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MARKETING ORDER COSTS

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HEARINGS

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. 13193

SEPTEMBER 30; OCTOBER 1, AND 2, 1969

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MARKETING ORDER COSTS

TUESDAY, SEPTEMBER 30, 1969

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

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

Present: Representatives Foley, Vigorito, Sisk, Jones of Tennessee, May, Goodling, and Miller of Ohio.

Also present: Christine S. Gallagher, clerk; William C. Black, general counsel; and Hyde Murray, associate counsel.

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

The subcommittee meeting this morning is the first of three scheduled days of hearings on H.R. 13193 by Mr. Goodling and Mr. Miller of Ohio.

The first purpose of the proposed legislation is to recover the costs of Federal marketing agreements and orders. The Chair notes H.R. 13193 is introduced by Mr. Goodling and Mr. Miller by request.

At this time the Chair is pleased to recognize the authors of the legislation. Mr. Miller, Mr. Goodling.

STATEMENT OF HON. GEORGE A. GOODLING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. GOODLING. Thank you, Mr. Chairman.

Mr. Chairman, I take this opportunity to clarify the record in regard to this bill, H.R. 13193, which the gentleman from Ohio (Mr. Miller) and I have placed before the subcommittee.

As you know, this bill is an administration proposal which carries the designation of having been introduced by request. I personally had some misgiving about the bill when I introduced it, both in its scope and its method of financing. My primary purpose for introducing this bill was to provide a vehicle for the subcommittee to examine some of the glaring inconsistencies which our laws reflect in regard to assessment of administrative costs or user charges under the various agricultural marketing statutes.

I'm informed for example that the costs of rice inspection are passed along to users while cotton grading charges are absorbed by the Department; meat inspection is paid for by the Department while the cost of meat grading is passed along to the user. Administrative costs incurred under the Perishable Agricultural Commodities Act are de-

frayed by a system of licensing fees. My concern is not so much that a specific amount be collected from program recipients, as it is that we, and I hasten to point out that I mean the Congress, be consistent in our approach to these problems.

This session of Congress has provided a case in point. Mr. Chairman, you will recall that when this subcommittee had the Potato Research and Promotion Act (H.R. 2777) before it, the departmental witness testified that the Government should absorb annual administrative costs of \$80,000 and an initial cost estimated at between \$180,000 and \$325,000. Less than 2 months later when this subcommittee considered the Honey Research and Promotion Act, a very similar measure for honey (H.R. 9655) the Department's position changed completely.

The Department then explained that the potato bill had been brought up for hearing at an early date in the new Administration and in the interim it had adopted the policy of passing along administrative costs for promotion and research programs. In response to a question raised during those same hearings regarding administrative costs of all marketing order activities, the Department of Agriculture stated that it "is now considering its policy position on S. 816 (which had been recommended by the past Administration) and would be forwarding a legislative report to the Congress as soon as its evaluation is completed." Due to the surrounding confusion I introduced the bill here under consideration which, as you know, is identical to S. 816.

I for one believe that the obvious inconsistency with respect to our agricultural marketing costs is not only confusing, but also is unfair, and to this end I hope that these hearings will produce legislation which will improve the situation.

I also hope these hearings will produce both interest and support for the idea that the Government should not pay for research and promotion activities of one commodity at the expense of other competing crops.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Miller.

STATEMENT OF HON. CLARENCE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. MILLER. Mr. Chairman, I too would like to make a brief statement in regard to the hearings on this bill.

As the gentleman from Pennsylvania, Mr. Goodling, has pointed out, I have cosponsored this bill in order to give the subcommittee a single vehicle upon which to build a record in an area of public policy that is often inconsistent and in some cases, quite illogical.

The members of the subcommittee will recall that when we decided to proceed on holding those hearings, Mr. Goodling and I agreed to sponsor this bill by request. This we have done in an effort to clarify, and hopefully improve, the policy that the Government takes in regard to user fees or expenses assessed against the people who may benefit from specific marketing programs.

The gentleman from Pennsylvania has set forth some of the inconsistencies that exist both in the present law and in the position the Department has taken to date.

I expect we will hear more of this evidence today and I welcome this chance to try to straighten out this tangled situation.

In doing this though, I think we should try to keep in mind the distinction between services that the Government provides that are entirely or substantially for the public benefit and those which are primarily for the benefit of a particular industry or commodity group with only incidental benefits for the public at large.

There seems to me to be a logical reason for the Government to pay the entire costs of administering programs that are entirely in the public service area—for example meat inspection protects everybody. Thus it is not inconsistent to have the Government pay for it.

On the other hand meat grading is in great part a marketing and advertising service for the meatpacking industry and it seems fitting and proper for these costs to be assumed by that segment of the economy.

This is the same philosophy that I hold in regard to administrative expenses on marketing orders that are designed primarily for research and promotion of one particular commodity. That service is one, I feel, which is predominantly for the benefit of the producers and handlers of that commodity. Thus it should be paid for by the benefited marketing or promotion board and not the Government.

In my opinion the Department's position on the honey promotion bill was correct. Their position on the potato promotion bill was not. They too, would need guidance as to what direction to go.

In regard to this bill today, I, too, have some serious misgivings about it. First, it goes too far in assessing the total cost of all expenses to producers and handlers. Second, it could require the handlers of one commodity to pay the administrative expenses for the failure of a referendum to win approval by the producers of another commodity; and third, it would establish a poor method of financing these programs because it calls for earmarked funds which would not be subject to regular congressional appropriations control.

Therefore, Mr. Chairman, I repeat, I am looking forward to these hearings in the hope we can develop a good record for the eventual enactment of fair and reasonable marketing and promotion programs.

Thank you, Mr. Chairman.

Mr. FOLEY. Thank You.

The Chair at this point will submit for the record, without objection, the bill H.R. 13193 and a report of the Department of Agriculture dated September 2, 1969, urging enactment of the legislation. This report is over the signature of J. Phil Campbell, Under Secretary of Agriculture.

(The bill and letter follow :)

[H.R. 13193, 91st Cong., first sess.]

A BILL To amend the Agricultural Adjustment Act of 1933, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, to provide for payment by handler assessments of the administrative costs of the Department of Agriculture

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section (10) (b) (2) of the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by redesignating subparagraph (iii) as subparagraph (vi) and by inserting new subparagraphs (iii), (iv), and (v) as follows:

"(iii) The Secretary shall also prescribe, by regulation, such assessments to be paid by handlers as he finds are likely to be required to meet the expenses incurred during each fiscal year for carrying out this Act by the agency of the Department of Agriculture delegated the primary responsibility for administering this Act. Such assessments shall be apportioned among all handlers subject to marketing agreements or marketing orders by such method of apportionment as the Secretary finds will be equitable, giving due consideration to differences among the several marketing agreement and order programs. The assessments shall be payable to the authority or agency established to administer the agreement or order and shall be transmitted by each such authority or agency to the Secretary for application and use as provided in subparagraph (iv). Assessments so prescribed by regulation shall be effective with respect to each marketing agreement and each order affected thereby and the handlers subject thereto with the same force and effect as though incorporated therein by amendment of such marketing agreement or order.

"(iv) The assessments collected pursuant to subparagraph (iii) of this paragraph shall be deposited into the fund established pursuant to section 32, as amended, of Public Law No. 320, Seventy-fourth Congress (49 Stat. 774; 7 U.S.C. 612c), and shall be available without regard to fiscal year limitations for the expenses specified in said subparagraph (iii). Any assessments available to be carried over at the end of any fiscal year shall be in addition to the amount provided as a maximum carryover pursuant to section 301 of the Agricultural Act of 1948 (62 Stat 1257). "(v) In the event that the expenses referred to in subparagraph (iii) of this paragraph are in excess of receipts from the assessments authorized by the same subparagraph, up to \$1,000,000 may be utilized from the fund established pursuant to section 32, as amended, of Public Law No. 320, Seventy-fourth Congress (49 Stat. 774; 7 U.S.C. 612c), to cover such obligations, without regard to limitations on the use of such fund contained in any appropriation Act: *Provided*, That amounts so utilized shall be deemed to be expenses, as used in subparagraph (iii) of this paragraph, and shall be recovered by subsequent assessments."

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, September 2, 1969.

