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MILK RESEARCH AND DEVELOPMENT PROGRAM

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HEARING
BEFORE THE
SUBCOMMITTEE ON DOMESTIC MARKETING
AND CONSUMER RELATIONS
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
NINETY-FIRST CONGRESS
FIRST SESSION
ON
H.R. 10710, H.R. 10824, and H.R. 11726

AUGUST 8, 1969

Serial S

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COZYTZE

The first of the three parts of the story is the most interesting. It tells of the discovery of the ancient city of Cozytze, and the adventures of the explorers who found it. The second part is a description of the city and its inhabitants. The third part is the most dramatic, and tells of the discovery of the treasure which was hidden in the city.

MILK RESEARCH AND DEVELOPMENT PROGRAM

FRIDAY, AUGUST 8, 1969

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC MARKETING
AND CONSUMER RELATIONS OF THE
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee), presiding.

Present: Representatives Foley, Sisk, Jones of Tennessee, Goodling, and Myers.

Also present: Christine S. Gallagher, chief clerk; William C. Black, general counsel; and John A. Knebel, assistant counsel.

Mr. FOLEY. The Subcommittee on Domestic Marketing and Consumer Relations will come to order.

The subcommittee meets this morning for the consideration of H.R. 10710 by Mr. Abbutt, H.R. 10824 by Mr. Horton, and H.R. 11726 by Mr. Quillen. These bills would provide for the establishment of research and development projects, and advertising for milk and milk products to be financed by producers. These bills allow the projects to be either local or national in scope but not international.

(The bills, H.R. 10710 by Mr. Abbutt, H.R. 10824 by Mr. Horton, and H.R. 11726 by Mr. Quillen are similar, the text of which along with the departmental report follow:)

[H.R. 10710, 91st Cong., first sess.]

A BILL To amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended, by adding at the end of subsection 8c(5) the following new subparagraph (I):

"(I) Establishing or providing for the establishment of research and development projects, and advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. Producer contributions under this subparagraph may be deducted from funds due producers in computing total pool value or otherwise computing total funds due producers and such deductions shall be in addition to the adjustments authorized by subparagraph (B) of subsection 8c(5). Provision may be made in the order to exempt, or allow suitable adjustments or credits in connection with, milk on which a mandatory checkoff for advertising or marketing research as required under the authority of any State law. Such funds shall be paid to an agency organized by milk producers and producers' cooperative associations in such form and with such methods of operation as shall be specified in the order. Such agency may expend such funds for any of the purposes authorized by this subparagraph and may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifica-

tions specified in the order. All funds collected under this subparagraph shall be separately accounted for and shall be used only for the purposes for which they were collected. Programs authorized by this subparagraph may be either local or national in scope, or both, as provided in the order, but shall not be international. Order provisions under this subparagraph shall not become effective in any marketing order unless such provisions are approved by producers separately from other order provisions, in the same manner provided for the approval of marketing orders, and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subsection 8c(16)(B). Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order."

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, August 7, 1969.

Hon. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 10710, a bill to amend the Agricultural Marketing Agreement Act of 1937, as amended, to provide authorization for the establishment of advertising, sales promotion, educational, and research programs, including marketing research and development, financed by deductions from payments due producers delivering milk to handlers regulated by Federal milk orders.

The Department supports enactment of H.R. 10710. We would suggest minor modifications, including accommodation of refunds to producers under certain circumstances.

The programs authorized by H.R. 10710 would be financed by deductions from funds owed to producers under the order. Deductions could be made directly from the total pool value of all producer milk. An equitable adjustment could be made in areas where a mandatory checkoff from dairy farmers for advertising and research is required by State law.

Funds would be paid to an agency organized by milk producers and associations of producers. This agency could employ persons and organizations for research and promotional programs designed to promote marketing and the domestic consumption of milk and milk products.

Provisions authorizing producer deductions would not become effective unless separately approved by producers in the same manner provided for the approval of orders. Disapproval of the producer deduction provisions would not be considered disapproval of the order, and such provisions could be terminated separately from other order provisions.

In recent years, an increasing number of dairy farmer cooperatives have expressed their support for this type of legislation. The threat of filled and imitation milk in fluid milk markets throughout the Nation has stimulated interest for increased promotion, advertising, and research.

H.R. 10710 would constitute enabling legislation and its implementation in a Federal milk order would require a public hearing as well as producer approval. Thus, a forum will be provided for a careful and thorough review of all the problems which might be associated with the adoption of a promotion program in an individual milk marketing area. It is important that any such program contain provisions which will be fair, equitable, efficient, and fruitful.

Projects carried out under the program would be subject to approval and continuing review by the Secretary to insure compliance with the statute and to protect the public interest.

We suggest that the bill be modified to provide that adjustments for mandatory checkoffs required by State law be allowed only if it is determined that deductions were actually made and used for purposes comparable with the purposes authorized under the bill.

We recommend also that the bill be modified by adding the following after the last sentence of the bill: "Notwithstanding any other provision of this Act, as amended, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph, and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order."

The additional costs that may result from enactment of the legislation would be related to conducting public hearings and general administration of the programs. For each of the first two years we would anticipate additional annual costs of about \$200,000. Thereafter, costs would be somewhat less. For the most part, additional costs would be associated with amending existing order provisions to authorize producer deductions for research and promotional programs.

Although H.R. 10710 does not mention the source of funds for administration, there is a bill (H.R. 13193) proposed by the Department which is before the Congress, which would permit the Department to recover costs of administration through user fees.

In view of the time situation, we have not obtained from the Bureau of the Budget advice regarding the relationship of the proposed legislation to the Administration's program.

Sincerely,

CLIFFORD M. HARDIN,
Secretary of Agriculture.

Mr. FOLEY. The first witness we would like to welcome before the subcommittee is the Honorable Frank Horton of New York who is the author of H.R. 10824.

Mr. Horton, we are very delighted to welcome you to the subcommittee this morning.

STATEMENT OF HON. FRANK HORTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. HORTON. Thank you, Mr. Chairman, members of the subcommittee.

I welcome the opportunity to appear before the subcommittee in support of my bill, 10824 and H.R. 10710 by Representative Abbitt, a member of the Committee on Agriculture, and H.R. 11726 by Representative Quillen.

The purpose of the proposed legislation would be to authorize dairy farmers within a Federal marketing order to develop and operate improved programs for advertising and promotion of milk and dairy products.

As you may know, Mr. Chairman, I was the first to introduce this bill, back in the 88th Congress. I sponsored it again in the 89th and 90th Congresses. And I was pleased to see that it was reported out of the Agriculture Committee last year in the final days of the 90th Congress.

In my home State of New York, dairying ranks first as a major source of farm income; from milk and dairy products our farmers receive over \$500 million yearly. With an annual production of over 10 billion pounds of milk, New York ranks as the third largest milk-producing State in the Nation.

Unfortunately, consumption of milk and dairy products has been diminishing in this country. Per capita consumption has decreased from 653 pounds of milk equivalent in 1960 to 576 pounds in 1968, a 12 percent reduction. Annual consumption of butter, for example, dropped from 7.5 pounds to 5.6 pounds per person.

At the same time, there are good reasons for uptrends in use of dairy foods:

Our population is increasing at a rate of about three million annually, providing more mouths to feed; there is a growing national concern for wiping out hunger and widespread undernutrition, requiring longer and more effective distribution of healthful foods, and this includes

expansion of Federal food distribution programs. In addition, there is great need for improving nutrition and diet at all economic levels.

Milk, itself, also continues to be one of the Nation's most healthful foods. According to USDA estimates, milk and dairy products provide the following percentages of nutritional requirements of the Nation: Food Energy, 11.9 percent; protein, 22.8 percent; fat, 13.5 percent; calcium, 76.3 percent; thiamine, 10.0 percent; and riboflavin, 43.4 percent.

Why, then, is consumption of milk and milk products diminishing? There are several reasons, including:

(1) In the marketplace there is growing competition from imitation and artificial foods and drinks that look like dairy foods in shape, color and even taste, but lack the highly nutritional qualities of milk, butter, cheese, and other dairy foods.

(2) Advertising in television, radio, newspapers and other publications again make substitute or imitation foods look like dairy products; by this approach, they take advantage of long-developed "good will" toward dairy products.

(3) There is a lack of widely-circulated information on the comparative nutritional value of milk and dairy food with the imitations and substitutes appearing in the market.

(4) And, finally, there is a need for re-inforcing "public confidence" in milk and other healthful dairy foods. Unhappily, this is necessary because of unfavorable—and often scientifically unfounded—reflections upon dairy products in recent years.

For these reasons, the needs for this enabling legislation is of great importance to dairy farming.

As proposed, these bills would amend the Agricultural Adjustment Act, as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended. With authorization provided in this legislation, dairy farmers could engage in more effective marketing research and marketing development projects, advertising, sales promotion, education, and similar programs. Generally, it would work as follows:

(1) Milk producers would be authorized to design and operate advertising, sales promotion, and related programs.

(2) The plan would be supported by funds from the "pool" of the marketing order according to a formula approved in the referendum.

(3) Expenditures would be supervised by milk producers and could be used only for designated purposes.

