal law for 10 years. I do not mean to intimate or say that this situation is a criminal situation, but I think that it would be a heck of a state of affairs if some of these boys convicted of crimes came in and said, “You have got to turn us loose now. When I stole the automobile I did not know that I would be subject to 10 years. I thought I would be subject to 5 years’ penalty.”

With knowledge of penalty, these farmers deliberately violated this section. I do not know the full background of this section, but I assume that overplanting has some ramifications, and I assume by sheer arithmetic that they wanted to overplant 100 percent, and they got an 8-percent reduction. It will take them about 15 years to undo the unfair advantage that they obtained by overplanting in the first place. That disturbs me. I would like to have your reaction to that.

And why we should give relief to these farmers is another thing. I am not so sure that they did not understand at the time what the

penalties were; and drawing from my experience, farmers are quite knowledgeable about programs that affect them, but that is neither here nor there. Assuming that they did not know about these double penalties, why are you seeking relief under those circumstances?

Mr. STROHMAIER. I will call on Mr. Gaffney to answer that question.

Mr. GAFFNEY. Mr. Chairman, I can attempt to do so. In the first place, I am not a lawyer; I was not even a guardhouse lawyer when I was in the service.

Mr. PURCELL. Would you take that microphone and place it in front of you? It is hard for us to hear up here.

Mr. GAFFNEY. I am not sure that I am capable of answering Mr. Brasco's question too well, but I would like to take a stab at it.

In the first place, I do not think the farmers felt like they were breaking the law. There was a regulation in farm matters, even in wheat allotment programs. It is no law that you have to comply with a program. You have an option to be a complier and to participate in the program in which the farmers usually do, and if you follow that procedure you are subject to certain program benefits and penalties if they are applicable, and if you are not in compliance you are subject to a different set of penalties and procedures that are applicable. But I do not think a noncomplier is breaking the law, and I do not believe that even when we had marketing quotas and referendums that were favorable that a person who elected to produce outside of the program was a lawbreaker, but he knew what the penalties were.

This might be a corny illustration, but to me it seems like a ball game where you are told for clipping it is 15 yards penalty, and you go into the ball game that way, but then the referee says, "No, we are going to mark off 30 yards," and then you are stuck with the 30-yard penalty for the rest of your life in a continuing wheat allotment program.

And I think it was pointed out that in 1964 the overproduction was the only year in Washington State when this happened. Prior to this time this had not been in effect. After the crop was planted the regulations were changed, and since 1965 it has been held in abeyance because it was voluntary I believe—because of the voluntary aspects of the program, I believe.

So, one year you have a 30-yard penalty and it was not for breaking the law, it was for seeding outside of the wheat allotment when there was no marketing quota in effect.

It was a time when people made judgments that they did not make some other years, because this is the only year we have ever had the wheat allotment in the United States and no marketing quotas.

I should like to say that I supported the Anfuso amendment as a member of the Grange and the Washington Association of Wheat Growers very much for the reasons as outlined by Mr. Fitzgerald early in the testimony, because the wheat acreage was leaving the historic wheat-producing areas and the man was being rewarded for over-seeding.

To make another point, if I may, possibly: Why does a person take back the penalty?

I do not think we touched very much on the fact that some people lose wheat acreage because of the double penalty, even though their ground was not in production. And, very briefly, if I can get the il-

lustration across, we will take an operator who farms for several different owners. Let us say he has owners A and B and had them in 1964, and owners C and D that he farmed for in 1965 and 1967 and 1969 in rotation. While this farm may have only one farm member it receives treatment as though it were one farm for the purposes of the U.S. Department of Agriculture.

Well, to kind of get in line with Mr. Foley's thinking there about the law and the offense to the Crown, owners C and D's ground was idle in 1964. It was in summer fallow. But because the operator overplanted on growers A and B, owners C and D are losing acreage now indefinitely because of the application of the penalty or the change in the penalty.

I would certainly not want to malign the memory of the late Representative Anfuso, because the Washington State Association of Wheat Growers supported his program.

Mr. BRASCO. Again, may I ask this: You are saying that historically that this was before this?

Mr. GAFFNEY. That is correct.

Mr. BRASCO. You are saying that the only exception was the year 1964?

Mr. GAFFNEY. This is the greatest year of noncompliance.

Mr. BRASCO. You represent wheatgrowers?

Mr. GAFFNEY. At this hearing, Congressman Brasco, I am just representing myself, but I am appearing in support of this.

Mr. BRASCO. Do you grow wheat in Washington?

Mr. GAFFNEY. Yes.

Mr. BRASCO. Did you overplant that year?

Mr. GAFFNEY. Yes.

Mr. BRASCO. Did you know the regulation yourself?

Mr. GAFFNEY. Yes.