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

DEAR MR. CHAIRMAN: We submit herewith a voluntary report on H.R. 13193, a bill "To amend the Agricultural Adjustment Act of 1933, as amended, and re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, to provide for payment by handler assessments of the administrative costs of the Department of Agriculture."

By letter dated January 17, 1969, former Secretary of Agriculture Orville L. Freeman transmitted to the Congress a draft of proposed legislation which is identical to H.R. 13193. The letter of January 17 is consistent with the 1970 Budget which proposes placing these expenses on a self-supporting basis, and with President Nixon's message to Congress April 14, 1969, on domestic programs and policies recommending enactment of user charges equal in revenue to those now in the budget.

This Department recommends enactment of H.R. 13193.

Marketing agreement and order programs, under authority of the Agricultural Marketing Agreement Act of 1937, help to establish and maintain orderly marketing conditions for certain commodities and their products, such as milk, fruits, vegetables, tobacco, nuts, and hops. The milk order programs establish minimum prices that handlers or distributors are required to pay producers. Marketing agreement and order programs for other commodities regulate quantity, quality and packaging to promote orderly marketing.

At the local level marketing agreements and orders are administered by market administrators or committees. Their expenses are financed by assessment on regulated handlers. Federal administration of the marketing agreement and order program is delegated to this Department's Consumer and Marketing Service. C&MS expenses of administration are presently financed by a permanent annual appropriation pursuant to Section 32 of the Act of August 24, 1935. Under the provisions of H.R. 13193, the proposed assessments for C&MS administration would be deposited into this same Section 32 account. The Department proposes

to collect this amount by imposing a separate charge on each order in addition to regular assessments on handlers. This additional assessment will be determined in as equitable a manner as possible among the different orders. Funds collected will be available without fiscal year limitation.

Other departmental costs incurred in the administration of marketing agreement and order programs which include salaries and expenses of the Office of General Counsel, Office of the Inspector General, and the Office of Hearing Examiners are presently financed through direct appropriation. These costs would continue to be financed in the same manner.

Under the proposed amendment, it is estimated that the cost to be recovered in 1970 would approximate \$2.9 million.

The Bureau of the Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL, *Under Secretary.*

Mr. FOLEY. Also, without objection, the Chair will submit for the record at this point the letter of then Secretary of Agriculture, Orville Freeman, dated January 17, 1969; a letter of transmittal to the Congress urging enactment of legislation of a similar character.

(The letter follows:)

DEPARTMENT OF AGRICULTURE,
Washington, D.C., January 17, 1969.

HON. JOHN W. McMORMACK,
Speaker, U.S. House of Representatives

DEAR MR. SPEAKER: Enclosed for consideration by the Congress is a draft of proposed legislation to recover the costs for providing Federal administration of marketing agreements and orders under the Agricultural Marketing Agreement Act. This legislation would also authorize the deposit of the proposed assessments into the same account established in the Department for "Removal of Surplus Agricultural Commodities."

The marketing agreement and order legislation is currently being used to stabilize marketing conditions for fluid milk, fruits, vegetables, nuts, hops, and tobacco. Federal milk orders are designed to promote orderly marketing conditions, usually through classified pricing throughout the market. In the other commodities mentioned, regulations governing quantity, quality and packaging are used to achieve the same objectives.

All agreements and orders are administered at the local level by market administrators or committees whose expenses are financed by assessment on regulated handlers. In the Department of Agriculture the function of Federal administration is delegated to the Consumer and Marketing Service. The expenses of administration in the C&MS are financed by permanent annual appropriation pursuant to Section 32 of the Act of August 24, 1935. The 1970 Budget proposes placing these expenses on a self supporting basis which is consistent with the general policy in the Act—that the regulated handlers shall pay the costs of administration of such regulation.

The express incurred by the C&MS include the arrangements necessary to organize and implement an agreement to order, effect program amendments, and provide general supervision.

Other departmental costs incurred in the operation of these programs, which presently are financed through direct appropriation, including applicable salaries and expenses of the Office of the General Counsel, the Office of the Inspector General, and the Office of Hearing Examiners, would not be covered by the proposed handler assessments, but would continue to be financed through direct appropriation.

Under the proposed amendment, the cost to be recovered in 1970 is estimated at \$2.9 million. The Department is proposing to collect this amount by imposing a separate charge on each order in addition to regular assessments on handlers. This additional assessment will be determined in as equitable manner as possible among the different orders. Those special assessments on milk, fruits and vegetables will not be large enough to have a significant impact on retail price levels. Funds collected will be available without fiscal year limitation.

A statement explaining the coverage of the proposed legislation is attached.

By letter dated January 16, 1969, the Bureau of the Budget advised enactment of this proposed legislation would be consistent with the Administration's objectives.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

Enclosures.

U.S. DEPARTMENT OF AGRICULTURE, CONSUMER AND MARKETING SERVICE

PROPOSED LEGISLATION TO PROVIDE PAYMENT BY HANDLER ASSESSMENTS OF THE ADMINISTRATIVE COSTS OF THE DEPARTMENT OF AGRICULTURE

The proposed bill amends the Agricultural Marketing Agreement Act of 1937 by providing for the collection of a special assessment to cover the expenses incurred during each fiscal year by the agency of the Department of Agriculture primarily responsible for administering this act (the Consumer and Marketing Service). Other departmental costs incurred in the operation of these programs, which presently are financed through direct appropriation, including applicable salaries and expenses of the Office of the General Counsel, the Office of the Inspector General, and the Office of Hearing Examiners, would not be covered by the proposed handler assessments, but would continue to be financed through direct appropriation.

The present method of financing the cost of the Consumer and Marketing Service's administration of this Act is by a permanent annual appropriation provided by Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c). However, the marketing agreements and orders are administered by market administrators for the milk orders and by administrative committee on the fruit, vegetable, and other orders. This local administration is now financed by assessment. The proposed amendment would authorize the Secretary to establish a special assessment to cover the Federal expenses currently financed by section 32. This assessment would be collected by the market administrators and governing order committees as an additional charge to the present local assessment.

The proposed amendment provides that this additional charge would be deposited into the same fund established under Section 32 (7 U.S.C. 612c). The C&MS expenses for the administration of the Act would be financed from these funds. These assessments would be collected on the basis of the commodity or order period and be available for use in the Federal fiscal year.

When assessments collected are in excess of the amount needed to administer the MA&O program such excess shall be available for carryover for use in the subsequent fiscal year. The amount of this carryover will be considered in determining assessment rates to be charged each year.

In addition to the assessments collected, there shall be available up to \$1 million from the funds appropriated to section 32 to finance the planning and initiation of new orders or amendments to old orders until such time as an adequate reserve for these purposes can be established from assessments.

Based on current prices, volume, and market conditions, the estimated budget for Federal administrative expenses for fiscal year 1970 is \$2,900,000.

A BILL To amend the Agricultural Adjustment Act of 1933, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, to provide for payment by handler assessments of the administrative costs of the Department of Agriculture

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section (10) (b) (2) of the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by redesignating subparagraph (iii) as subparagraph (vi) and by inserting new subparagraphs (iii), (iv), and (v) as follows:

(iii) The Secretary shall also prescribe, by regulation, such assessments to be paid by handlers as he finds are likely to be required to meet the expenses incurred during each fiscal year for carrying out this Act by the Agency of the Department of Agriculture delegated the primary responsibility for administering this Act. Such assessments shall be apportioned among all handlers subject to marketing agreements or marketing orders by such method of apportionment as the Secretary finds will be equitable, giving due consideration to differences among the several marketing agreement and order programs. The assessments

shall be payable to the authority or agency established to administer the agreement or order and shall be transmitted by each such authority or agency to the Secretary for application and use as provided in subparagraph (iv). Assessments so prescribed by regulation shall be effective with respect to each marketing agreement and each order affected thereby and the handlers subject thereto with the same force and effect as though incorporated therein by amendment of such marketing agreement or order."

"(iv) The assessments collected pursuant to subparagraph (iii) of this paragraph shall be deposited into the fund established pursuant to section 32, as amended, of Public Law No. 320, 74th Congress, 49 Stat. 774, 7 U.S.C. 612c, and shall be available without regard to fiscal limitations for the expenses specified in said subparagraph (iii). Any assessments available to be carried over at the end of any fiscal year shall be in addition to the amount provided as a maximum carryover pursuant to Section 301 of the Agricultural Act of 1948 (62 Stat. 1257)."