(4) Promotion programs would be designed to meet special needs and objectives of producers within a specific marketing order area.

(5) Adoption of a plan would require approval of two-thirds of the milk producers voting in referendum; however, it could be terminated by more than 50 percent of such producers at any time.

(6) Disapproval or termination of a promotion plan under a marketing order would have no effects upon other aspects of the order.

Mr. Chairman, I want to emphasize that this is enabling legislation; it would not increase costs to the Federal Government; rather, it would enable dairy farmers to deal more effectively with their own economic problems; it would enable milk and milk products to compete more effectively in the marketplace; it would improve the dairy and farm economy; and, it would enable dairying to make still more

valuable contributions to meeting nutritional needs of consumers across the country.

Now, Mr. Chairman, I hope that the subcommittee will give serious consideration to reporting out this bill and that we can get it onto the floor again, and that we can get it passed so that we can give this spur to the milk and dairying industry.

Mr. FOLEY. Thank you, Mr. Horton, for a very succinct and informative statement. I know that your time is crowded this morning because of your responsibilities before another committee. If you have just a moment, however, I would like to see if Mr. Goodling has any questions.

Mr. HORTON. Fine.

Mr. FOLEY. Mr. Goodling?

Mr. GOODLING. Well, I would like to make one comment, Mr. Horton.

You raise the same concern that I find all the time about the competition for dairy products. I was somewhat amazed when this week I had a notice from the Department of Agriculture, which comes to us every day, and I saw a grant was made to, I believe, Cornell University to make a study of substitute dairy products. I do not know what the purpose of it is, but I wrote the Secretary of Agriculture and asked him. I have not had that reply as yet. I hope they are not trying to develop substitute dairy products that are going to be as good or better than the real thing.

Mr. HORTON. Well, I want to commend the gentleman for that. I think it is very important for us to keep an eagle eye out on this matter of substitutes, and I am sure the gentleman agrees with me that we are not opposed to substitutes, but what we want to try to do is to keep this dairy industry at a high level, and that is one of the reasons why I think that this bill is so important. Dairy people have indicated to me throughout the country that part of the problem is the need for promotion, and I certainly subscribe to that view, and I think they ought to be given this tool so that they can, through promotional devices, point out the nutritional value of milk and to take exception to some of these problems that come up with regard to advertising and the like. I think it is a very important step in the right direction.

Mr. GOODLING. Well, I am not opposed to substitutes if they sell them for what they are.

Mr. HORTON. Right.

Mr. GOODLING. That is all, Mr. Chairman.

Mr. FOLEY. Mr. Jones?

Mr. JONES. Thank you, Mr. Chairman. I have no specific questions. I would just like to thank Congressman Horton for this very wonderful statement, a real good statement, I think, Congressman, and I certainly support the idea that the dairy industry has made a great effort to help themselves, and this I like a lot.

Mr. HORTON. I would like to underscore what the gentleman from Tennessee has said. There is no question but that they have done everything they possibly can within present marketing rules and structures to try to promote the sale of milk and we certainly have to pat them on the back for doing this, and I am glad the gentleman made that point, because I did not cover that in my testimony.

Mr. FOLEY. Well, thank you very much, Mr. Horton. We appreciate your testimony today. Before you leave I would like to make one comment.

At the conclusion of your statement you indicate that this is authorization legislation and would not cause any additional cost to the taxpayers. The Department report estimates that the administration cost of conducting the referendum would be about \$200,000 in the first 2 years. This is not, however, because of actual advertising or promotion. It is the administrative cost of the referendum. The committee has before it legislation which proposes that these, and other administrative costs of marketing order programs and promotional programs, be recoverable by the Department of Agriculture from the users.

Do you have any comment on that, or would you prefer to reserve your comment on that until such time as the committee takes up that legislation?

Mr. HORTON. Well, I think I would certainly leave it to the good judgment of the committee, but I really do not see, especially in an area that is as tight as this one, that we ought to require the user to stand this additional burden. There are referendums and there have been referendums all of the time, and it is not my recollection that these are paid for by the users.

Mr. FOLEY. Your recollection is correct. Members of this committee and others have expressed a good deal of concern that this would be a radical change from existing policy.

Mr. HORTON. Well, I just would not want to advocate that change. I do not think that the dairy industry ought to have to stand that additional expense.

Mr. FOLEY. Thank you very much, sir. Again, we appreciate your testimony.

Mr. HORTON. I thank the chairman and thank the members of the committee.

Mr. FOLEY. The Chair will submit without objection, for the record, the statement of the Honorable James H. Quillen from the first district of Tennessee in support of H.R. 11726, which is identical with the other legislation before the subcommittee this morning.

Without objection, it will be received.

(The statement referred to follows:)

STATEMENT OF HON. JAMES H. QUILLEN, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF TENNESSEE

Mr. Chairman, I am very pleased that you have scheduled this hearing to consider my bill, H.R. 11726, and related bills to amend the Agricultural Marketing Agreement Act of 1937, as amended.

Legislation of this type should be enacted promptly. The amendment, as contained in my bill, is enabling legislation. It would provide authority for dairy farmers, themselves, and with their own money, to develop and operate programs designed to increase consumption of milk and dairy products. It is a reasonable and practical approach to increasing income to dairy farmers without cost to the Government.

If the majority of farmers supplying a market are willing to invest their own money in a program such as contemplated by my bill, there should be no room for "free riders", such as is experienced with strictly voluntary efforts.

This legislation, in its simplest sense, would enable farmers to develop plans for milk promotion programs which would be financed by all farmers supplying a Federal milk marketing order area, if approved through referendum by two-

thirds or more. The referendum for this type program would be separate and apart from the order itself. The separate referendum provides opportunity for farmers to approve the issuance of an order, without, at the same time, approving the issuance of a program for promoting milk. Adoption of a program such as contemplated by my bill would require separate action.

The dairy industry is faced with stiff competition on every front, and the competition is becoming more intense as a result of the introduction of ersatz products sold in semblance of milk and cream. Dairy farmers, in my judgment, should be complimented for being willing to stand up and spend their own money to maintain and increase the size and strength of the industry.

As my bill is designed, dairy farmers would develop a program for a market regulated by a Federal milk marketing order. The proposal would then be submitted to the Department of Agriculture, and a public hearing would be scheduled so that all concerned might have a voice in the development of the details. On the basis of the hearing record, the Department would finalize the program which, then, would be subject to referendum, and made effective if approved by two-thirds. The program could be terminated at any time by request of a majority of farmers, or by the Secretary of Agriculture.

The funds would come from money otherwise due farmers supplying milk under the order. The market administrator would deduct the sum in accordance with a prescribed formula, and would pay such money over to the Committee of Dairy Farmers charged with administering the promotion program.

I view this legislation as good, not only for dairy farmers but for the general public as well. In developing efforts to promote increased consumption of milk, part of the effort necessarily would be for research and consumer education. Nutrition education among consumers is vitally needed in this modern age, since the public is being bombarded by high-sounding phrases, eye-appealing packages, and by gimmicks of all kinds which are designed to capture the consumer's eye without regard to the nutritional value of products being offered. A straightforward program to acquaint consumers with the nutrients in milk, and the need for them, can contribute a great deal toward the building of a more healthy nation. This proposed legislation has the support of dairy farmers throughout the United States. The National Milk Producers Federation and Dairymen, Inc., a dairy cooperative operating in my own state, strongly endorse it, as do other groups.

Again, Mr. Chairman, let me express my thanks to you for scheduling this hearing; and I do strongly recommend that you give this bill your favorable consideration.

Mr. FOLEY. The next witness will be Mr. H. L. Forest, Director of the Dairy Division of Consumer and Marketing Service, Department of Agriculture.

Good morning, Mr. Forest. We are happy to see you this morning.

STATEMENT OF HERBERT L. FOREST, DIRECTOR, DAIRY DIVISION, CONSUMER AND MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. FOREST. Good morning, sir.

Mr. Chairman and members of the committee, I appreciate the honor and opportunity to appear before your committee to comment on H.R. 10710. This is the only milk advertising and promotion bill which we have had in the Department on which we have been asked to make comment. I understand the other two bills are identical with this one.

This is a bill to amend the Agricultural Marketing Agreement Act of 1937, as amended, to provide authorization for the establishment of advertising; sales promotion, education, and research programs, including marketing research and development in Federal milk orders.

Federal milk orders are authorized by the Agricultural Marketing Agreement Act of 1937. Milk orders establish minimum prices which milk dealers must pay producers in specified marketing areas. At

present, there are 67 Federal milk orders in effect throughout the country. More than one-half of the milk marketed in the United States and almost three-fourths of the fluid milk consumed by the Nation's nonfarm population is regulated under Federal milk orders.

Federal milk orders are made effective only after completing certain procedural requirements, including the holding of hearings at which all interested persons, such as handlers, producers, and consumers, may testify concerning the issuance of a decision stating the need and a basis for the order and for each of its provisions. Finally, each order before it becomes effective must be approved by two-thirds of the dairy farmers whose milk is marketed under the terms of the order.

The Department supports enactment of H.R. 10710. We would suggest minor modifications, including accommodation of refunds to producers under certain circumstances.