Mr. BRASCO. You knew about the double penalty, did you not?

Mr. GAFFNEY. No.

Mr. BRASCO. How long was the double penalty in effect?

Mr. GAFFNEY. Well, that depends on when the individual got the word, Congressman Brasco.

There are several other fellows here—

Mr. BRASCO. How did you get the word, so to speak?

Mr. GAFFNEY. From the county office.

Mr. BRASCO. And you mean that you did not get the word from the county office that there was a double penalty?

Mr. GAFFNEY. No, sir.

Mr. BRASCO. How much did you plant, or do you plant?

Mr. GAFFNEY. I have 1,500 acres, approximately. We have one-half of it in crop every year, approximately.

Mr. BRASCO. You are allowed to plant 1,500 acres. Is that large?

Mr. GAFFNEY. That is a little bit larger than the average in Lincoln County, but it is not huge, and, of course, it is not small. The average farm is a couple of hundred acres. Farm sizes are increasing. Farmers are leaving and farm operations are expanding.

Mr. BRASCO. Besides representing yourself, you do represent other wheatgrowers?

Mr. GAFFNEY. I am appearing on behalf of the association.

Mr. BRASCO. Were you at that time, in 1965 or 1964, whenever the violations occurred?

Mr. GAFFNEY. I was working with the Department of Agriculture, serving on the committee.

Mr. BRASCO. You were employed by the Department?

Mr. GAFFNEY. Pardon?

Mr. BRASCO. Were you employed by the USDA?

Mr. GAFFNEY. Yes, sir.

Mr. BRASCO. And you still did not know about this?

Mr. GAFFNEY. I did not know, no.

Mrs. MAY. Will you yield at that point?

Mr. BRASCO. It sounds rather strange. [Laughter.]

I will be quite candid about it.

Mr. GAFFNEY. I agree with you.

Mr. BRASCO. I wish that Mr. Foley was back here.

Mrs. MAY. Will you yield?

Mr. BRASCO. I want to make a point. I will yield.

Mrs. MAY. Mr. Brasco, I know that you came in late, but have you read the testimony of Mr. Gaffney and Mr. Strohmaier, Mr. Madden, and the others? They presented a very clear and well-worked-out statement explaining this situation exactly. It becomes very obvious to anyone that wheatgrowers in Washington could have suffered this confusion from the way orders were issued and then canceled, the way cancellation of previous orders came in after the crop was planted. If you have time to read their statements, it will become very clear to you that conflict in directions and explanations by USDA representatives created the misunderstanding.

Mr. BRASCO. That is something that I will have to consider.

Mrs. MAY. This is the reason we are here.

Mr. BRASCO. I will have to consider that, to make up my mind on this piece of legislation.

The thing that is disturbing me seems to be that the boys out in Washington sat down and figured out that they, if they broke the rules and regulations, would be subject to one kind of penalty—and they just got caught up—

Mrs. MAY. If you will yield again.

Mr. BRASCO. And they are going to be slapped twice instead of once, and they are running here to say, "Why, you changed the signals on us."

Mrs. MAY. Mr. Brasco, if you will yield for one further point.

Mr. BRASCO. Yes.

Mrs. MAY. In the application of any farm program we are not talking about penalties for malfeasance or criminal charges. This concerns regulations issued by the USDA, how they shall apply and as to what growers will not get as a benefit or as a penalty, if you wish, if they do not comply in a certain way. All this must be background to the kind of business decisions that are finally made in deciding how to plant a crop. The financial circumstances in which a farmer finds himself at the time of planting is a most important decision factor, too.

May I just say this further? Would you put your question to Mr. Madden, whose statement is very clear cut?

He was a farmer faced with this hard decision because of very unusual circumstances. And I think that on page 1 of his statement you will find the answer.

It is up to you. It is your time, excuse me. I think you ought to give Mr. Madden a chance to respond as a farmer who made this decision,

not to break the law but to make a sound choice for his economic future. As an alternative he stated if he did not plant—

Mr. BRASCO. All right—I do not want to use all of the time, I just want to straighten something out in my mind.

Mrs. MAY. Mr. Madden is the gentleman right there.

Mr. BRASCO. May I ask you, in line with this question, I assume that the individuals who are involved, those who violated the regulations, were part of the program, otherwise, they would not be subject to the penalty; is that not correct?

Mr. MADDEN. Through my historical allotment in wheat history, I became a part of the program.

Mr. BRASCO. When you talk about a voluntary and nonvoluntary nature of the program through this historical allotment program, does every wheat farmer in Washington come under the program?

Mr. MADDEN. If he decides to participate. We are given the choice to participate, and I think a point that must be made here is, as Congresswoman May has pointed out, that by my not participating I do not become a criminal.