"(v) In the event that the expenses referred to in subparagraph (iii) of this paragraph are in excess of receipts from the assessments authorized by the same subparagraph, up to \$1 million may be utilized from the fund established pursuant to section 32, as amended, of Public Law No. 320, 74th Congress, 49 Stat. 774, 7 U.S.C. 612c, to cover such obligations, without regard to limitations on the use of such fund contained in any appropriation Act. *Provided:* That amounts so utilized shall be deemed to be expenses, as used in subparagraph (iii) of this paragraph, and shall be recovered by subsequent assessments."

Mr. FOLEY. The Chair is going to depart from the published list of witnesses to recognize the distinguished gentleman from Texas, Mr. Omar Burleson, to present the next witness.

STATEMENT OF HON. OMAR BURLESON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BURLESON. Mr. Chairman, and members of your distinguished subcommittee, I am most grateful for your consideration in permitting me to present your first witness. I am grateful for you taking me out of order that I may go to my own committee. Incidentally, this matter of a charge by the Government for certain services is well taken. I am appreciative of the fact that your committee is giving consideration to it. At this moment the Ways and Means Committee, for instance, is in the process of determining what the commercial airlines and general aircraft should pay for certain services. They have never had a registration fee. This is part of this issue, whether it is a charge for passports by the State Department or certain fees and charges by the Commerce Department, all these things are, as has been pointed out by the distinguished gentlemen who have introduced this legislation. There is a lot of gray area that has been in question for a number of years. So I think it is perfectly well that you are going into this question.

Dr. Sidney Reagan is professor of business administration and economics at Southern Methodist University in Dallas, Tex. He is not a constituent of mine, but a longtime personal friend, a man who represents a very great industry, the Peanut Shellers Association of the Southwest.

In my congressional district in Texas I represent a great Spanish-type peanut producing area, some years the greatest producing area in the world. Dr. Reagan speaks for the growers and shellers. I understand he reflects the views of the industry in the various areas of the country.

There have been times in peanut legislation when producers, shellers, and others, were not in agreement because of certain differences of interest by reason of geography and so forth. But in this instance they are in opposition to the bill, since this segment of the industry does pay, as I understand it at the present time, in connection with their promotion and marketing and so forth, about \$3¼ million. They feel that they are paying their proportionate share in relation to the matter you have under consideration. I believe you will agree that the peanut industry is meeting its obligation in this respect by already paying its fair share.

Again, Mr. Chairman, I am most grateful for your recognizing me. I have the pleasure of presenting to you Dr. Sidney Reagan.

Mr. FOLEY. Thank you very much.

Dr. Reagan, if you will come forward—I am delighted to see you today, especially to welcome you before the subcommittee under the circumstance of having been presented by a very distinguished Member of Congress.

STATEMENT OF SYDNEY C. REAGAN, GENERAL COUNSEL, SOUTHWESTERN PEANUT SHELLERS ASSOCIATION; ACCOMPANIED BY W. RANDOLPH CARTER, EXECUTIVE SECRETARY OF VIRGINIA-CAROLINA PEANUT ASSOCIATION

Dr. REAGAN. Thank you very much, Mr. Chairman and Mr. Burleson, members of the committee.

May I have permission for Mr. W. Randolph Carter, executive secretary of the Virginia-Carolina Peanut Association to join me in my testimony?

Mr. FOLEY. Yes, certainly.

Dr. REAGAN. I am Sydney C. Reagan, general counsel for the Southwestern Peanut Shellers Association.

Today I am speaking in opposition to H.R. 13193 on behalf not only of the other two sheller associations that are involved in a marketing agreement with the Department of Agriculture; namely, the Virginia-Carolina Peanut Association and the members of the Southeastern Peanut Association; but in addition, joining in this statement are various other groups in the peanut industry, including the Southwestern Peanut Growers Association, the Oklahoma Peanut Growers Association, the North Carolina Peanut Growers Association, and the Virginia Peanut Growers Association. In fact, I know of no group in the peanut industry—and I include grower, sheller and manufacturer groups—anywhere in the United States that support this bill.

Peanuts have been an agricultural commodity supported through price support programs since 1941 when they were designated as a basic commodity. Peanuts are a major source of income to farmers in Georgia, Alabama, Virginia, North Carolina, Texas, and Oklahoma. They are a significant source of income in Florida, New Mexico, and South Carolina.

The peanut shellers are the small businessmen and cooperatives that acquire the peanuts from the farmers in the condition in which they come from the fields, store them, clean them, size and grade them, and sell them to the manufacturers of peanut products.

Since the beginning of price support programs on peanuts, the peanut shellers have cooperated with the Department of Agriculture in making price support available to peanut growers. They have done this by serving as agents for the Government in placing peanuts under price support loans and in storing the loan peanuts. In terms of the effectiveness of the price supporting program, the peanut price support program, I think, ranks among the very top in terms of making the price support available to the grower. At the urging of the Department of Agriculture in 1965, the peanut shellers entered into a marketing agreement on peanuts. The object of this agreement was to improve the quality of peanuts going into the edible market. The object—which has been achieved—was to keep lower quality peanuts out of peanut butter, peanut candy, roasted peanuts and other peanut products reaching the American consumer. Since peanuts are produced in surplus supply under the price support program, this marketing agreement on peanuts was in addition to and supportive of the mandatory price support program being carried out by the Department of Agriculture.

The peanut shellers of farmers stock peanuts are now paying \$3.25 a ton or a total of \$3,250,000 a year to finance this marketing agreement.

Peanut shellers were amazed to learn that after urging the peanut shellers to enter the marketing agreement in 1965 and in view of the heavy financial burden already being carried by peanut shellers—the Department of Agriculture is now trying through its promotion of H.R. 13193 to shift its costs of the marketing agreement onto the backs of the peanut shellers.

If H.R. 13193 becomes law, there is a strong possibility that opposition within the peanut shelling industry will result in the marketing agreement on peanuts being canceled at the request of the peanut shelling industry. The Department of Agriculture needs the peanut marketing agreement to achieve its objectives.

The peanut shelling industry urges that H.R. 13193 be rejected by this subcommittee.

I would like to read into the record two telegrams that reached me this morning. The first is from Mr. Joe S. Sugg, executive secretary, North Carolina Peanut Growers Association.

The North Carolina Peanut Growers Association opposes H.R. 13193 since we believe that marketing orders and agreements are in the interest of consumers as well as producers. We feel that the U.S. Department of Agriculture should support the administrative costs of marketing orders and agreements. Because the United States or U.S. Department of Agriculture, through authority vested by the Congress have the final say, we do not feel that the processors or handlers should be required to pay administrative expenses where the final authority does not rest in their hands. Signed by Mr. Sugg.

The second telegram is from Mr. Floyd King, president of the Oklahoma Peanut Growers Association. This was addressed to Congressman Bursleson.

Greetings: Congressman, please be advised Peanut Growers Association of Oklahoma support Sydney Reagan in opposing H.R. 13193 and wish you to please relay this message to him prior to September 30. He may use our name in this regard and we also support and urge passage of the buy or sell lease peanut bill which we trust you are closely following.

Personal regards.

I also have three other telegrams opposing this legislation; they are from Mr. Ross Wilson, manager, Southwestern Peanut Growers Association, Gorman, Tex.; Mr. Perry M. Culpepper, president, GFA

Peanut Association, Camilla, Ga.; and Mr. John W. Greene, executive director, Southeastern Peanut Association, Albany, Ga.

May I now give Mr. Carter a chance to say a word?

Mr. FOLEY. Yes.

Mr. CARTER. Mr. Chairman, I have no prepared statement, but I represent the shelling industry in Virginia and North Carolina, which is a very major source of peanuts, and we support Dr. Reagan this morning and urge you not report this bill out favorably.

Mr. FOLEY. Thank you, Mr. Carter.

Mr. Goodling?

Mr. GOODLING. Just one question, Mr. Chairman, and this may not be completely in order as far as this bill is concerned. But I am concerned about the peanut industry and I have been doing a little research on it.

I would like to ask you this and you or your colleagues can answer. How long can the peanut growers and peanut shellers expect Commodity Credit Corporation to buy your surplus peanuts and sell them at a loss of about 10 cents per pound for every pound they ever buy and sell.