The programs authorized by H.R. 10710 would be financed by deductions from funds owed to producers under the order. Deductions could be made directly from the total pool value of all producer milk. An equitable adjustment could be made in areas where a mandatory checkoff from dairy farmers for advertising and research is required by State law.

Funds would be paid to an agency organized by milk producers and associations of producers. This agency could employ persons and organizations for research and promotional programs designed to promote marketing and the domestic consumption of milk and milk products.

Provisions authorizing producer deductions would not become effective unless separately approved by the producers in the same manner provided for the approval of orders. However, disapproval of the producer deduction provisions would not be considered disapproval of the order, and such provisions could be terminated separately from other order provisions.

In recent years, an increasing number of dairy farmer cooperatives have expressed their support for this type of legislation. The threat of filled and imitation milk in fluid milk markets throughout the Nation has done much to stimulate interest for increased promotion, advertising, and research.

H.R. 10710 would constitute enabling legislation and its implementation in a Federal milk order would require a public hearing as well as producer approval. Thus, a forum would be provided for a careful review of all the problems which might be associated with the adoption of a promotion program in an individual milk marketing area.

Projects carried out under the program would be subject to approval and continuing review by the Secretary to insure compliance with the statute and to protect the public interest.

We suggest that the bill be modified to provide that adjustments for mandatory checkoffs required by State law be allowed only if it is determined that deductions were actually made and used for purposes comparable with the purposes authorized under this bill.

We recommend, also, that the bill be modified by adding the following after the last sentence of the bill:

Notwithstanding any other provision of this Act, as amended, any producer against whose marketings any assessment is withheld or collected under the

authority of this subparagraph, and who is not in favor of supporting the research and promotion, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the orders.

The additional costs that may result from enactment of the legislation would be related to conducting public hearings and general administration of the programs. For each of the first 2 years we would anticipate additional annual costs of about \$200,000. Thereafter, costs would be somewhat less. For the most part, additional costs would be associated with amending existing order provisions to authorize producer deductions for research and promotional programs.

Although H.R. 10710 does not mention the source of funds for administration, there is a bill, H.R. 13193, proposed by the Department, which is before the Congress, which would permit the Department to recover costs of administration through user fees.

In view of the time situation we have not obtained the Bureau of the Budget's advice regarding the relationship of this proposed legislation to the administration's program.

Mr. FOLEY. Thank you, Mr. Forest.

Mr. Goodling?

Mr. GOODLING. Thank you, Mr. Chairman.

I did not look at my agenda when I asked the question of the first witness. I would like to ask Mr. Forest if he has any comment on my letter to the Secretary of Agriculture asking about the grant to Cornell University to study milk substitutes?

Mr. FOREST. Of course, this is not in my province of responsibility, Congressman Goodling, but my own feeling is that you always can meet your competition if you know more about his business than he knows himself, and I think this would be my interest, in knowing what is involved in substitutes so that the dairy people could better meet that kind of competition by knowing what the facts were. I think this would be the interest in the Department, too.

Mr. FOREST. You do not specifically know the purpose of the grant?

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

Mr. GOODLING. Thank you.

Mr. FOLEY. Mr. Sisk?

Mr. SISK. No.

Mr. FOLEY. Mr. Myers?

Mr. MYERS. Thank you, Mr. Chairman.

Mr. Forest, your last paragraph deals with recovery of administrative costs of this program, and you state that you have not had any word from the Bureau of the Budget. Have you contacted the Bureau of the Budget relative to this? Are you expecting an answer?

Mr. FOREST. We have had approval of this statement. The costs of the administration of the program are covered in the next to the last paragraph which would be in the user's fee legislation which the Department is supporting.

Mr. MYERS. Well, the Department has a broad statement from the Bureau of the Budget, as I understand it, that this type of legislation would be approved by the Bureau of the Budget with recovery of administrative costs.

Mr. FOREST. Yes.

Mr. MYERS. Is that your understanding?

Mr. FOREST. That is right, sir.

Mr. MYERS. But you have not had this specific authorization, is that right?

Mr. FOREST. I do now.

Mr. MYERS. You do now?

Mr. FOREST. I do now; yes.

Mr. MYERS. Your statement then is not accurate as you presented it?

Mr. FOREST. That is right. I changed it when I said in my concluding statement, I changed and said that we now do have it, but as of 5:30 last night I did not have it.

Mr. MYERS. I see. Thank you.

Mr. FOLEY. Mr. Jones?

Mr. JONES. No questions, Mr. Chairman.

Mr. FOLEY. Mr. Forest, the Bureau of the Budget's statement which you now have poses no objection to this legislation if user fees are paid by the various commodity organizations. Is that correct? Do they not pose an objection supposing that the legislation is authorized to recover these fees?

Mr. FOREST. As I understand the position, Mr. Chairman, it is that there is user fee legislation pending, and the Department supports and proposes that kind of legislation. I do not think it is the position of the Department that if the user fee did not pass, that they would oppose this particular bill for that reason alone.

Mr. FOLEY. That is the position of the Department. I will address this question to the staff: do we have a written communication from the Bureau of the Budget on this legislation?

Mr. BLACK. No.

Mrs. GALLAGHER. Which one do you mean?

Mr. FOLEY. Has the Bureau of the Budget responded to the committee on the bill which is presently before the subcommittee?

Mr. BLACK. The Bureau of the Budget has not. He just heard from the Bureau of the Budget yesterday.

Mrs. GALLAGHER. No.

Mr. FOLEY. I am not certain about the Bureau of the Budget's response to the Department. Are you saying the Bureau favors proposed legislation to cover by user fees the cost of administration?

Mr. FOREST. They approve the statement which I made that the Department proposed and is supporting the user fee legislation, which would be the source of funds to cover the cost of the Department in administering this legislation.

Mr. FOLEY. Has the Bureau of the Budget expressed a viewpoint that in the event that that proposed legislation is not enacted?

Mr. FOREST. They have not; not that I know of.

Mr. FOLEY. Now, as I read it, your testimony closely follows the official report of the Department which has just been received on this legislation?

Mr. FOREST. Yes, sir.

Mr. FOLEY. There is no variance in recommendations that we have received in your testimony and that we received from the Secretary in the official report?

Mr. FOREST. No. There is not.

Mr. FOLEY. If the recommended amendments, permitting a recovery of any portion of the checkoff for research and promotion is accepted

by this committee, would that not constitute the first time that a Federal marketing order was subject to the coverage by individual milk producers?

Mr. FOREST. We have not had this kind of legislation before for this kind of a purpose, and we do not regulate milk producers under the orders by the orders by themselves.

Mr. FOLEY. But under the order, the charges that are made on producers are not recoverable by individual producers if the referendum is approved?

Mr. FOREST. We do not have charges on the producers by themselves.

Mr. FOLEY. Well, let me put it this way: If they were approved by referendum, are the provisions of milk marketing orders mandatory?

Mr. FOREST. Mandatory on milk dealers.

Mr. FOLEY. On milk dealers?

Mr. FOREST. Yes.

Mr. FOLEY. Concerning the estimated cost of \$200,000 in the first 2 years, to what extent does that break down into referendum and general administrative costs?

Mr. FOREST. For us to conduct a hearing and including the referendum runs between, around \$20,000 per hearing, and we would figure we would have eight or nine hearings in the year on these individual orders and, of course, the first 2 years there would be more analysis and more difficulty in working out the kinds of programs which would be approved. But, after we got them into effect and had gone through the first couple of years we think that we would not need as much supervision or as much analysis of the types of programs which would be proposed from then on.

Mr. FOLEY. I was hoping to determine how you came up with the \$200,000 estimated cost. It seems quite speculative as it is based on how many you would have. I understand you would assume it is about nine or 10; would you assume you would have nine or 10 in each of the first 2 years?

Mr. FOREST. That is right, sir.

Mr. FOLEY. And that is to the cost of conducting the public hearings and the general administrative costs?

Mr. FOREST. Yes, sir. Yes, and that also would include the cost of running the referendum, too.

Mr. FOLEY. Do you anticipate how much the administrative costs would be after the public hearings and referendums in those areas where this might be approved by producers?

Mr. FOREST. Well, our general overhead has been running about 10 to 15 percent, and I would guess that that would be about the cost. Again it is speculative, Mr. Chairman, and we have never been in this kind of a program before. If the costs run about the same as the overhead in running the rest of the order it would be in the realm of 10 to 15 percent.

Mr. MYERS. Mr. Chairman, would you yield?

Mr. FOLEY. Yes; I yield.

Mr. MYERS. Mr. Forest, would the checkoff be uniform from region to region within the orders themselves? Would every order provide for the same amount as checkoff?

Mr. FOREST. Not necessarily, because as the order program operates, Mr. Congressman, the proposal comes to us from the local area,

and in that proposal would be the rate which that particular area wanted to have deducted, and we would hold a hearing with respect to that rate. I would think over a period of years there would be some tendency for these things to be about the same rate, but there would be no requirement. It would depend on what each area wanted—how much it wanted to research and promote in its particular area and the particular problems in that particular area.

Mr. MYERS. In other words, in a particular area if you had an aggressive organization operating the marketing order, they might spend much more money and need a larger checkoff than another maybe two States away?

Mr. FOREST. Yes, and I would not anticipate that every area even would want this kind of a program.