Mr. BRASCO. I am not suggesting that. You decided not to participate in the program; is that correct?

Mr. MADDEN. This was my choice.

Mr. BRASCO. And I assume there are some benefits, otherwise there would not be a program—you then decide to take the benefits of the program, and when you decide that it is to your advantage not to be a member of the program, then you do as you please and come in here for relief. Is that correct?

Mr. MADDEN. I think, Congressman Brasco, that what Congresswoman May said was that in my testimony on page 1, it becomes an economic problem which we did have, and where we do sit down and we have to figure these things out.

Mr. FOLEY. I think there is some confusion there, because the programs are operated differently now than at the time that the penalties were incurred. It is no longer possible to incur the penalty; that is, the Anfuso amendment penalty, under the present program, because if you overplant you do not get your certificates, and there is no change in the acreage allotments. We are talking about a situation that existed prior to 1964 and perhaps prior to the passage of the 1965 act.

Mr. PURCELL. Mrs. May?

Mrs. MAY. I would like to yield to other members.

Mr. PURCELL. Mr. Kleppe, I think, has to go someplace else.

Mr. KLEPPE. Thank you very much, Mr. Chairman.

I would just like to add to what the chairman has just said, but not only as to the text of your presentation, but also the manner of your presentation. I think you have done well; that you have presented it to this subcommittee very well.

Let me see if I can straighten myself out on a few things by asking a few, maybe very academic, questions. I may be a little bit confused myself.

I do not think that I am quite as confused as our colleague from Brooklyn.

So, let me proceed, if I may.

First of all, I would like to refer to Mr. Gaffney's statement. On page 5, Mr. Gaffney, you talk about the USDA notice GR-914, with

reference to the even and odd years, and you said then that you failed to recognize the change.

My question is: What would you have done if you had recognized the seriousness of the change?

Mr. GAFFNEY. As I understand it, this came after I was off the committee, but from my appeal to the county and State committees and in conversations with the people who are now in it, it is my understanding that the Department felt that this was a very clear notice that they were going to change the regulations in 1964 to affect the 1964 crops and subsequent 5 years by the Anfuso amendment, and this is what we failed to read into it, in my judgment.

What we have done—which is your question, Congressman Kleppe—or what we would have done, it would have been our responsibility, to the county committeemen and the field staff that represented them, in some uncertain terms to make this known. It would have required several area meetings where we would have outlined the provisions just exactly as we possibly could and to advise them to notify every farmer.

Mr. KLEPPE. You, as an individual wheatgrower, what would you have done, what could you have done, to retain the percentage of wheat acreage that you thought you were entitled to?

Mr. GAFFNEY. You would have had to plow it back and to plant an alternative crop that would be acceptable to the Department. I believe at that time it could have been in barley. And if you were within the wheat acreage allotment and destroyed the wheat crop and put it into barley if it was early enough in the year. This has to be pretty early in the spring, you know, because, otherwise, you cannot do it—or by disposal. That is, by July 15, in Washington State, the latest that you could destroy the crop, some way or another.

Mr. KLEPPE. From the standpoint of your own judgment, from the standpoint of your own operation, would it have been a good business decision for you to have done that if you had known of the severity of the penalty?

Mr. GAFFNEY. Well, it is easier to look back.

Of course, I would have been far better off to have destroyed the crop for two reasons:

The double penalty is the first one. It discounts the value of the property; there is no question about that.

But the other thing is that I did not have a particularly good crop. I knew what I had to raise to come out even. And also, for Congressman Brasco's benefit, of course, you are ineligible for any benefits of the program when you overseed, too. I was ineligible for price supports and payments, and I would have had to have a better crop.

I actually lost money by being out of the program, but that was my fault and not someone else's.

Mr. KLEPPE. You have said previously that you did not know of the double penalty situation under the Anfuso amendment?

Mr. GAFFNEY. That is correct.

Mr. KLEPPE. Do you have any idea as to why you did not know?

Mr. GAFFNEY. Well, I am told—I hate to admit that I am that stupid, because I have been told that, in other States, there was not too much of a problem, that it came through more clearly; but I would say that the communications between our State and the Department broke down to a certain extent.

Mr. KLEPPE. Do you know of any other State where this confusion, this difficulty occurred or is still prevalent to some degree?

Mr. GAFFNEY. Not to my knowledge.

Mr. KLEPPE. Not to your knowledge?

Mr. GAFFNEY. No.

Mr. KLEPPE. In other words, you are saying to the subcommittee then that the only State that has this odd-even rotation system and summer-fallow is the State of Washington?

Mr. GAFFNEY. No, sir, I would not say that. There are odd-and-even rotations in some of the other States, though not to the extent it is in Washington State I do not believe. I know that in Oregon and Montana and parts of Idaho, they save some odd-and-even rotation.