Dr. REAGAN. May I first point out that the peanuts for a number of years have been supported at the absolute legal minimum under the legislation, that is 75 percent parity, and that the acreage allotment for many years has been at the absolute minimum which was actually set back in 1941. Let me say that the peanut industry is greatly concerned over the problem which you have pointed out and have been working—they worked a couple of years ago trying to get together on some legislation which they felt would reduce the costs of the peanut price support program. That legislation was presented to Congress, but nothing developed from it. It is my understanding that they are going to be working further in this regard, because let me assure you, the peanut industry is concerned over this problem.

Mr. GOODLING. You realize, of course, Commodity Credit Corporation is losing about \$2 to \$4 million every month selling surplus peanuts?

Dr. REAGAN. Yes.

Mr. GOODLING. In addition to that, I think there is another loss we don't appreciate. Probably a lot of these peanuts went into the crushing market to make salad oil and various other products. The Commodity Credit Corporation in turn buys that and sells it at a loss also. So there are two losses and this concerns me. I think we have got to do something about it.

That is all, Mr. Chairman.

Mr. FOLEY. Mr. Vigorito.

Mr. VIGORITO. No questions.

Mr. FOLEY. Mr. Miller.

Mr. MILLER. Yes, Mr. Chairman.

Doctor, I am not sure that you are aware of it, but I would like to point out some of the inconsistencies in marketing orders.

For almonds and walnuts, the marketing order for these particular items allow research and development while the peanut marketing order does not. I think the record should show that we are trying to clarify this situation as to what is taking place and as to what we are trying to accomplish.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Sisk.

Mr. SISK. No questions.

Mr. FOLEY. Mr. Jones.

Mr. JONES. No questions.

Mr. FOLEY. Thank you very much, Dr. Reagan and Mr. Carter. We appreciate your testimony to our committee.

The next witness is representing the Department of Agriculture, Mr. John C. Blum, Deputy Administrator, Regulatory Programs, Consumer and Marketing Service, United States Department of Agriculture.

STATEMENT OF JOHN C. BLUM, DEPUTY ADMINISTRATOR, REGULATORY PROGRAMS, CONSUMER AND MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. BLUM. Thank you, Mr. Chairman, members of the committee.

I wish to thank you for the opportunity to express the Department's views on H.R. 13193. This bill would provide for payment by handler assessments of the administrative costs of the Department of Agriculture's Consumer and Marketing Service incurred in carrying out marketing agreement and order programs.

The Department recommends enactment of H.R. 13193.

The Agricultural Marketing Agreement Act of 1937 authorizes marketing orders for the commodities specified in section 603(c)(2) of the act. It provides that each marketing order must be based on the record of a public hearing, and that no order or amendment may be issued unless at least two-thirds of the producers by number or volume of production voting in a referendum indicate approval.

The purpose of a marketing order is to assist agricultural producers in the orderly marketing of their crops. The act authorizes varying types of regulations in order to achieve this objective.

Milk order programs establish uniform minimum prices that handlers are required to pay producers for milk primarily for fluid consumption. Marketing agreement and order programs for other commodities regulate quantity, quality and packaging to promote orderly marketing.

There presently are 67 milk marketing orders. They regulate milk having a farm value of nearly \$3.2 billion. This represents about three-fourths of all milk eligible for fluid consumption in the United States.

There are 46 marketing agreement and order programs on fruits, vegetables and nuts. They regulate commodities valued at \$1.75 billion at the farm level. They include programs for citrus fruits, peanuts, raisins, potatoes, onions, pears, prunes, plums, hops, walnuts, almonds, cranberries, celery, peaches, tomatoes, and several other commodities.

There is one marketing order on tobacco.

Marketing agreements and orders are administered by market administrators or administrative committees. Their expenses are financed by assessments on regulated handlers.

At the Federal level, administration of the marketing agreement and order program is delegated to the Department's Consumer and Marketing Service. C. & M.S. expenses of administration are presently

financed by a permanent annual appropriation pursuant to section 32 of the act of August 24, 1935.

C. & M.S. maintains a staff of marketing specialists who provide technical assistance to industry groups in the development and amendment of marketing orders, and who assist the Secretary of Agriculture in discharging his program surveillance responsibilities. These responsibilities include participation in public hearings, evaluation of record evidence, drafting of orders and regulations, supervision of market administrators and administrative committees, conduct of referenda, and review of all actions taken under marketing orders to assure that they are consistent with the authorities and objectives of the Agricultural Marketing Agreement Act.

Under the provisions of H.R. 13193, the Department would impose an additional charge under each order to cover the above costs of administration by C. & M.S. This additional charge would be assessed as equitably as possible among the different orders. Funds collected would be deposited into the section 32 account, and would be available without fiscal year limitation.

Other USDA costs incurred in the administration of marketing agreement and order programs—which include salaries and expenses of the Office of General Counsel, Office of the Inspector General, and the Office of Hearing Examiners—are presently financed through direct appropriations. These would continue to be financed in the same manner.

H.R. 13193 further provides that if expenses exceed receipts during any period, up to \$1 million may be utilized from section 32 funds to cover such obligations, without regard to limitations on the use of such funds contained in any appropriation act. Any amounts so utilized must be recovered by subsequent assessments.

It is estimated that the amount recoverable under the proposed bill at existing levels of program expenditure would be approximately \$2.9 million per year. Local administrative costs now paid from industry assessments total about \$19 million. Thus the impact of the proposed bill would be to increase by approximately 15 percent the amount to be recovered by assessments under the order.

It is the judgment of the Department that the proposed amendment is a logical extension of existing authority for industry financing of costs directly attributable to the administration of the marketing order program, and that enactment of the legislation would not adversely affect the operation of the program.

That completes my statement, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Blum.

Mr. Goodling?

Mr. GOODLING. No questions.

Mr. FOLEY. Mr. Vigorito?

Mr. VIGORITO. No questions.

Mr. MILLER. No questions.

Mr. SISK. Mr. Chairman, I want to express appreciation to Mr. Blum for his statement just made. There are several questions that I would like to ask in regard to this breakdown of administrative costs.

Now, as I understand, Mr. Blum, at the present time you indicate some \$19 million paid by the producers, that is through their assessments and handlers, through local administrative costs. So actually

what we are talking about in connection with H.R. 13193 has to do only with the cost, administrative costs of C. & M.S., and this is the figure \$2.9 million to which you referred.

Mr. BLUM. That is right, Mr. Congressman.

Mr. SISK. The responsibilities of the people in your Department, particularly and specifically people in C. & M.S., actually go both ways, do they not? They have the responsibility to assist these producers in an orderly marketing process, but also to see to it that these programs are so administered and so set up that in addition to assisting the producers the consumers are also protected. Isn't this true?

Mr. BLUM. We have a responsibility for looking out for the general public interest in the administration, yes, sir.

Mr. SISK. This seems to me a rather vital and important point to keep in mind, particularly from the standpoint of the Department's responsibility, and it is a broad responsibility to all Americans, that is the producer as well as the consumer. So as to who pays these costs and where there are costs against—you might say the taxpayer, because these proceeds do come out of public funds, or whether they should be exclusively the responsibility of the handler and grower. To me this is the way we come to the crux of the issue. Is that a correct statement or not? Do you agree?

Mr. BLUM. Yes, I think this is the central issue. It is a question of judgment as to where the main impact and benefits accrue.

Mr. SISK. Let me say I appreciate very much the statement of my distinguished friend, Mr. Goodling, this morning in outlining the fact. I think it is excellent that we do get to the crux of the question in making a determination once and for all in what we are going to do in connection with these administrative costs. I think over the years there has been some confusion as to how we break down these costs and who is to be responsible.

So I am vigorously opposing this particular bill, as I have said publicly. I recognize that it is well that we face up here to the issue and I want to commend Mr. Goodling and Mr. Miller for introducing this bill by request and bringing the matter to the Congress to give us an opportunity to establish a policy in connection with it.

Let me ask you, Mr. Blum—and this is not intended in any way to put you on the spot—where did this idea for change in procedure originate, was this a brainchild of C. & M.S. or do you by any chance know who first proposed this idea?