Mr. MYERS. Not everyone would be involved in this?

Mr. FOREST. Everyone would not be involved. It would stem from the request of the producers in that local area.

Mr. MYERS. Thank you.

Mr. FOLEY. The staff has raised a question concerning the voting procedures. Do you assume from a reading of the proposed legislation that so-called block voting would be permitted?

Mr. FOREST. Yes, sir.

Mr. FOLEY. Does the Department have any position with respect to that question?

Mr. FOREST. No, sir.

My own personal view is that we should have block voting.

Mr. FOLEY. That we should?

Mr. FOREST. That we should; and we have supported block voting as Department policy with respect to all programs under the order program.

Mr. FOLEY. Is that the standard under present marketing order referendums?

Mr. FOREST. Yes, sir; that would be the standard.

Mr. FOLEY. If there are no other questions, we thank you very much, Mr. Forest, for your appearance and testimony today.

The next witness will be Mr. Patrick B. Healy, secretary of the National Milk Producers Federation, Washington, D.C.

Mr. Healy will be accompanied by Mr. Eugene J. Vandembord, vice president, Dairymens' League Cooperative Association, Inc., 100 Park Avenue, New York.

STATEMENT OF EUGENE J. VANDENBORD, VICE PRESIDENT, DAIRYMENS' LEAGUE COOPERATIVE ASSOCIATION, INC.; ACCOMPANIED BY PATRICK B. HEALY, SECRETARY, NATIONAL MILK PRODUCERS FEDERATION

Mr. HEALY. Mr. Chairman, just to set the record straight, Mr. Vandembord is going to present our statement and I am accompanying him.

Mr. FOLEY. Well, I think that that is more than a subtlety, and probably the record should be very clear about that on Mr. Healy's behalf if not on behalf of the committee. Mr. Vandembord is accordingly noted to be accompanied by Mr. Healy.

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

Thank you for the opportunity to appear before your committee.

I am Eugene J. Vandenberg, from Delancey, N.Y. I am a dairy farmer, vice president of the Dairymens' League Cooperative Association, Inc., 1250 Broadway, New York, N.Y.; and a member of the board of directors of the National Milk Producers Federation. I am the chairman of the Federal order of advertising committee of the federation and I am appearing at this hearing on behalf of, and to speak for, all members of the National Milk Producers Federation.

The National Milk Producers Federation is a national farm commodity organization, organized in 1916. It represents cooperative associations and their dairy farmers throughout the United States. The cooperative associations affiliated with the federation do business in all 50 States of the Union. Most member cooperatives market the milk of their dairy farmer members under the terms of one or more of the 67 Federal milk marketing orders.

The Agricultural Marketing Agreement Act of 1937, as amended, is the legislative authority for the Federal milk marketing order program, under which more than two-thirds of all milk marketed by farmers for fluid use is priced.

H.R. 10710, Abbott; H.R. 10824, Horton; and H.R. 11725, Quillen, and related bills which are the subject of this hearing, are an amendment to the Agricultural Marketing Agreement Act of 1937, as amended.

The authority provided by these bills would be used in a market regulated by a Federal milk marketing order only after a public hearing and after a proposed plan had received the approval of dairy farmers through referendum. The proposal is enabling legislation which farmers may use or not use, market by market. It is a self-help measure for increasing returns to dairy farmers.

For several years, dairy farmers and their cooperative associations have supported efforts to increase milk sales and improve the image of the dairy industry. This need is very great when considered in relationship to the severe competition position in which milk finds itself, and because of persistent efforts on the part of some to capture the market by substituting inferior products which can be sold at lower prices as replacements for nutritious milk.

The efforts of milk producers to increase consumption of milk have been financed for the most part through voluntary contributions on the part of farmers. The benefits from market promotion accrue to all dairy farmers and thus an unwarranted cost is borne by those who assume responsibility for projects aimed at increasing sales.

The larger fluid milk markets have found it very difficult to secure participation on the part of sufficient numbers of farmers to adequately finance milk promotion efforts. The need for money for this purpose is very acute, but any attempt to increase the contribution rate per hundredweight of milk marketed is met by increased resistance on the part of a minority of farmers who stand to benefit without carrying their portion of the load.

It is for the purpose of insuring full participation among all dairy farmers supplying a Federal milk marketing order area, if approved by two-thirds of the producers, that we seek the amendment authorizing use of producer funds for research, advertising, sales promotion, and other programs designed to improve or promote the consumption of milk and its products.

Passage of this legislation would not require expenditures by the Federal Government but, in fact, may serve to reduce the cost of maintaining the price level to dairy farmers under the price-support program. This is because any increase in milk consumption which the industry might realize as a result of the promotion efforts would leave less milk for manufacture into butter, nonfat dry milk, and cheese, which are purchased under the price-support program to undergird the price structure.

The need for authority such as contained in H.R. 10710 has never been greater. Farmers desperately need higher milk prices and a sales increase of class I milk is the most practical means of increasing average prices paid to farmers without additional costs to the governments. The sales trends for milk are not encouraging. Production costs continue to rise as does the cost of processing, thus necessarily placing pressure on the consumer price structure.

Furthermore, as I mentioned earlier, the dairy industry is faced with severe competition from ersatz products made to appear like milk or cream. These white ersatz products pose a real threat, not only to dairy farmers, but to nutrition as well. With programs such as could be operated under the authority of this enabling legislation, we could keep consumers informed as to the nutritional facts of life when comparing milk or cream with the inferior substitutes, a great portion of which are no more than mixtures of chemicals and water.

The dairy industry, as a public health measure, has accepted rigid sanitary controls on the farms and throughout the processing and marketing system. Quality and sanitation control is expensive and is a factor in determining prices of milk and dairy products which need not be borne by the ersatz products promoted as replacements for milk and cream.

The dairy business must exert every influence to maximize milk sales, both in the interest of dairy farmers, and because milk plays such a vital role in human nutrition, especially among children.

Amendment to the Agricultural Marketing Agreement Act is provided in H.R. 10710 and the related bills would incorporate into the act authority for discretionary incorporation in a Federal milk marketing order of a program to use producer funds for marketing research, advertising, sales promotion, and other means of promoting increased consumption of milk and dairy products. The authority would only be used after the producers had developed a program.

The program envisioned by the amendment would be developed by dairy farmers supplying a Federal milk marketing order area. The proposal would include means of selecting dairy farmer representatives to supervise the operations. Since the funds would be provided through Federal milk marketing order provisions, there would be provisions to insure the proper use of any such money including Government audit.

The funds would be paid to the committee of producers having charge of the program by the market administrator of the Federal milk marketing order. These funds would be deducted from the total amount of money reflected by the producer-settlement-fund of an order, before calculation of the uniform price to be paid dairy farmers for their milk, thus, there would be no deduction per hundredweight taken from funds earmarked for individual dairy farmers.

This method of financing the program would make the cost of operation minimal, and would insure full participation by all dairy farmers

supplying a market. Operationally, the market administrator could write a single check to the advertising fund, avoiding computations for each of the thousands of dairy farmers shipping milk to a market, such as would be necessary if the program were set up as a deduction from gross amounts otherwise due individual farmers, which would require computation of an individual amount for each farmer and would appear as an item on his milk check. The program, as we envision it, would simply be a cost of marketing milk under an order and would be paid for in the same manner as any other cost of administering an order provision.

The funds could be used to establish research and development projects, advertising—but not brand advertising—sales promotion, education, and other programs designed to improve or promote marketing and consumption of milk and its products.

To the extent that fluid milk sales could be increased under the program, the results would be higher average prices to dairy farmers at any given level of class prices charged handlers for milk. Thus, the program is truly a self-help effort which would involve no cost to the Federal Government and no cost to handlers or consumers above those paid under the present criteria for establishing prices under Federal milk marketing orders.

The plan, when developed, would be submitted to the Department of Agriculture as a proposed amendment to a Federal milk marketing order. Under the regular procedures, the Department would then schedule a public hearing at which all interested parties would have an opportunity to make any appropriate comments. Following the public hearing, as customary, the Department of Agriculture would review the hearing record and issue a recommended decision containing the program, which would provide a second opportunity for interested parties to make comments concerning the conclusion reached by the Department of Agriculture. The next step would be issuance of a final decision by the Department of Agriculture, subject to the same referendum procedure as is applied in the case of Federal milk marketing orders and amendments. If approved through the referendum procedure, the amendment would become operative. If disapproved, the referendum would not in any way affect other provisions of the order.

After such a program were made effective, it could be discontinued at any time by request of 50 percent or more of the producers supplying the market or through amendment to the order.

Mr. Chairman, the dairy farmers of America urgently need the amendment to the Agricultural Marketing Agreement Act of 1937, as incorporated in H.R. 10710 and similar bills. It is important that the amendment be enacted this year, so that farmers can develop programs to spend their own money to improve their own returns in marketing milk. This legislation has the support of the National Milk Producers Federation and its entire membership of cooperative associations and their dairy farmer members throughout the United States.

Mr. FOLEY. Thank you very much, Mr. Vandenburg. That is a very fine statement. It states very clearly your support of the Milk Producers Federation, and as you say, it is spoken on their behalf and on behalf of the cooperative associations of dairy farmers throughout the United States.