Mr. KLEPPE. I know this, too. And this is why I asked. I was curious as to why it hit the State of Washington so severely and that we have not heard from some of the other States about the problem.

Mr. GAFFNEY. That is a very good question that I cannot answer. I have heard that they got the word out better than we did.

Mrs. MAY. Will you yield for a moment?

Mr. KLEPPE. Yes.

Mrs. MAY. Of course, we do have a statement from Mr. Skubitz to the effect that it did occur in parts of Kansas, also in certain areas of Montana, but not on such an overall basis.

Mr. KLEPPE. Not so severely?

Mrs. MAY. No.

Mr. KLEPPE. All right.

Further in your statement you indicate that because the Anfuso regulation had not applied since 1965, do I interpret that correctly, that the direct application of the penalties of the Anfuso amendment have not been applied since 1965 but that indirectly you have suffered?

Mr. GAFFNEY. Not indirectly. I did not get that too clearly there. What I want to get across is the year 1964 in Washington was the only year that was a double penalty. That was the only year that we had this confusion of allotments and no market. Since overseeding does not make any difference, because you have held the Anfuso amendment in abeyance. But the penalty goes on and on.

Mr. KLEPPE. Insofar as your allotted acres?

Mr. GAFFNEY. That is correct.

Mr. KLEPPE. That would be the indirect application referred to in my question.

Then, on the last page you say that this acreage was redistributed in the United States but that it was of little economic gain to the recipients.

Mr. GAFFNEY. Yes, sir; as I understand it. As I understand it, it took 30,000 acres out of Washington State—or whatever the figure is, 20,000 or 28,000 acres—and by some formula that amount was given back to everyone including the noncompliers—some 30,000 acres were distributed among 49 or 50 million acres of the national wheat acreage allotment. And the fellow who got a portion of that did not know it in most cases, but the fellow who lost it certainly did know it.

Mr. KLEPPE. I would like to go to Mr. Rees for a minute, if I may.

On page 2 of your statement, in the middle of the page, you talk about when the quotas were voted on that apparently large numbers of the farmers were overseeding, and so forth. Do I understand you cor-

rectly to say that you would not be complaining about this situation if it were not for the double penalty? In other words, the 7-percent loss in acreage allotments is really what is hitting you and this is what you are complaining about, that if there would have been an average of the odd and even years which would have figured out at 3.5 percent, that this would be normal and you would not be complaining; is that correct?

Mr. REES. I would not be complaining at all about it if the farmers had been advised of the double penalty when they made the decision for 1964. We would have taken this into our figuring and would have determined when the program came through in 1964 and could have made a decision.

Mr. KLEPPE. I can understand this all right; this is not the point I am getting at. I am trying to get at this point: Are you really raising the issue about this thing because of the double penalty, because of the fact that the application of the penalty under the Anfuso amendment came about at the wrong year for you? If the odd- and even-year rotation or summer fallow would have evened out, would have been average, as it is where they have evened in summer fallow, that you would not have had any complaint now for readjustment under this Anfuso amendment?

Mr. REES. We would not have had any on regular rotation farms, because they were advised by the ASCS personnel that the penalty applied every year.

Mr. KLEPPE. Do you stick with the advice—I do not quite question that. I am not trying to get away from that. I was just wondering if this other aspect I have just recited had some application to your thinking insofar as you are concerned about this.

Mr. REES. My only complaint is that the producers did not know the penalties; they were advised differently by the ASCS personnel and therefore did not take it into consideration.

Mr. KLEPPE. All right. I do not know but what I should maybe address this question to you, Mr. Strohmaier.

In seeking this correction through this legislation, H.R. 10591, is it right to state that the Secretary of Agriculture has a reserve acreage that can be utilized in correcting these problems that you are talking about without affecting the individual allotments of wheat farmers elsewhere?

Mr. STROHMAIER. It is my understanding, sir, that there is a reserve that can be utilized by the Secretary of Agriculture.

Mr. KLEPPE. Do you know how much that is?

Mr. STROHMAIER. No, sir; I do not.

Mr. KLEPPE. That is probably an unfair question, but it is my understanding, too, that he has such a reserve. This would affect the allotments for other wheat farmers around the country. It might not impinge on the wheat farmers in my district. They operate on the even rotation system, by and large. I did understand there was such a reserve available, and I was wondering if you knew that.

Mrs. MAY. Would you yield for a moment for a question?

Mr. KLEPPE. Yes; I would be glad to.

Mrs. MAY. Mr. Hofer of the National Association of Wheat Growers is here today and desires to have a chance to make a short statement. I note that the USDA witnesses said that they did not feel it would

be fair to penalize other growers in the United States by taking acres away from them.