Mr. BLUM. Well, Mr. Sisk, the idea of user charges, as this type of financing is popularly referred to, has been around for a number of years. Previous Administrations had been exploring this. We have had bills up in previous years that were not quite the same as this, but were in this same general area. The present Administration has also expressed a desire to explore areas when this idea of financing Government programs can be extended. So I think that where it originated was in a general Administration goal, you might say, and the Department recommended this in line with the indications of overall policy that had been with us for several years.

Mr. SISK. Let me say I appreciate your statement and I recognize that you are representing the Department on the question of policy, and let me hasten to say that certainly there is nothing partisan involved, because I understand originally this proposal and certain

approaches to it came out of a previous Administration. So as far as I am concerned this isn't a matter of the Administration. I am wondering, though, if maybe it isn't the brainchild, for example, of Bureau of Budget, or some people more concerned about finances than it is those people at your level in the Department of Agriculture concerned about these programs. You do not have to comment on my remarks here. As I said, I don't want to put you on the spot.

Mr. BLUM. Thank you.

Mr. SISK. But having delved into this issue I am inclined to think that this is in line with some of the proposals that we have experienced from the Bureau of Budget people over the past number of years. It is not new.

Mr. Chairman, I appreciate the opportunity to question Mr. Blum. I appreciate the position in part that was taken, though, in this case I vigorously oppose the proposal and hope that we will be able to clarify the issue and establish a policy.

Mr. BLUM. May I just add, Mr. Chairman, that I think we in the Department certainly welcome this review of the overall policy. We have had problems, as you know, with the different policies and approaches in different pieces of legislation. I think this is a constructive endeavor.

Mr. FOLEY. Mrs. May.

Mrs. MAY. Mr. Chairman, may I begin by asking unanimous consent to put into the record at this time a short statement of my analysis and my stand on this legislation. I was late this morning, unavoidably, and so rather than burden the committee with a full statement I would like it in the record.

Mr. FOLEY. Without objection, so ordered.

(The statement follows:)

STATEMENT OF HON. CATHERINE MAY, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF WASHINGTON

The usefulness of marketing orders to producers, processors and consumers has been well established over the years in which various federal orders have been in effect. Congress, recognizing the producers' unequal bargaining position in most marketing situations, and realizing that farmers are basically price *takers* rather than price *makers*, offered the marketing order as a tool with which the farmer could even the balance a little. Congress has never felt it necessary to further burden the farm price structure by charging producers with the costs of administering the marketing orders which are in effect. It is a subsidy in a sense—yes—but a subsidy on a remarkably small scale when compared with other examples of federal aid. And this small subsidy buys a great deal for the taxpayer's dollar. It helps stabilize markets that in many cases would revert to a boom—bust economic cycle. It provides relatively stable prices to consumers as a result, and is responsible for quality standards which have come to mean so much to processors and consumers alike. Besides that, it generates dollars in the farm economy which otherwise would not be there.

If the federal government were called upon to provide those dollars generated by marketing orders, the cost would certainly be many times larger. That is because marketing orders are self-help projects in a very real sense. The federal government and the producer in cooperation are able to produce a far more significant result than would either working separately.

I will not further belabor the point, Mr. Chairman. It is obvious, of course, that I feel federal expenditures for the administration of marketing orders are a good investment. More importantly, though, if charging this cost to the producer were to impair the operation or imperil the existence of any of the marketing orders now in effect, the losses to producers, consumers and the

nation would, in my opinion, far outweigh whatever savings might be realized to the federal government.

Thank you Mr. Chairman.

Mrs. MAY. Mr. Blum, from time to time Secretary Hardin has emphasized the importance of farmers' receiving more income from the marketplace. Do you find the provisions of this legislation consistent with that idea?

Mr. BLUM. Yes, I believe they are, Mrs. May.

Mrs. MAY. Perhaps I ought to put it this way—if there were no marketing orders, then, do you think that the farmer would still be in as good a position to receive more of his income from the marketplace by being in a stronger bargaining situation and also in a self-help position through the provisions of a marketing order? I am asking you, do you think marketing orders have value?

Mr. BLUM. I got lost in the question. Yes, I think they do, and I think that our analysis and our experience in working with various industry groups indicate that this is a valuable tool, if you will, in dealing with certain kinds of marketing problems, that enables individual industry groups to look at their individual industry problems and work with us in trying to develop some kind of a solution to them within the framework of the Marketing Agreement Act.

Mrs. MAY. Mr. Blum, the reason I am opposing this bill is that I feel as you do, that marketing orders are a tremendously important tool for the farmer who is in a very weak bargaining position in today's confused marketplaces with its many modern pressures. My fears are that if charging this cost to the producer would impair the operation or imperil the effectiveness of marketing orders now in effect, I think the loss to the consumers and producers and the Nation would far outweigh any savings that might accrue to the Federal Government.

Now, I would like, in my next question to refer you to a statement that was submitted for the record by Mr. Ernest Falk, who is manager of Northwest Horticultural Council in my hometown of Yakima, Wash. You may be familiar that he has had long experience in the fruit industry and is very knowledgeable in this area. He mentions assessments which would be charged under this bill and says:

We recognize that it is possible, and we would hope probable, that an assessment of \$25,000 would not be made on each order, but that the assessments would, as authorized in the bill, be apportioned by the Secretary on a basis other than per capita.

Would you comment on that?

Mr. BLUM. Well, the bill, of course, allows some flexibility as to how these would be prorated. I think the intent is to prorate costs in as equitable a manner as possible.

Mrs. MAY. Yes.

Mr. BLUM. Actually we have not determined just how these apportionments would be made. Certainly a flat assessment would be possible under the law, but I am not certain this would be the most equitable way. We have considerable work to do to determine what would be the most equitable way to apportion these if the bill were enacted.

Mrs. MAY. I think this is a very important point, because this is what has greatly concerned commodity group representatives, because

assessments—and let me quote again Mr. Falk's thinking, which I believe was very clear.

However, assessments on a percentage basis would of necessity contain certain inequities and would have adverse consequences, for example, our fruit growers and fruit growers throughout the west generally are supporting H.R. 8536 which would authorize production research under Marketing Agreement and order programs. The use of Marketing Order Program to raise funds for production research is the simplest and most equitable procedure by which growers can accomplish this desired result; however, growers certainly might be reluctant to do so if a percentage of the money collected under Marketing Order research would have to be syphoned off to the Federal Government.

The point I understand he is making is that if this is indeed an important self-help tool in the marketplace today for the producer, then, we should encourage, not discourage, him to use it.

Another example of an inequity from basing the assessment on a percentage basis would arise where marketing order funds are used for foreign market development work in conjunction with (FAS) (PL-480) programs.

He goes on in his letter to the committee to explain that the committee administering the winter pear order, for instance, contributes funds which, along with the money contributed by the Northwest apple industry, pays a salary and certain expenses of an industry man stationed in Europe. The major part of the services performed by this man were previously performed by an employee of the U.S. Department of Agriculture. And, he says, it would be most inequitable to force the winter pear industry, for instance, to pay a higher assessment under this bill we are discussing today because funds were raised under the marketing order to finance the market development. Work which has been encouraged by our U.S. Government to help improve the U.S. balance of payments position and remove the strain on the domestic marketing of pears and to eliminate or reduce Government domestic programs in this area. Would you care to comment on that, Mr. Blum?

Mr. BLUM. Well, I think my only comment would be to assure you that if this bill were enacted we would solicit and we would evaluate all the kinds of differential impacts you referred to among these various commodity groups in trying to work out the most equitable basis of assessment. I have no judgment at this time as to how this would be done.

Mrs. MAY. Finally, in his statement to the committee—and I assume Mr. Falk makes this statement from a fairly strong position, in that he has represented the industry for many years—he says in reference to existing marketing orders for apricots, peaches, cherries, prunes, and pears in the Pacific Northwest.

Enactment of H.R. 13193 would undoubtedly drive these five soft fruit orders out of existence.

Do you share that same reservation, possibility, Mr. Blum?

Mr. BLUM. Well, in my statement I indicated that overall we did not think this would have a significant adverse impact on the use of programs. Now, specifically with respect to these orders I guess I would not be in a position to comment.

Mrs. MAY. Thank you very much, Mr. Blum.

That is all, Mr. Chairman.

Mr. GOODLING. Mr. Chairman, may I make one further comment?

Mr. FOLEY. Yes.