I would like to ask you with respect to the departmental report suggesting, along with other such research and promotion bills, your opinion, if you care to express one, on the recovery of referendum costs from the producer groups. Does the dairymen's federation have a position on that?

Mr. VANDENBORD. Yes; we do have a position, and I would like to ask Mr. Healy to speak to that, since he has been working with it daily.

Mr. HEALY. Well, Mr. Chairman, certainly the dairy farmers are not going to stumble over that request by the Department. I think it only fair to say, though, that certainly it is my belief that this \$200,000 which has been mentioned here in the testimony of the Department witness seems a little high to me, No. 1.

No. 2, the Department has provisions or has funds provided both from appropriated sources and from section 32 for the administration of this entire program, and why in the world it would at this time pick out one little thing and say this one we want somebody else to pay for, I do not understand that.

It is my understanding that there is a bill before the Congress to provide for the support of this Department unit out of user funds the whole program, and we, as an organization, oppose that legislation. However, I would think that this question which the Department has raised could well be answered when that legislation comes before the Congress. I think it may be a little bit discriminatory or highly discriminatory for the Department to pick out one new program and say they want to pay for this one and operate this one different from all the others. I think let's wait, let's see what the Congress does with the legislation, other legislation which is before it which provides for payment for all of the program by the users and, of course, if this becomes a part of the program, and that legislation passes then, of course, the users will pay for it. If that legislation doesn't pass, certainly the dairy farmer should not be the only ones who have to pay for part of the operation of this thing.

But, as I say, we would not stumble over that.

Mr. FOLEY. Thank you, Mr. Healy.

Mr. Goodling?

Mr. GOODLING. Will you repeat what you said about section 32 funds?

Mr. HEALY. Yes.

Well, the central administrative unit in Washington which supervises the operation of this program, many of their costs are paid out of section 32 funds or have been. There is an item in the current budget, I think for an appropriation and what happens to that we just do not know at this point, but provision is made for Government funds to support the administration of all parts of the Marketing Agreement Act, either from section 32 sources or from appropriated sources.

Mr. GOODLING. I had another commodity group call me some time ago and they are interested in a similar bill.

They say this will not cost the taxpayers 1 penny, we would simply use section 32 funds. To me, that is a pretty ridiculous statement. Section 32 funds belong to the Treasury of the United States just the same as IRS funds.

Mr. HEALY. That is exactly right.

Mr. GOODLING. What we are trying to do is to standardize the procedure, not attack one commodity group at the expense of the other. I believe everybody agrees that we should have a standard procedure.

Mr. HEALY. Yes, sir, we do, too, and that is why I said let's let that part of this thing wait until we get into that other legislation and do it all the same. I say it is only fair to say to you, though, that we as an organization do oppose that other legislation.

Mr. GOODLING. Mr. Vandenburg, I would like to ask, would you agree with me that dairymen themselves are not doing too much about competition from milk substitutes? Let me give you an example of what I have in mind.

Just about a year ago I went into a dairy store to get a sandwich in my district. I am right in a dairy district also. When they served my coffee they served a little container. I looked it over very carefully because I do not ordinarily use cream in my coffee. I observed the contents and there was nothing in that substitute that had ever been near a farm.

After I had had my lunch I went into the office of the owner or manager and told him I thought that was a rather unusual thing for a dairy store to be doing. He said well, in addition to that, I am having my canners work on a milk substitute.

Now, something is wrong somewhere when dairy processors are competing against each other. I am not thinking of the producers, I am thinking of the dairy people, the people that bottle the milk and process the milk.

They are working on substitutes themselves.

Mr. VANDENBORD. Well, I think that, No. 1, and I certainly would agree with everything that you have said, that we are not doing enough on the producer end. But, to get up to the processor end we are talking about another side of the picture and we are talking about the possibility of a pretty high-profit item that can be achieved. Farmers themselves are doing things. I would like to make one example for you. In the northeast we have now about 25 cooperatives that have joined together in a new cooperative, Dairy Development, Inc. in which all of them are pooling their farms for the specific purpose of researching new dairy products which we need very badly. It is an area that has been sadly neglected over the years, even though I understand that the Department of Agriculture research divisions and land-grant colleges throughout the country have been doing a lot of work on this during the years, yet those formulas that have been devised, whether they are good or bad, lay for the most part on shelves, and one of our jobs is going to be to go to these shelves and get those formulas, whatever they may be, and try to put them to some use for the good of the dairy industry.

Mr. GOODLING. You are working and using milk for these new dairy products rather than synthetics?

Mr. VANDENBORD. Yes, sir; entirely.

Mr. GOODLING. That is all, Mr. Chairman.

Mr. FOLEY. Mr. Sisk?

Mr. SISK. Thank you, Mr. Chairman. I would like to ask you, Mr. Vandenburg, about another suggested amendment by the Department having to do with the right of those who may oppose making contributions to demand a refund of their assessments.

Do you have a position on that proposed amendment?

Mr. VANDENBORD. Yes, sir; we do have a position on that. We firmly believe that once a program has been approved by two-thirds in any given market that everyone should participate. However, I can say to you this morning that I believe, as a dairy farmer, I believe this whole program to be so vital to our future that I cannot appear here today and let this program go by if such an item were requested by the Congress.

Mr. SISK. In other words, what you are saying is that basically you do not believe it should be included, but if it were included you would still want the act?

Mr. VANDENBORD. Yes, sir.

Mr. SISK. I raise this question, Mr. Vandenberg, because I have some concern about whether or not we might have set a bad precedent with the cotton checkoff program. That was the first time we provided this kind of a provision in legislation. I supported that because frankly we were having problems getting that program through. I was very much interested in cotton and cotton promotion, and went along with the proposal as probably the only way we could have sold the program.

I am beginning to have second thoughts now as to the precedent we set. I am wondering how long our marketing order programs, which are very important to us in California, can survive under what in essence is moving in the direction of a so-called volunteer program—even though two-thirds voted in favor of it. I do think it may represent a danger of which the crop people, the milk people, and others involved in these programs should make a thorough study. When two-thirds of the group have voted to support a program then I question whether there should be any refund. I just wanted to examine you a little bit on the position of the dairy industry, and I would be interested in any comment, Mr. Healy, that you might make on that same point of making contributions.

Mr. HEALY. Well, we looked at that part of this bill very carefully before we drew any opinions on it, and I think, Mr. Sisk, that pretty generally in my organization the dairy farmers and the cooperatives agree with your new line of thought on this thing. It is so important that we be able to develop sufficient funds to promote this product that we believe that it should be mandatory. As Mr. Vandenberg told you, he doesn't feel that we should again stumble over something of that nature. However, I think that is much more important, a much more important consideration than this cost of our administering the program. We do not give any other person an out in this marketing act. If we put a base plan in it must be voted by two-thirds of the producers, and we do not say to this man over here who does not want to market his milk under a base plan, well, you can go your merry way. We think that two-thirds majority, a two-thirds majority in a referendum represents a substantial vote. We do know that all sides of all of these things are presented to the farmers who vote and to their cooperative associations which vote for them, and these votes are not cast lightly, and once they are then we think it should be binding on the market.

Mr. SISK. I appreciate your comments, Mr. Healy. This bears out pretty well my own thinking. As I say, we do think under the urgency

of the moment, and then we live to regret it. I am sure many others are beginning to have second thoughts.

For example, the potato promotion order, which is now pending before the Congress, which by the way I am supporting, does have this same provision, providing for those who do not desire to contribute to this promotion fund for potatoes to have a refund. So, I find that the Department proposing an amendment, in this case indicating a trend. There is no question. It seems to me that the time is coming, and is probably here, where we should stop and take a look at this. I think we have had evidence over the years that volunteer programs do not work. I see my good friend John Datt sitting out there from the Farm Bureau, and of course they like the volunteer programs, and we all like volunteer programs. Yet it has been proven time and time again that they will not work. That is why you folks, and others, from time to time come to the Congress and ask for a marketing order so that by vote you can begin to make certain things binding. I do think that Congress is going to have to take a hard look at this and in the direction in which we go.

That is all, Mr. Chairman.

Mr. HEALY. Mr. Chairman, may I say one other thing?

The dairy industry has a voluntary program to do quite like this program is designed to do. The American Dairy Association collected just short of \$15 million, but I would venture that a great percentage of that collection, a very high percentage of it is used to collect, you see, and what we are trying to do here is to make some kind of system so that the money these farmers spend or allocate to a program can be used to buy final results, to buy advertising space, and to do research rather than have to pump so much of it back to make the voluntary program work, you see.

Mr. SISK. Well, I appreciate very much your comment. I might just mention, Mr. Chairman, if I could just take a couple or more minutes here. I do not wish to impose, but as I understand there are, of course, many marketing orders in many different areas, and this program would be up to each individual marketing shed or area as to whether they vote it in or not.

Mr. HEALY. Yes, sir.

Mr. SISK. Does that, in the opinion of either one of you gentlemen, pose any problems as against some other programs where, let us say, and I am thinking now of some that operate in my own area, where practically all of that product that is sold in the United States is under that order. Is there a problem where, for example, one area says, yes, we will go for this program and another area says, no, we will not? To what extent is there a problem in connection with the overall advertising and the kind of promotion and the concerns that you have in meeting the so-called synthetic product? Does this afford a problem, or have I made the question clear?