Would you mind, Mr. Hofer, responding to that question on behalf of the National Association of Wheat Growers?

How do the wheatgrowers throughout the United States view that statement or that point of the argument?

Mr. KLEPPE. May I just say "Thank you for the suggestion."

**STATEMENT OF GLEN HOFER, EXECUTIVE VICE PRESIDENT,  
NATIONAL ASSOCIATION OF WHEAT GROWERS**

Mr. HOFER. Mrs. May and members of the committee, we, in our convention, did take a stand supporting this in full knowledge of what this implied, so far as other wheat farmers in other States were concerned, knowing that it was somewhat focused in the State of Washington. I must say that the leadership understands the problem, understands what has occurred, and believe that these people should have recourse to some correction of the inequities that occurred from this misinformation. I would say that many of the farmers in your district who were not as close to this and have not heard all of the arguments in explanation as one might have heard in Mr. Fitzgerald's statement, in his testimony, saying that these acreages would have to be taken from all of the compliers and given back to the noncompliers who were kind of wrecking the program. I think they would be tempted to not approve of that.

However, I would say this: That this kind of thing can happen to any farmer in any State. He could get misinformation from his county committee and office. They know that. And they would like to see, I am sure, some protection, because the county committee system is important to the farmers—that is his line of communication. And when his reliance upon that is shaken through hearing that in another State something like this occurs, I am sure that he would be very much in favor of this kind of legislation, giving recourse to these people, even though it would—I am not sure exactly how they are going to handle the reserve thing, but even if it was going to cost him something, I am sure that he would like to see this type of protection afforded him.

Mrs. MAY. I think what I would like to say, in addition to what Mr. Hofer has said, that the legislation, as has been pointed out by Mr. Foley, makes no attempt to prejudge the injury to any individual farmer. It merely gives the USDA that which they have told us they do not have, and, that is the right to correct an injustice that occurs when misinformation causes producer losses in any area of this country and not just in Washington State. I do not know that any of the Washington State wheat farmers would ever recover history under the provisions of my bill; they would have to prove, as pointed out in Mr. Fitzgerald's statement, that they have positive proof that a farmer received misinformation before giving relief. The text of the bill that I have introduced refers to any farmer under any program who might have made a wrong decision, based on misinformation from Federal officials on whom they must rely. In other words, if it happened to our farmers in Washington State, it could happen to your farmers, and we feel that the Government should have some flexibility to be able to correct an honest error, whoever committed it in the Department.

Mr. BRASCO. Would you yield for a question?

Mr. PURCELL. Mr. Kleppe has the time.

Mr. KLEPPE. I only want to say that I certainly think that this is a legitimate and just proposal. It seems to me when errors are made that the same people who might have been responsible for creating the legislation are the same people who should correct the errors, and this should be passed if this is what the Department needs to correct a wrong.

It is quite obvious that you have presented a very factual case as to just what has happened in your area. I have had my questions answered.

I do appreciate this opportunity.

Mr. PURCELL. Do you have a question?

Mr. BRASCO. Just very quickly, directed to Mrs. May.

You have been in touch with the Department on this question?

Mrs. MAY. We have spent almost 4 years on this, seeking every possible relief. We did not come to this committee until everything had been explored.

Mr. BRASCO. I just wanted to know that.

Are we talking about actual misinformation? I am not familiar with this. This is something that I am trying to rectify in my own mind. Are we talking about a situation, say, where the Department of Agriculture sent out a bulletin with misinformation in it, where they said: "If you overplant, you are subject to the penalties in the odd years and not otherwise, not a continuing penalty," or are you saying that the USDA did not send any information to the farmers in question?

Mrs. MAY. One, let me answer the question backward.

I do not think that anyone will ever claim that the Department of Agriculture here in Washington failed to send out bulletins on this. If you will follow the testimony that was presented here on how it happened, you will learn that there were orders that went out followed by orders that canceled those orders, followed by other orders that went out. It is perfectly reasonable that they have found out some certain applications of these orders were resulting in effects they did not anticipate. I am speaking of the history of it. These went through the channels of the State ASCS office. No one is attempting to place the blame on individuals or offices, because it would be impossible, Mr. Brasco. It was a breakdown not only of mechanical means of getting that information but of human interpretation along the way.

Mr. BRASCO. What you are saying is that the wheat farmers, the wheatgrowers, misinterpreted the information that they did receive?

Mrs. MAY. Not the wheatgrowers, not the wheatgrowers. The people upon whom they depended to interpret that work with the Federal Government, in one of these capacities, in the county offices, misinterpreted or had it misinterpreted to them. They drafted the wrong answer to the questions, and on the basis of that, the people felt they knew and they made their decisions, farming decisions, which resulted in penalties, whereas if they had known there were penalties that were going to be incurred they would not have ever done so.