Mr. GOODLING. A question for you, Mrs. May. I would like to preface my question by saying that the fruitgrowers in your State of Washington are doing an outstanding job of advertising and marketing.

Mrs. MAY. Yes, sir.

Mr. GOODLING. Am I correct in thinking that they are doing all of this on their own and they are not coming to the Federal Government for assistance?

Mrs. MAY. I would have to refer that question to Mr. Blum. I know of no program present in these areas, outside of the usual things they are using, you know, some of these cooperative agreements and this sort of thing. But we do have the marketing orders on soft fruits.

Mr. GOODLING. Well, I do know the Washington State Apple Growers Association assesses each of their members so much per box and that goes strictly for advertising.

Mrs. MAY. Yes, sir.

Mr. GOODLING. The point I am trying to make is they are doing this on their own and I admire them for that. We are doing exactly the same thing in Pennsylvania, and we are not asking the Federal Government to pick up the tab for us.

Mrs. MAY. Where it comes to promotion and this sort of thing I think this is certainly true in my part of the country. But the point is that the bill that we have before us today is far more far-reaching than zeroing in on just use of Federal funds for promotion, the impact of it.

Mr. GOODLING. Well, in my opening statement and the opening statement of Mr. Miller we stated that we are not in agreement with everything that is in this bill and we both introduced it by request.

Mrs. MAY. Thank you.

Mr. FOLEY. Mr. Jones.

Mr. JONES. No questions, Mr. Chairman.

Mr. FOLEY. Mr. Miller.

Mr. MILLER. Yes, Mr. Chairman.

Earlier one of the Congressmen stated, as I understand it, that the Bureau of the Budget has been interested in this bill.

Now, to clarify one other point, we can hardly separate the bills we have now and say that advertising and promotion are separate items completely. Yes, the bill does go much farther than advertising. But we find that in the fruit, vegetable, and nut Federal marketing orders there are seven that allow advertising. So we can not truly separate them.

Now, we have a problem coming before us quite frequently, and the Department faces the same problem, and that is who will finance the costs of promotion activities. Now, shall it all be assessed back to the particular industry, and if so shall it also be assessed back on those marketing orders that allow advertising? In other words, will the Federal Government be behind promotion operations for industry where we will have, for example, grapes opposing grapefruit and the Federal Government paying part of the administrative cost? We have that now in marketing orders. We have the same with celery and onions. We have marketing orders that allow advertising and promotion where celery is opposing onions, this type of thing. We see it coming in more and more, and my part in this particular bill is to try to find some way to resolve that problem.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Blum, does the Consumer and Marketing Service administer the cotton research program?

Mr. BLUM. Yes, we do, Mr. Chairman.

Mr. FOLEY. Would the cost of that program be included in this legislation?

Mr. BLUM. No, they would not. That is a separate bill. It is not part of the Marketing Agreement Act.

Mr. FOLEY. Then legislation of this type would not normally encompass promotion and research legislation?

Mr. BLUM. It encompasses only those research promotion and advertising programs which are part of a marketing order under the Marketing Agreement Act. Now some people refer to the cotton research promotion program as a type of marketing order, but it is under different legislation.

Mr. FOLEY. Do you know what the position of the Department of Agriculture is with respect to the administrative costs under the cotton research program? Does the Department anticipate making a separate recommendation for charges against that program for administrative costs?

Mr. BLUM. I can't answer that at this time.

Mr. FOLEY. In the general breakdown of administrative costs under marketing agreements and orders, can you give the members of this committee some idea of the proportionate share of those costs which are incurred by fruits, vegetables, tobacco, and others? I have the figures should you not.

Mr. BLUM. Yes, I have some figures. I hope they are the same ones.

The \$2.9 million that I referred to is made up of about \$294,000 which is in what we refer to as a referendum reserve. This amount is at this time not earmarked for any of the commodity groups. In addition to that, of the \$2.9 million, \$1,485,000 is associated with the milk programs; \$1,105,000 is associated with the fruit, vegetable, and tree nut programs; and \$16,000 for the tobacco program.

Mr. FOLEY. With regard to the \$2.94 million in the referendum reserve, is that for the purpose of conducting various referenda?

Mr. BLUM. Yes, Mr. Chairman.

Mr. FOLEY. Now, under the bill that is proposed the cost of such referenda would be chargeable to both, subject to marketing orders and agreements?

Mr. BLUM. That's right.

Mr. FOLEY. Only those subject to the orders?

Mr. BLUM. Yes, sir.

Mr. FOLEY. What would be the consequence of a proposed marketing order referendum which failed, having incurred, for example, costs of \$303,000 to extend the marketing order in certain parts of the country for potatoes; would those subject to the referendum now having refused it be assessible for costs?

Mr. BLUM. Not the way the bill is now written.

Mr. FOLEY. Thus the cost of the defeated referendum would have to be borne by existing marketing and order agreement industries or commodities—isn't that correct?

Mr. BLUM. I believe that is correct the way the law is written. However I am not sure that we could not require, for example, a commodity group that was interested in an order to in effect make—

Mr. FOLEY. An agreement in advance of the referendum to pay election costs.

Mr. BLUM. Right.

Mr. FOLEY. Then how would you get them to agree until they have a referendum?

Mr. BLUM. Well, I understand in the State of California, for example, that such a procedure is used.

Mr. FOLEY. Would they not have to be some existing entity to make the agreement with the Department?

Mr. BLUM. That is right, there would have to be some organized units or groups.

Mr. FOLEY. In those cases where this would not be the case, and the Department would be trying to decide whether a number of individual producers want to create an agreement, would failure mean loss of the price of the referendum?

Mr. BLUM. No, it would not. The bill would direct the Secretary to assess the costs on a pro rata basis among other regulated handlers.

Mr. FOLEY. Do you see an inequity in charging other producers who fail to agree to referendum?

Mr. BLUM. Yes, we would have to do it in as equitable a manner as possible.

Mr. FOLEY. The bill does not provide any particular guidelines, as I read it, to determine how the Secretary shall assess these costs. He is left pretty much to his own discretion in what he seeks to do subject to the general guidelines.

Mr. BLUM. That's right.

Mr. FOLEY. What remedies might a particular marketing order organization have if it is felt that the organization were subject to an inequitable assessment?

Mr. BLUM. Well, I expect that handlers who would be affected by this would have available to them the same kind of administrative and legal recourse that are now available to handlers on other matters related to the program.

Mr. FOLEY. I will wait further questions on this subject until we get Mr. Dunkelberger before us.

Are there any other questions?

Mr. Jones?

Mr. JONES. No, sir.

Mr. FOLEY. Thank you very much, Mr. Blum. I appreciate it.

Mr. BLUM. Thank you very much.

Mr. FOLEY. Will you be available during the rest of the morning?

Mr. BLUM. I was planning not to be. There are some other folks here that are knowledgeable on marketing orders. However, if you would like me to stay I will, but I did have some other commitments.

Mr. FOLEY. There are no other departmental witnesses?

Mr. BLUM. Not witnesses, but there are some other knowledgeable people.

Mr. FOLEY. All right. Fine. If they can remain we will be happy to excuse you at this time.

Mr. BLUM. Thank you.

Mr. FOLEY. Thank you very much.

The next witness will be Mr. Herman Goschie of the Oregon Hop Society, Silverton, Oreg.

STATEMENT OF HERMAN GOSCHIE, OREGON HOPS SOCIETY,
SILVERTON, OREG.

Mr. GOSCHIE. Chairman Foley, committee members, my name is Herman Goschie. I am a diversified farmer from Silverton, Oreg. I grow approximately 125 acres of hops. I am presently serving as chairman of the Oregon Hop Commission, an organization where the growers assess themselves to raise funds for research and other activities to improve our industry. I am also a director of Hop Growers of America, Inc., which is the four-State service organization, as well as a member of the Oregon Hop Growers Association, which is a service organization of Oregon hop growers.

All of the hops in the United States are grown in Washington, Oregon, Idaho, and California and are covered by a Federal hop marketing order. This represents about one-fourth of the world's production of hops and approximately 50 percent of the U.S. hop production moves in export to brewers in some 75 to 80 countries throughout the world.