Mr. HEALY. Yes.

Mr. SISK. Take for example the State of New York has this program, the State of Pennsylvania does not. I am only citing illustrations, the State of Wisconsin does and the State of Minnesota does not, et cetera. The point I am making, is there in fact still one group that is going to be carrying more of the burden or one that is going to be carrying the burden as far as this program, whereas others will be

escaping merely because of a difference in areas and a difference in marketing order groups.

Mr. VANDENBORD. I understand your question, and I think that the inequities then will be placed on a different level. Rather than it being inequities between neighboring farmers, the inequities, if there be any at that point, would be between areas, and I think that the problems of the synthetic product so far as the dairy industry is concerned are broad enough and nationwide so that the inequities I think will take care of themselves because I see in the last couple of years that the dairy farmers all across the country are recognizing the need for them to get together and to do some of the things in marketing and product development to help themselves, which is just what we aim to do.

Mr. SISK. Then in your opinion if this proposed legislation became law you believe that the majority of groups across the Nation operating under Federal marketing orders today would probably adopt this program?

Mr. VANDENBORD. I believe that many of them would. I am thinking of the northeast where we have several Federal orders and I can state unequivocally here this morning, being a part of a group of cooperatives that covers the whole northeast, they support this legislation wholeheartedly, and we cover three Federal orders there, and I would anticipate that at least two of these would almost immediately try to participate in such a program.

The other order has one cooperative in it that has pretty much all of the dairy farmers in it in which they have their own promotion program already, so up there I do not see anything coming in the way of great inequities between areas.

Mr. SISK. Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Myers?

Mr. MYERS. Thank you, Mr. Chairman. I do not want to take issue with my friend from California, but it is my understanding that in the cotton program, as it is now operating, there are not many refunds made. Is that correct?

Mr. SISK. If the gentleman will yield, that is my understanding.

Mr. MYERS. I think there is merit in what you say.

Mr. SISK. And to that extent, as the gentleman knows, as I say, it was the only way that we probably could have sold it, and it actually works very well. I understand that a very small percentage are making requests. The only reason that I raised the other question is that as we go more and more into this I am not sure. Are we then going to really wind up, back with the total volunteer program?

Mr. MYERS. I think you are right and there is merit in the effectiveness of the program and the ability to carry out the intent, and I certainly think there is a serious question here. If everybody backed out you would not have any program.

Mr. SISK. Well, as I recall, and the gentleman can correct me if I am in error, I believe the gentleman presented an amendment to the Potato Act, and maybe I am wrong, but someone, it seems to me, did, to make it permissible for these producers not to pay in at all.

Mr. MYERS. No, I did not.

Mr. SISK. Well, maybe someone else. I know it was discussed, as I recall, to make it possible that the law would provide if any person was opposed, that they simply would not pay at all.

Mr. MYERS. No, I do not think that would work.

Mr. SISK. And that would really be a step in the wrong direction.

Mr. MYERS. I remember that and I did not support it.

Well, back to the gentleman here.

I have detected a difference of opinion here on how this fund shall be deducted, or where it shall be deducted.

Now, I understood, Mr. Forest, that the deductions would be made from the producer or the actual farmer out there, the dairy farmer, and from your testimony I believe you believe it is going to be an add-on cost at the wholesale or distribution point.

Now, can somebody clarify this?

Mr. HEALY. Yes.

Really we are saying the same thing in different words. The money from the sale of milk is collected into a pool.

Mr. MYERS. A cooperative; are you speaking of a marketing order?

Mr. HEALY. No; market pool, and this bill provides that one sum of money would be deducted from that pool before it is distributed among the farmers whose milk was sold to collect the pool of money, you see. So, Mr. Forest said this would be taken from producers and that is true, because it comes out of the money which would be divided among producers. The bill is written as it is written to minimize the administrative difficulty of taking 3 cents a hundred off the checks of many thousands of farmers. We would merely take 3 cents a hundred out of the pool for each hundred pounds of milk which contributed to the pool. So, there is no—

Mr. MYERS. Would it be fair to say that it is really an add-on cost that the consumer is going to pay?

Mr. HEALY. No.

Mr. MYERS. The farmer is going to have to have a profit, let us hope, or the thing isn't really going to be working. So, it always is going to be passed on to the consumer.

Mr. HEALY. No, we do not propose that this thing be one of the criteria for establishing class prices. The price of milk to handle is the price of milk ultimately to the consumers. We are saying, of the money which is generated by the order under the price structure which is now in the order, that so much will be deducted and used for this. This is a direct contribution of producer funds without any relation to the development of price under the order.

Mr. MYERS. But it is going to be one of the costs of production—

Mr. HEALY. It is.

Mr. MYERS (continuing). And ultimately passes on to the consumer; there is no use kidding each other about this.

Mr. HEALY. It is one of the costs of production which producers are willing or feel they must—

Mr. MYERS. Well, I am not criticizing; but it is going to be another cost that the consumer is ultimately going to be paying in the end.

Now, can you just briefly tell me how your voluntary program works today?

Mr. VANDENBORD. Well, I think I can just go over it briefly.

We have fine organizations, the American Dairy Association and the National Dairy Council contributions which are made voluntarily.

Mr. MYERS. To whom?

Mr. VANDENBORD. To the American Dairy Association by individual farmers. Our own members send us a written authorization to deduct 3 cents a hundredweight, 2 cents of which goes to the American Dairy Association and 1 cent to the National Dairy Council. It takes field representatives of the American Dairy Association traveling the roads, calling on farmers to sign up new contributors, to call on those who for some reason or other feel that they have contributed long enough and want out, the field man goes down and finds them; and maybe has to go back several times to find them to see what the trouble is to try to sign them up again.

Mr. MYERS. What percentage of your members now voluntarily pay into this? Do you have any figures on this?

Mr. VANDENBORD. Yes, I do. This has varied over the years. My own cooperative, we have had sometimes as many as 85 percent, but we have had a rather thorough educational program in my cooperative, and in the Federal order as a whole, my own Federal order, we have difficulty in maintaining 60 percent contribution on the voluntary basis.

Mr. MYERS. Can you see any significant improvements from your advertising or from your promotion that you have purchased from this fund? Any success stories that you might give us here briefly?

Mr. VANDENBORD. Yes, sir.

I think in the Northeast particularly, in the Buffalo and Rochester areas where they have State orders and contributions are made under the State orders, over in Connecticut and the Boston areas, the figures show, compared to the rest of the country, where milk production or milk consumption, fluid consumption has sloughed off continuously, these areas have not only held their own, but in some years have actually increased per capita consumption.

Mr. MYERS. In closing, I think this is the direction that we in agriculture must go. I am concerned about one thing which has constantly crept in here this morning, and this is the injection of substitutes, and it does concern me. I hope you and your industry who are directly confronted today with so many substitutes, are aware of this because I can remember John L. Lewis in the coal industry who was successful for a number of years through various manipulations in controlling price and supply of coal, and look at coal today, what he has done to it. I think there is another thing, but we have to also stay competitive pricewise. We just cannot constantly add on or substitutes are going to creep in. I do not know what the answer to this is, but I am fearful that we might, you know, throw the baby out with the wash water.

Mr. VANDENBORD. We are trying desperately not to do this.

Mr. MYERS. And this applies to the entire agricultural picture, not only milk, but I am worried about other agricultural products, too; because we see so many substitutes today. We cannot blame the system. If they can produce it cheaper, the public is going to go to it, and I think price is a big item here.

Mr. VANDENBORD. As Mr. Goodling said earlier, we ask only basically that the consumer know what he is buying and know the nutritional value of what he is buying and at what cost.

Mr. MYERS. Well, that is right, but let us not get it so high that the consumer is looking for something else, too. I think this is very vital.

Mr. VANDENBORD. Under this program that we have presented this morning, I think at the outset certainly that the consumer and the dairy farmer can benefit. The consumer will know about the nutritious value of milk as compared with some of the chemical products with which he is being bombarded. I read, too, some of these things that we get to put in our coffee in restaurants and I cannot even understand what they are saying there, and I know that they have never been near a farm.

Mr. MYERS. Never saw a cow.

Mr. VANDENBORD. No.

Mr. MYERS. Thank you.

Mr. FOLEY. Mr. Jones?

Mr. JONES. Thank you, Mr. Chairman. I have no statement or questions, except I would like to take this opportunity to thank Mr. Vandenberg and Mr. Healy for this most informative piece of information that he has brought here. As a dairy farmer all of my life I am quite familiar with what you are confronted with today, and I might say, Mr. Healy, I sat there, too, and testified for Mike Norton when he was in your place a good many years ago. I am intensely interested in the dairy problem. I think that we are going in the right direction. I think that we can see very fruitful results for what has already been done.

As you mentioned, the American Dairy Association, the National Dairy Council, and this new concept of coops getting together on a big basis. I attended a meeting last week in my own district of the milk producers cooperative. They are really going to town in getting a good job done.

Thank you for your statement.

Mr. GOODLING. Mr. Chairman, I do not want to prolong this, but one other question comes to my own mind.