Mr. BRASCO. What you are saying is that the representatives of the wheatgrowers—

Mrs. MAY. The USDA.

Mr. BRASCO (continuing). Misinterpreted the bulletins as to whether or not there would be a penalty on the odd or the even, or whether it was a penalty in one only.

Mrs. MAY. That is what we are saying—that is right.

Mr. FOLEY. Will you yield?

Mr. BRASCO. I do not understand it.

Mr. FOLEY. Will you yield?

Mr. BRASCO. Yes.

Mr. FOLEY. I think that the statement Mrs. May made expressed it very well. We are not suggesting that the USDA here in Washington made this error. It was a matter of communication from the ASCS office in Washington to the State offices, to the county committees. The communications system somehow broke down along the way. But I would say this, too, that this certainly has reference to the USDA. Somebody, I think, who was writing regulations and who takes care of communications should know that there should have been, in big bold type, language saying, "this means that the penalties apply on both sides, odd and even." If that had been done, it would have immediately been intelligible to any farmer in the State of Washington. This means that the Anfuso amendment applies every year, odd and even, wherever violations occur.

Mr. BRASCO. There are all sorts of ramifications here.

Mrs. MAY. I think here I am very sympathetic with the way that these orders were written by someone in the USDA back here in Washington. I am still trying to explain to the members I have served with on this committee—and I am sure that the gentleman agrees with me—what summerfallow means. There are those in the USDA who understand plain summer fallow farming and do not sometimes understand summer fallow on rotation farming. So, the directive was written about one package of wheat growers, and it did not include, I think, the idea—I am just now guessing—of how this was going to work in our odd-and-even rotation areas. I can only assume that maybe this is why the language was not such in the directive as the gentlemen suggested it should have been. Had it been, it certainly would have helped.

Mr. PURCELL. At this time, I am going to recognize Mr. Zwach who always has a sympathetic ear for farmers. We will hear from you now, Mr. Zwach.

Mr. ZWACH. Thank you, Mr. Chairman. I have to go to another meeting very soon.

Mr. PURCELL. To check parity?

Mr. ZWACH. I understand this involves about 24,000 acres. I do not know which gentleman expressed that figure. Is that correct; that is, of Washington wheatland?

Mr. REES. There are various figures on it.

Mr. ZWACH. Somewhere in that area?

Mr. REES. It is in a letter signed by Horace Godfrey.

Mr. ZWACH. How many farmers are involved that have this penalty?

Mr. REES. We are relying on the ASCS notice—I believe 87 or 88 in Washington State.

Mr. ZWACH. About 85 to 90 farmers?

Mr. REES. No; 3,000 farmers.

Mr. ZWACH. That is in the entire State?

Mr. REES. No; that is the number who are involved with this penalty.

Mr. ZWACH. That is the number.

How many wheat farmers do you have in the State?

Mr. REES. Approximately 12,000.

Mr. ZWACH. About 12,000?

Mr. REES. Yes.

Mr. ZWACH. About one-quarter of them did not have the information here. What about the others who complied? There must have been about three-fourths of the farmers who complied and did not get involved in overplanting; how did they get their information?

Mr. REES. Well, the ASCS held meetings all over the State to inform farmers on the conditions. As I stated in the testimony, they were concerned particularly, after the program of 1964 was announced, about what the options were, and after their questions at these ASCS meetings they were told that the penalty would justify on the even year and not on the odd year, because this had been a question.

Mr. ZWACH. So, these others chose to take the penalty for 1 year, the 3,000—and 9,000 chose to comply. This is basically what it is?

Mr. REES. This is basically correct.

Mr. ZWACH. And then the Department's interpretation came along and said "This is going to be over the full odd and even, with the double penalty?"

Mr. REES. They sent out these notices in the fall of 1963 after the crop was seeded, but the ASCS meetings, when the decisions were made by the farmers, were held in the spring of 1964 after all of the notices and confusion had taken place, and the ASCS committees, State and county, evidently, did not still understand it, because they did not impart this information to the farmers who were deeply concerned.

Mr. ZWACH. But there were these 3,000 who decided that the crop is better than the penalty if it just applied to 1 year? Would that be approximately it? I am a farmer, too. I know if I was to plant, I would know what my penalty would be. It is a contractual agreement. I suppose, in sense by what we call the Anfuso amendment, that there were a lot of other wheatfarmers throughout the United States that were penalized because of that amendment.

I would like to direct a question to Mr. Fitzgerald on that and ask him how many penalties there were in other States, with regard to the Anfuso amendment?

I wonder if we have anything on that?

Could I ask that question?

Mr. PURCELL. Yes.