It is my feeling, and the feeling of all the hop growers I have discussed the matter with, including the other directors of the Oregon Hop Commission, that H.R. 13193 is neither in the public interest nor in the best interests of the hop industry for the following reasons:

1. Marketing orders are already paying more of their own way than any other USDA program with which I am familiar. It is noted administration of allotment programs on basic commodities that are financed entirely with appropriated funds. I understand inspection of some commodities also are financed with appropriated funds. All of our operations are financed by handler assessments which are reflected in returns to growers and amounts to over \$100,000 per year. Inspection is mandatory under our marketing order and inspection assessments, which the grower also pays, amount to an additional \$100,000. Each of the Northwest States also has a State commission similar to the Oregon Hop Commission under which around another \$50,000 is raised through grower assessments. It is my understanding that the USDA at one time estimated their administrative charges involved in marketing order administration could cost on the average of \$25,000 per year per marketing order. Asking growers who are already financing 90 percent or more of the costs involved in program operations, and who do not receive price support or price assistance of any kind, to pay this additional amount, or the last 5 or 10 percent involved in Government supervision, appears clearly unfair.

It would seem to me, in the interests of reducing overall agricultural program costs, that those self-help programs that are paying their own way along the lines of Federal marketing orders should be encouraged. H.R. 13193 would do just the opposite. If it is true USDA is now paying 5 to 10 percent of the total cost of operating marketing orders, rather than reducing the USDA's share as this bill would do, a good case could be made for the USDA paying an even higher share than they are now. Perhaps this would encourage some other commodity groups to adopt a marketing order and finance their allotment and inspection programs on their own. The additional cost would be quite small in relation to the potential savings to the Government.

2. To the extent that a commodity group even partially corrects its own marketing problems under a Federal marketing order, the less Government pressure there is from such commodity groups for various other types of financial assistance such as diversion programs, surplus removal purchases, et cetera. The same situation or relationship between State marketing orders and State governments does not exist since State governments are not involved in domestic and export diversion programs, industrywide surplus removal purchases, et cetera.

At least one State reportedly collects a supervisory fee from its State marketing orders although such is not done in the Northwest. I understand the argument has been made that USDA should adopt the same practice. As I just mentioned, however, there is a difference between the relationships of Federal orders and the Federal Government on the one hand and State orders to their State government on the other.

It is my understanding that in some States, State marketing order funds are handled by a State finance division and some compensation for such service may be warranted. In the case of Federal orders, however, funds are handled and managed by the committee at committee expense and under USDA supervision.

3. It is my understanding that Federal orders are spending an increasing amount of their assessments on marketing research grants to land-grant colleges, the Agricultural Research Service of USDA, and other Government agencies. Our marketing order is expanding its marketing research and development activities. In addition, our hop industry is supporting H.R. 8536, which would authorize financing preharvest or production research with marketing order assessments, which will provide even more money for such research grants. It would seem particularly unfair and unrealistic if a portion of these funds were assessed a second time for diversion to another agency of USDA. This bill would discourage activities along these lines to the detriment of the land-grant colleges and other participating research agencies. It would also discourage foreign market development expenditures being made from marketing order funds with the cooperation and encouragement of the Foreign Agricultural Service of USDA.

4. The Marketing Agreement Act of 1937 provides that it is the declared policy of Congress that all actions under a marketing order must be approved by the Secretary of Agriculture or are subject to his disapproval so as "to protect the interest of the consumer." Elsewhere, it provides that only minimal minimum standards of quality and maturity are permitted "as will be in the public interest" and that regulations are permitted only "as will provide in the interests of producers and consumers an orderly flow to market."

The employees of USDA assigned to the administration of marketing orders, therefore, are carrying out to a large degree the protection of the consumer and public interest as charged by Congress whereas the administrative committees, composed of growers and shippers, are primarily concerned, of course, with the best interests of their particular industry. This bill presumably provides that the industry will pay for the travel, meals, and lodging of Government officials while attending marketing order meetings, auditing marketing order operations, investigating violations of orders which involve actions adversely affecting the interests of the consumer as well as the marketing order,

et cetera. This would put the applicable USDA employees in a difficult position.

If this bill is passed, there could develop pressure from industry to eliminate as many as possible of the USDA administrative employees charged with protecting the public consumer interest. Committee requests for USDA Office of Inspector-General investigations of program violations would probably also be greatly reduced. This would be done to hold down the assessments on handlers, which are reflected in returns to growers, to as low a level as possible in view of the cost-price squeeze in which growers find themselves.

With the current emphasis on consumer interests, it is somewhat surprising to me that this bill has been submitted at the request of the administration. In contrast, I note that the Chairman of the Interstate Commerce Commission, in a news story I have here dated September 8, 1969, ordered discontinuance of the practice of trade associations who levy assessments on their members similar to our marketing order, from paying travel and lodging expense of ICC Commissioners. Such action was taken in response to charges that it resulted in the Commission being more responsive to industry interests than they were to the public and consumer interests. If certain USDA employees are going to start receiving their travel expense to marketing order meetings, and even portions of their salaries from funds raised from the industry under the marketing order, such can't help to effect, in the long run, the administration of the act. This would be particularly true when there is a shortrun conflict between the industry and the consumer interests, or even between the Administrative Committee and some other industry group not regulated by the order but nevertheless affected by its actions such as importers of the same commodity. The applicable USDA officials are now in a position to act as an impartial referee.

As a hop grower and a member of the Hop Marketing Order Administrative Committee, I am not too happy at times with some of the USDA administrative rulings with regard to the operation of our hop marketing order. In my capacity as a consumer and taxpayer, however, I have to admit I usually, although not always, have a greater appreciation of their decisions.

5. It is my understanding that the USDA agencies primarily involved in the administration of marketing orders derive the funds covering this activity from section 32. It is my further understanding that when Congress was passing agricultural price support legislation for basic commodities in the 1930's, it was determined that it was just not financially feasible, administratively practical, or politically necessary, to set up similar types of programs for all of the various specialty or nonbasic crops.

It is further my understanding that in recognition of this situation, Congress did set aside 30 percent of all import duties in section 32 with emphasis upon its use in assisting the various nonbasic commodities. I recognize that these section 32 funds spread over all the nonbasic commodities cannot go very far as any one commodity or crop is concerned. To eliminate its use, however, for even that small part that is used to cover USDA administrative expenses in connection with marketing orders is, it seems to me, a big departure from the original intent of Congress. It is not only unrealistic, it would accomplish, in

my opinion, just the opposite of the objective presumably intended by the proponents of this legislation.

Thank you for the time you have given me and I most sincerely urge a "No" vote on this bill.

Mr. FOLEY. Thank you, Mr. Goschie.

Mrs. May?

Mrs. MAY. No questions, Mr. Chairman.

Mr. FOLEY. Mr. Jones?

Mr. JONES. No questions.

Mr. FOLEY. Mr. Goodling?

Mr. GOODLING. No questions.

Mr. MILLER. No questions.

Mr. FOLEY. Thank you very much.

We appreciate your appearance here today.

The next witness will be an old friend, as Mrs. May says, Edward Dunkelberger, attorney at law, representing the National Canners Association.

Mr. GOODLING. To set the record straight it might be better to say friend of long standing rather than old friend.

Thank you.

STATEMENT OF H. EDWARD DUNKELBERGER, ATTORNEY AT LAW, REPRESENTING NATIONAL CANNERS ASSOCIATION

Mr. DUNKELBERGER. Thank you, Mr. Chairman.

My name is Edward Dunkelberger; I am a member of the firm of Covington & Burling, and am appearing today on behalf of the National Canners Association, a nonprofit trade association whose almost 600 members have canning plants in 44 States and pack approximately 90 percent of our national production of canned fruits, vegetables, meats, seafoods, and specialties. We very much appreciate this opportunity to present the views of the canning industry on H.R. 13193, a bill "to provide for payment by handler assessments of the administrative costs of the Department of Agriculture."

The National Canners Association is opposed to the enactment of H.R. 13193 because it would compound the inequity in present law under which handlers are compelled to pay assessments to cover the expenses of the committee administering an order. The canning industry believes it is totally inequitable to assess handlers—in our case, canners—to pay for the cost of a program, the sole purpose of which is to benefit growers.