My own county dairy association advertises milk on radio every day of the year. They probably do not Sunday; I have never heard it. I do not know how they finance it, but it costs them a lot of money to do this.

They are advertising York County milk as the best that is produced, and I know some of you here might question that statement because I believe other areas produce milk equally good.

But what effect would this sort of a program have on my county dairymen?

Mr. VANDENBORD. I would hope, sir, that it would help your county dairymen just as much as anyone else. My own organization is in the business of marketing fluid milk also to the consumer.

Mr. GOODLING. But you would not be allowed to advertise milk from any one particular spot.

Mr. VANDENBORD. That is right.

Mr. GOODLING. Would my dairy farmers under this be allowed to advertise York County milk—

Mr. VANDENBORD. Yes, sir; they would.

Mr. GOODLING (continuing). As they are doing now?

Mr. VANDENBORD. I intend in my own organization to continue to spend I hope more than a half million dollars we have been spending every year to advertise my own dairy league products.

This would certainly supplement not only York County milk and my dairymen's league milk, but it would supplement the sales of all fluid milk and help everyone.

Mr. GOODLING. That is all, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Vandembord. We appreciate your testimony and your appearance before the subcommittee today, and that of Mr. Healy.

Mr. SISK. Mr. Chairman, if I could make just one brief statement; I want to apologize to my good friend, Mr. Myers, but I now recall that he did oppose the amendment.

Mr. MYERS. No problem.

Mr. SISK. I just brought it up merely because I recall that it was offered and we had some discussion, and now I remember he opposed this, and this was the fear that I had.

Mr. MYERS. I concede the point.

Mr. FOLEY. The final scheduled witness today will be Mr. John C. Datt, assistant director of the Washington office of the American Farm Bureau Federation.

Mr. Datt, we are very happy to welcome you here before the subcommittee.

STATEMENT OF JOHN C. DATT, ASSISTANT DIRECTOR, WASHINGTON OFFICE, AMERICAN FARM BUREAU FEDERATION

Mr. DATT. Thank you very much, Mr. Foley.

I appreciate the opportunity of appearing once again before this particular subcommittee, and on behalf of the American Farm Bureau Federation I want to express my appreciation for the opportunity to appear with respect to the provisions of H.R. 10710.

This legislation would amend the Agricultural Marketing Agreement Act of 1937 to authorize a compulsory checkoff program for milk.

Farm Bureau is a voluntary, nongovernmental organization wholly controlled by its members. It is financed by membership dues. It is organized to provide a means through which farmers can work together toward the goals upon which they agree.

It represents farmers from every part of the country, producers of every kind of agricultural commodity. The policy resolutions that guide Farm Bureau during the year are developed through a program featuring individual member participation and including study, discussion, and development of policy recommendations at local, county, State, and national meetings.

Farm Bureau has a long record of experience in the promotion of agricultural commodities. At our most recent annual meeting, in December 1968, the official voting delegates of the member State Farm Bureaus adopted the following resolution on this subject:

"It is important that farmers promote the increased sale and consumption of farm products without duplication of effort. We support—and will continue to seek improvement of—sound, well coordinated promotion programs, including those on an industry-wide basis having adequate producer representation.

"We oppose any and all check-off programs for the promotion of agricultural commodities when the federal government administers, or has veto power over, the program.

"Programs for the promotion of agricultural commodities which involve the check-off of funds from agricultural producers should meet the following criteria:

"(1) The program must be initiated and developed only by the producers of the commodity involved.

"(2) Funds collected must be used only for research, education, and promotion and not for legislative or political activities.

"(3) The program must be approved or amended by two-thirds or more of the eligible producers voting individually in a referendum, and these must represent two-thirds or more of the production of the commodity involved.

"(4) Continuation of the program after each three-year period shall require approval by two-thirds or more to the eligible producers voting in a referendum, and these must represent two-thirds or more of the production of the commodity involved.

"(5) Funds collected should be administered by a producer board elected by the producers of the affected commodity.

"(6) Each producer must have the right to refuse to pay at the first point of collection.

"(7) Provision should be made for an annual certified audit. This will provide producers and the general public with an adequate accounting of expenditures.

"Producers should recognize that funds 'checked off' for promotion programs are deductions from their incomes. Therefore, they should periodically review these programs to determine their effectiveness. Participating producers and their organizations should be encouraged to seek an evaluation of these programs and to recommend improvements."

This policy statement makes it clear that the Farm Bureau supports programs for the promotion of agricultural commodities. However, H.R. 10710 does not meet the standards established by Farm Bureau policy for programs to finance the promotion of agricultural commodities in the following respects:

(1) Since H.R. 10710 is an amendment to the Agricultural Marketing Agreement Act of 1937, as amended, and since regulations established under this act must be approved by the Secretary of Agriculture, the Secretary clearly would have veto power over the proposed checkoff programs.

(2) There is no clear prohibition in H.R. 10710 against the use of checkoff funds for legislative or political activities. The words "other program" in line 1, page 2, conceivably could include legislative and political activities.

(3) Amendments to milk marketing orders become effective if approved by two-thirds of the producers voting in a referendum or by producers who produced at least two-thirds of the volume subject to the order in a representative period. Farm Bureau policy says that checkoff programs for promotion should be approved by two-thirds of the eligible producers and producers who produced two-thirds of the volume affected.

(4) There is no provision in the bill for producers to vote as individuals. On the contrary, the Secretary would be required under the existing Marketing Agreement Act to permit bloc voting by cooperatives.

Let me just comment here that the Farm Bureau policy on this question has been that we favor the right of an individual to vote in the initiation of a Federal marketing order or the termination of a Federal marketing order, and then as it relates to the other provisions of a marketing order on a continuing basis that we have supported the use of bloc voting under those circumstances.

(5) There is no provision in the legislation for periodic referendums to determine whether producers continue to favor a checkoff program.

(6) Producers would not have the right to refuse to pay at the first point of collection. In fact there is no provision for a producer to get his money back if he wishes to do so.

Now, this is based on the bill as it is, as it was written, and does not reflect the recommendation of the Department that was made earlier this morning.

(7) There is no requirement under H.R. 10710 for an annual certified audit.

Now, I should add that there is, of course, as a part of the Marketing Agreement Act, a provision for the audit and it could be presumed that that would be covered under that particular provision, but we just raised this question to be sure that it was covered.

Since the initial expression of interest in a dairy promotion checkoff under Federal milk marketing orders, significant changes have occurred in the procedures used to collect producer funds for promotion purposes. The changes include the increased use of voluntary programs, checkoffs by dairy cooperatives, and State enabling legislation.

A review of Federal order markets indicates that a number of promotion programs are already in operation in these markets.

The review shows (1) that 14 States with Federal milk marketing orders, or with a large volume of milk priced under a Federal milk order, have statewide milk promotion checkoffs in effect or authority for such a program; (2) that the milk production in the 14 States, 62 billion pounds, exceeded the total producer deliveries to all Federal milk markets—56 billion pounds—in 1968; (3) that an increasing percentage of the dairy cooperatives has assumed the responsibility for the collection of promotion funds from their members; (4) that an estimated 90 percent of the producer deliveries to all Federal order markets is now covered by State checkoff programs or authorization legislation for such, or by checkoffs by dairy cooperatives and other voluntary contributions.

Farm Bureau has supported the efforts of the dairy industry to carry on a promotion program through the American Dairy Association. Our organization has been very active in assisting ADA in the collection of funds for dairy promotion and research work.

Farm Bureau has supported, and will continue to support, sound promotion and research programs for milk. H.R. 10710 does not meet the Farm Bureau criteria for the promotion of agricultural products. Therefore, we urge that this legislation not be enacted.

We appreciate the opportunity to present our views on this matter.

Mr. FOLEY. Thank you, Mr. Datt.

Mr. GOODLING?

Mr. GOODLING. No questions, Mr. Chairman.

Mr. FOLEY. Mr. Sisk?

Mr. SISK. Well, I simply want to say to my good friend—and I had mentioned his name earlier—that I always appreciate hearing from him, and I am not going to ask any questions. I think we have had our discussions and we view things a little bit differently, but I think that the gentleman does set forth the Farm Bureau policy very well.

Mr. DATT. Mr. Sisk, there is one thing that I think we should clarify because Mr. Foley raised it earlier, and I think that we should get it clear so that we know what we are talking about as far as the Marketing Agreement Act is concerned.

He asked whether the proposed amendment by the Department as it related to the possible refunds, as to whether this was a departure.

As you know, Mr. Sisk, under the Marketing Agreement Act now you have a series of commodities that have the right to have a pro-

motion and advertising program. Most of them in your particular State, and under the law, as far as those commodities are concerned, once they have voted it in there is no provision for any refund whatsoever. So, in answer to your question, Mr. Chairman, yes, this would be, as far as the Marketing Agreement Act is concerned, as to the promotional part of the act, the Department amendment would be a change from what it is in existing law by putting the refund feature in.

Mr. FOLEY. Thank you very much.

Mr. Myers?

Mr. MYERS. Thank you, Mr. Chairman.

I have some questions about your objections to H.R. 10710, and some of them I certainly agree with. I had some questions, too, about them.