Mr. ZWACH. Were there other areas penalized under the Anfuso amendment?

Mr. FITZGERALD. Mr. Chairman, I am sure that everybody who overseeded, that is, those that overseeded in 1964, were penalized. In the non-odd-even States, the States of Washington, Idaho, and the like, about 30 percent of the producers were penalized.

Mr. ZWACH. But here in a sense it was a double penalty, because previously it had not been applied in this way.

Mr. FITZGERALD. In that sense it was. Putting them on the same basis as the other farmers in the United States that were doing that.

Mr. ZWACH. I think I have my answer.

Mr. PURCELL. We have to hear three other witnesses, before we quit here today, but I want to make a point that I think will be considered by some of the members of this subcommittee which has not been particularly touched on. Were this not an odd-even type of rotation it would not have had a double penalty, because the so-called double penalty means you are being penalized 7-percent something—whatever it is—for it. Anyway, you talk about it. Is this not true?

Mr. STROHMAIER. Yes.

Mr. FOLEY. But you are not raising as much of a crop as you would be raising on an annual rotation basis.

Mr. PURCELL. That would not be true in a Texas farm.

Mr. GAFFNEY. What it boils down to is what Representative Foley is stating, that you divide your cropland into two, to begin with.

Mr. PURCELL. That is because of your local custom. You have been farming that way for years. You have more rain than we have, anyway, in Texas. We do not have enough sense to lay out half of it, but we should have thought about it.

Thank you very much.

At this time we will hear from Mr. Glen Hofer and his two associates. Are they with you—Mr. Danekas and Mr. Kunz?

**STATEMENT OF GLEN HOFER, EXECUTIVE VICE PRESIDENT,  
NATIONAL ASSOCIATION OF WHEAT GROWERS—Resumed**

Mr. HOFER. Mr. Chairman and members of the subcommittee—  
Yes, sir, they are.

With your permission, Mr. Chairman, I will just submit my statement in the interest of saving time. I have already testified. I will leave what time is left to the other two gentlemen.

Mr. PURCELL. Your statement will be made a part of the record at this point.

(The prepared statement submitted by Mr. Hofer follows:)

**STATEMENT OF GLEN HOFER, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION  
OF WHEAT GROWERS**

Mr. Chairman and members of the subcommittee, my name is Glen Hofer and I am the Executive Vice President for the National Association of Wheat Growers.

In reviewing wheat program provisions at our 1968 annual convention, the National Association of Wheat Growers passed a resolution advocating that:

“The USDA exercise extreme care in getting accurate information regarding program regulations to growers. The great complexity and frequent changes of regulations pertaining to agricultural programs makes it imperative that farmers receive information promptly and accurately.

“Farmers should not incur penalties for acting on incomplete or inaccurate information supplied through official channels. The Department of Agriculture should not issue regulations which have the effect of imposing penalties retroactively.”

Since the proposed legislation under consideration today is designed to provide relief to farmers penalized to a degree at variance with information supplied to them through official USDA sources, the National Association of Wheat Growers supports H.R. 10591 and H.R. 10685.

Mr. PURCELL. We will be glad to hear from you now, Mr. Danekas.

**STATEMENT OF RAY W. DANEKAS, DRYLAND WHEAT AND BARLEY  
FARMER, ADAMS COUNTY, WASH.**

Mr. DANEKAS. Mr. Chairman and gentlemen of the subcommittee, I am Ray W. Danekas from Adams County in the State of Washington. I am a dryland wheat and barley farmer. My farm has an odd-even rotation which means that I take a crop off only approximately half of the land I farm each year, with the other portion being prepared for the following year.

I was elected to the Adams County Agricultural Stabilization Service Committee in the fall of 1958 and have served continuously since that time. I am in no way representing ASCS at this meeting, but I am familiar with information given to producers as it pertains to the Anfuso amendment in 1964 through 1967.

In Adams County, there are many regular, as well as odd-even rotation farms. The farmers were well aware of the effects of overplanting in each case. The odd-even farm, previous to 1966, was to lose history only on that rotation side which was overplanted. I personally think that the law, as drawn up in the beginning for odd-even farms, had the situation well in hand since only part of this type of farm is cropped each year.

As you will recall, the quota referendum was voted down in 1963. With no program in sight at seeding time in the fall of 1963, farmers, for economic reasons and to protect their interests, sowed all of their summerfallow expending cost of seed, fertilizer, and land preparation at that time. (Actually, in dryland rotation farming, preparation for the 1964 year is begun by land preparation in 1962, working the land, fertilizing and seeding it in 1963, for the crop to be harvested in 1964.) This is why it is important that farmers be timely informed as to programs. In April of 1964, the announcement of the voluntary program brought about much decisionmaking in a short time. Meetings were held informing the producers of alternatives. The effects of overplanting the 1964 allotment, relative to loss of history, were clearly understood for the even years to follow. The question at the time was what effect will it have on the odd-year rotation. According to the law (which we had operated under the previous years) and not being aware of any change, the producers were told that the overplanting in the even year would not affect the odd-year rotation. This announcement had great bearing upon the decision to be made by producers.