No. 1, for instance, where you question the right of the veto power of the Secretary. If we eliminated, through amendment to this bill, the right of the Secretary to veto and make it mandatory upon the the referendum that receives two-thirds vote by all of the producers voting, would we not have objection to this yet, as far as features are concerned?

Mr. DATT. Well, this goes back to some of the earlier discussions we had when I was up here for the potato checkoff legislation as it relates to this question.

Our policy basically indicates that we are for a program where the Secretary does not have the veto power, which means that we are essentially for a voluntary, nongovernmental, program as far as our approach is concerned.

Mr. MYERS. This feature would make it better if it were mandatory upon the Secretary?

Mr. DATT. Well, as I said on a prior occasion, if you are going to have the Federal Government use its power to collect the money, I certainly think the Farm Bureau would feel that the Secretary should have the responsibility for seeing that the funds are properly used.

Mr. MYERS. That is the certified audit that you are requesting here, too, I think?

Mr. DATT. Well, not so much that as it goes back to the question on who has the final authority to say how this money is going to be spent.

Mr. MYERS. Now, No. 6, you question the refusal to pay. I do not think you ever said anything about the amendment offered by the Department? Does that make the bill any better?

Mr. DATT. Well, let me say that as far as Farm Bureau policy is concerned, we would like to have the producer have the right to refuse to pay at the first point of collection. In other words, we would like to avoid the whole refund procedure by having a producer be able to say that if he does not want to contribute he does not have to.

Mr. MYERS. But he will go on and be a participant in the order but not pay this particular feature; is that right?

Mr. DATT. I think certainly that if you are going to go this route, that the producer should have the right to refuse to pay, and that certainly if you do not accept that, then you ought to provide some provision for him to get his money back if he does not feel that he wants to participate.

Mr. MYERS. But your first choice would be that he should have a right to refuse and still participate in other features of the order?

Mr. DATT. Yes; certainly, certainly.

Mr. MYERS. Now, Mr. Datt, let me just ask a hypothetical question?

Mr. DATT. Let me make the point, that under the other provisions of the Marketing Agreement Act, you are regulating the marketing of a given commodity. So now you are talking about collecting money for promotion and advertising, which as far as we are concerned is quite a difference than what we have been doing under the Marketing Agreement Act up until now.

Mr. MYERS. Let me give you a hypothetical question and then I will quit.

I need an insurance policy for my automobile. Would you sell it to me through the Farm Bureau?

Mr. DATT. Pardon me?

Mr. MYERS. Could I get an insurance policy through the Farm Bureau for my automobile?

Mr. DATT. Well, first of all, it would depend on what the provisions are of the State Farm Bureau as it relates to the membership requirements.

Mr. MYERS. Membership requirements?

Mr. DATT. First of all you would have to be a member of the Farm Bureau in most cases.

Mr. MYERS. Well, I just want the insurance policy, I do not want anything else; I just want the policy.

Mr. DATT. Well, the requirements of the Farm Bureau in most of the States are that you have to be a member of the Farm Bureau.

Mr. MYERS. You have to pay your dues?

Mr. DATT. Yes.

Mr. MYERS. All right. Thank you.

Mr. DATT. Now, whether you could qualify as a member because of how much agricultural income you have is another question.

Mr. MYERS. Well, I qualify in that area.

Thank you, Mr. Datt. I think I made my point.

Mr. FOLEY. Mr. Jones?

Mr. JONES. No questions, Mr. Chairman.

Mr. FOLEY. Mr. Datt, your previous testimony on the potato research and promotion bill follows generally similar lines to your testimony today, but are there differences in terms of the nonpayment of the contribution between that proposed potato research and promotion act and the type of payments that would have to be made under this bill under the Federal marketing?

Mr. DATT. Well, I am not sure that I understand the question.

Mr. FOLEY. In other words, are the two methods or structures of producing payments different?

Mr. DATT. I understand your question now.

Let me say that as far as the Farm Bureau policy is concerned, there is nothing in the policy that indicates that we object to the use of a Federal marketing order as a means of collecting money for promotion and advertising purposes, providing it were to meet the criteria that I have indicated this morning.

Mr. FOLEY. Your particular concern goes to the fact that the Secretary might have some administrative or veto authority over the program?

Mr. DATT. That is one.

Under the Marketing Agreement Act, you have bloc voting and in the potato order you have the individual voting and you do not have any bloc voting at all. Under the one this morning you do not even have the right to get your money back; whereas, in the potato we at least have that particular right.

What I am saying is that as far as the use of a Federal marketing order as a means of collecting money for promotional purposes, we would not oppose that, providing that the objections that are raised this morning were met.

Mr. FOLEY. Well, is there any other difference in the two programs that is envisaged by the two pieces of legislation?

In the case of the potato research and promotion bill, you anticipate a national program?

Mr. DATT. That is correct.

Mr. FOLEY. And under this proposed legislation the program could be national, but more likely, it would operate only in certain marketing areas, and not operate in others, and individual producers could make determinations on the basis of the regional marketing areas?

Mr. DATT. I think that is correct. I think that is one of the reasons why I made the earlier statement in terms of our objection to why we would not object per se to the use of the Federal marketing order as a method or a device.

I would like to point out that as a matter of fact if you go down through the States that are represented up there you would discover that there is now, for instance, in most of the States, State enabling legislation where they use—that is used for the collection of money for milk promotion programs.

Mr. FOLEY. And the Farm Bureau Federation does not oppose those programs?

Mr. DATT. Our State Farm Bureaus are autonomous and some have supported them and some have opposed them and there have been various and sundry views. They are free to do whatever they choose so far as the State Farm Bureau is concerned.

Mr. FOLEY. The only thing that I find some difficulty in understanding is why the policy of the Farm Bureau would not be modified at least to the point that where marketing orders are within a State, primarily within a State, it would be up to the State Farm Bureaus rather than to the American Farm Bureau to take a national position. If you do not oppose State checkoffs, why do you, in this bill, oppose Federal marketing orders that lie within the State boundaries?

Mr. DATT. But you do not have, Mr. Chairman, very few of these milk marketing orders that cover just one State as such.

Mr. FOLEY. But there are some?

Mr. DATT. Yes, you have some. They are relatively few in number, though.

Mr. FOLEY. Well, to expand it, then, it would seem to me that if it is to be a Federal marketing order that has only regional application, this should be a matter for those State Farm Bureaus within that region to determine rather than the American Farm Bureau nationally.

Now, I can understand how you can make a distinction between State and Federal, but if this is regional and has regional application, why does the American Farm Bureau feel as it does?

Mr. DATT. Well, because one you are amending the Marketing Agreement Act of 1937 which is basic legislation which concerns the total as far as agriculture is concerned. You are amending some of the basic legislation that involves the whole marketing order structure.

Mr. FOLEY. That is true; but as to the merits of the legislation itself, aside from the fact that it reaches the basic Federal law, it seems to me that there is a peculiar opposition to anything that has Federal administration where if you enjoy any interest in those States that have State administration, even though they both may be mandatory.

Mr. DATT. Well, over the years the State Farm Bureaus under the organizational structure, have the right to decide what they want to do within their own particular State, and then they have proceeded to establish a policy at the National level.

Mr. FOLEY. So it basically arises out of an inter-institutional provision of responsibility rather than a particular philosophical thought?

Mr. DATT. I think that is probably correct.

Mr. FOLEY. Are there any further questions of Mr. Datt?

Thank you very much, Mr. Datt. We appreciate as always your testimony.

That concludes the scheduled list of witnesses before the subcommittee this morning.

(Also submitted to the subcommittee was the following telegram:)

EASTERN MILK PRODUCERS CO-OP,
August 8, 1969.

CHRISTINE GALLAGHER,
Clerk, Professional Staff, House Office Building,
U.S. House of Representatives, Washington, D.C.:

Please submit the enclosed telegram to the proper subcommittee chairman of the House Agriculture Committee. Eastern Milk Producers Association conducted an extensive survey among its dairy farmer members this spring to determine their feeling on compulsory deductions to be used for milk promotion and advertising. They were asked the question whether they favored or opposed compulsory milk promotion dues where the Government was the collecting agency at a rate of 3 to 5 cents per hundredweight of milk.

Of the nearly 3,000 dairy farmers from New York, Pennsylvania, Vermont, and Delaware who answered the survey 85 percent said they were opposed to compulsory milk promotion dues. Almost all of these farmers do subscribe money voluntarily to American Dairy Association-Dairy Counsel for promotion purposes and our organization has supported the Positive Letter and other voluntary methods of collecting funds. However, compulsory deductions is a program which most dairy farmers object to and will not support, and we strongly urge you to consider this point in the deliberation of proposed bill H.R. 10710 by you and your committee.

JOHN C. YORK, General Manager.

Mr. FOLEY. If there are any other witnesses in the room who wish to testify briefly, the subcommittee would be happy to hear them at this point.

If not, I would ask the members of the subcommittee if they would remain briefly for a very short executive session, and accordingly, the Subcommittee on Domestic Marketing and Consumer Relations will stand adjourned, to meet at the call of the chair.

(Whereupon, at 11:40 a.m., the hearing in the above-entitled matter was adjourned, to reconvene subject to the call of the Chair.)