Example: (Odd-even farms).

Even year—producer owns all the land.

Odd year—producer owns land plus farming land of another owner with an all-in-all-out rotation.

The producer, in this case, does not want to jeopardize history of the landlord who is in the all-in-all-out rotation land. (His lease may state that he must participate in programs.) The producer, farming own land, decided not to participate in the program in the even year after being assured that the odd year, with the landlord involved, would not be effected in future years.

What did happen:

1965—Anfuso suspended.

1966—Loss of history because of formula used in figuring allotments.

1967—Loss of history (same as 1966). This was the result of using the same formula in 1966 and 1967.

End result: Both farmer and landlord lost history on all land being farmed, for something, which I believe was beyond their control.

My contention is that the producers, after having been assured that there would be no loss of history on the odd years, were then informed, when it was too late to correct it (2 years later), that the odd years were also effected. This was truly an injustice to them; and as such, I feel they should receive our utmost consideration in restoring their history.

Mr. PURCELL. Thank you, Mr. Danekas. We will now hear from Mr. Kunz.

#### STATEMENT OF GORDON KUNZ, FARMER, LINCOLN COUNTY, STATE OF WASHINGTON

Mr. KUNZ. Mr. Chairman and members of the committee, my name is Gordon Kunz. I am a farmer in the dryland-summer fallow area of Lincoln County, State of Washington. My farm is the type referred to as an odd-even rotation.

I was elected to the Lincoln County ASCS County Board in the fall of 1959 and have served consecutively since. I was county chairman in 1963 and am presently serving in that capacity again.

I am in no way representing the ASCS at this hearing. I am here as a farmer who was excess in 1964; but having served on the ASCS board during the year in question, I do have knowledge of the information given the farmers of Lincoln County in the fall of 1963 to the summer of 1964.

Here are a few statistics on Lincoln County to help clarify what happened in this county. In 1964, we had approximately 950 producers farming 856,709 acres of cropland. Of this number of farmers, 420 planted and harvested in excess of their allotment in 1964. To further break this down, 395 had allotments of over 15 acres; 19 had less than 15 acres, and six were zero allotments.

Two hundred and fifty-six of these farms were excess in the higher or larger allotment side of their odd-even rotation. We do not have a regular or even rotation farm in Lincoln County. In the fall of 1963, when our 1964 crop of winter wheat was being seeded and also when the referendum was being explained, the committee was asked repeatedly "What happens if I overseed in 1964?" There being no farm program at the time of seeding in 1963, it was a matter of economics to the farmers as to which way to plant. The question was always answered the same way: "You will lose wheat history in the year in which you are in excess. As the crop coming up would be an even year, the farm would lose wheat history in the next even year; and under the present program, there is no provision to recover the loss."

We also explained that we had been working under the Anfusio amendment since 1959 and that was the manner in which the excess cases had been handled. And, I repeat, the history loss occurred only on the side of the farm which was in crop in the year of excess.

Now, the farmers in Lincoln were never notified or told any differently from the ASCS office until June 1966, when the 1967 allotments were issued. It was not until the procedure was changed in re-

gard to figuring allotments for the 1967 crop that this loss of history on both sides of an odd-even rotation crop applied. Not only are the operators being penalized for a procedure of law change which occurred between seeding and harvesting time without being notified, but also the owner who has lost history in 1967 for something that was beyond his control. Through odd-even rotation, many ownership tracts are cropped 1 year and summer-fallowed the next. Many of these ownership tracts are in combination with other tracts which are either cropped part each year or all in the opposite year.

An ownership tract, all in summer fallow in 1964 but a part of a farm exceeding the 1964 allotment, was reduced in 1967 wheat allotment due to the 1964 excess. The owners of tracts, all in summer fallow in 1964, had no indication at that time that a loss of wheat allotment would occur in 1967 due to the manner of farm constitution and would not have been in a position to require compliance on other land making up the farm as they had no interest in it or in the crop.

In view of the fact that the producers were not notified in time for compliance and that they have taken a loss, I believe that it is advisable to restore the history loss.

Mr. PURCELL. Thank you very much, Mr. Kunz.

Are there any questions of either of these witnesses?

If not, we thank you very much, gentlemen.

This will conclude this hearing, and the committee will be in recess.

(Whereupon, at 12:10 p.m., the hearing was concluded and the subcommittee arose.)



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