Under the Agricultural Marketing Agreement Act of 1937 marketing orders are authorized for a broad range of agricultural commodities. For the most part, fruits and vegetables for canning or freezing are exempt from marketing order coverage, but orders are authorized for asparagus, olives, cranberries, cherries, grapefruit, and apples produced in certain States. Although the principal stated purpose of the act is to achieve parity prices for growers, the act's regulatory provisions and regulations read directly upon handlers rather than growers, and the administrative expenses of the orders are recovered by assessments directly upon handlers, not upon growers. Put simply, the canner or other handler is regulated for the benefit of the grower and is required to foot the bill of the regulation.

The Department of Agriculture now proposes that the assessments upon handlers not only include the costs of the administrative committees, but that assessments be increased substantially so as to cover the expenses of the Department's Consumer and Marketing Service in administering marketing orders. The Department estimates that these additional assessments on handlers will recover \$2.9 million in 1970.

What is most surprising is that in its letter to the committee chairman recommending enactment of H.R. 13193 the Department asserts that this bill "is consistent with the 1970 Budget which proposes placing these expenses on a self-supporting basis, and with President Nixon's message to Congress April 14, 1969, on domestic programs and policies recommending enactment of user charges equal in revenue to those now in the budget." It is inconceivable to us how the Department can regard assessments on handlers to support a program for the benefit of growers as "user charges," or that such assessments could be said to put the program "on a self-supporting basis." If the word "user" means anything at all in this context, it must refer to those who benefit from the program in question. And certainly a common understanding of a "self-supporting" program is one in which those who derive the benefit pay the bill.

We are, of course, aware that the Department has asserted from time to time that assessments on handlers are in practical effect assessments on growers, in that handlers need do no more than pass the amount of these assessments on to growers by lowering their prices paid to growers by an equivalent amount. But the Department has never come forth with any facts or data to demonstrate that this takes place.

In our view, a tax or assessment on handlers must be considered by them as another direct cost of doing business. Obviously in negotiating the purchase of raw products and the sale of canned products, a canner must have in mind his costs, but both raw product and finished goods prices are necessarily determined by competitive conditions.

If the Department indeed contemplates that the costs of marketing orders be paid by those who benefit from them, then we see no reason whatever why the act cannot be amended to assess the costs on growers rather than on handlers. If, as the Department has asserted, this would raise too many administrative difficulties, then at the very least the act should be amended to provide explicitly for a handler checkoff of assessments—that is, the handler should only be held responsible for collecting the assessment from the grower.

The difference between these approaches is substantial. It is perhaps best illustrated by contrasting a gross receipts tax assessed directly upon retailers and a sales tax which retailers are responsible for collecting from their customers. Surely there can be no doubt that the burden of these two taxes is borne in different proportions, and the same can be said for direct assessment upon handlers, as against handler collection of assessments from growers.

If the act were amended in this manner—to provide for handler collection of assessments on growers—then we would have no difficulty with the proposal in H.R. 13193 to increase these assessments so as to cover the expenses of the Consumer and Marketing Service. Indeed,

we feel it would be appropriate for those who benefit from marketing order programs to bear all administrative costs, so that each grower will be in a position to evaluate the benefits he hopes to derive from such a program as against the cost of that program.

In our view, this question of a cost-benefit analysis of marketing orders is one that is overdue for intensive consideration. It is little wonder that many growers are enthusiastic about Federal programs designed to increase their prices by artificial controls, when the cost of those programs are borne by handlers and the entire taxpaying public.

This something-for-nothing philosophy has perhaps more than anything else been responsible for the repeated demands by grower groups that all canning crops be made subject to marketing order controls. With handlers and the Federal Government paying the bill, even the most conscientious grower might be tempted to conclude that he has nothing to lose to vote for marketing order controls that some say will raise prices and grower returns. Even if others challenge the economic validity of the case for these controls, the grower may feel that he has little or nothing to lose.

What is lacking for a realistic evaluation of this entire question of cost versus benefit is data relating to the costs that are incurred in the proposal, adoption, and administration of marketing order programs. We urge that this committee request the Department of Agriculture to prepare an analysis of the costs of all Federal marketing orders for the calendar year of 1968, or some other recent 12-month period, identifying each marketing order in effect and showing for each the amounts collected by assessments upon handlers, the allocable expenses incurred by the Consumer and Marketing Service, and the other departmental costs incurred in the administration of marketing orders which are financed through direct appropriations and which would not be affected under H.R. 13193. This data would at least be a starting point for this committee, and all interested parties, to consider whether the alleged benefits from marketing order controls are even remotely related to their costs.

Thank you.

Mr. FOLEY. Thank you, Mr. Dunkelberger.

Mrs. May?

Mrs. MAY. No questions.

Mr. FOLEY. Mr. Jones?

Mr. JONES. No questions, Mr. chairman.

Mr. FOLEY. Mr. Goodling.

Mr. GOODLING. Mr. Dunkelberger, would you support a bill designed only to have handlers pay when promotion and research is involved?

Mr. DUNKELBERGER. Our feeling is that handlers, at the present time in our industry, that is canners, presently pay all of the money that goes to promotion of the product, by means of direct paid advertising, usually brand advertising the product. Our feeling is that canner funds are better directed and more effectively directed toward such brand advertising, which promotes not only the brand but the product. Our feeling is that if the growers wish to promote, or have generic advertising of the commodity, we will be happy to cooperate by serving as a checkoff source. But, again, we don't feel that handler funds should be involved in such promotion.

Mr. GOODLING. You would say, I assume, that there is a difference between a marketing order and a research and promotion program, would you not?

Mr. DUNKELBERGER. Mr. Goodling, I think this is perhaps part of the problem that marketing orders have created for many, many years. The Marketing Agreement Act authorizes marketing orders, one of the provisions of which might be promotion or research. The marketing order need not have supply controls, marketing controls or grading. On the other hand, you might look at the cotton bill and proposed potato bill, which are not marketing order authorizations, as Mr. Blum pointed out. It is separate legislation that authorizes only market research and promotion and it is not a marketing order. So you have the confusing situation of promotion being possible under both a marketing order and/or separate legislation such as the cotton bill. But that legislation has to be adopted, and so far it has only been adopted for cotton. I believe the potato bill is still pending.

Mr. GOODLING. The entire program is pretty confusing is it not?

Mr. DUNKELBERGER. Without doubt.

Mr. GOODLING. That is what some of us in this committee are attempting to correct.

Mr. DUNKELBERGER. We appreciate that very much, Mr. Goodling. We think your bill has focused on this problem of the cost of USDA administration of programs in these areas. We feel that unless you undertake a cost benefit analyses, so that you begin to match up what a program costs as against its goals and what it achieves, you don't have a very realistic method for determining the effectiveness of that program.

Mr. GOODLING. You would be willing to submit some recommendation to this committee on how a bad bill could be made into a good bill?

Mr. DUNKELBERGER. We testified before this committee only several weeks ago as to the type of legislation that the canning industry would not oppose, one of which, if the canning crop growers are interested, is a promotion program along the lines of the cotton bill. We did not oppose the potato bill, which would include growers of potatoes for canning and other processing. That is the kind of legislation we feel growers would be better advised to look into instead of the broad blank check which we believe the Marketing Agreement Act gives to growers and the USDA.

Mr. GOODLING. The cotton order comes up from time to time more often than any other one. I think we have to distinguish between the cotton order and some of the other orders or some of the new requests we have had for as I understand it the cotton order was originally designed to compete with synthetics. In other instances we are trying to have one farm commodity group compete against another group, and that in my opinion is bad. You saw ads in all the big magazines as "change from potatoes." I don't know whether wheat growers were involved or not, but I assume they were. That is the sort of thing we have to guard against. We do not want one commodity group using public funds to compete against another.

Mr. DUNKELBERGER. I think that is correct.

If legislation of that type was adopted for all agricultural products, it would be a full employment for Madison Avenue act, because if every agricultural commodity was to have the Federal Government to

collect funds and undertake a promotion program for it, the only benefit ultimately from this clashing of these programs would be the executives involved in arranging for the advertising.

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

Mr. FOLEY. Mr. Miller?

Mr. MILLER. No questions.

Mr. FOLEY. Mr. Vigorito.

Mr. VIGORITO. No questions.

Mr. FOLEY. Just for the record, you are not opposed to full employment for lawyers?

Mr. DUNKELBERGER. Absolutely not.

Mr. FOLEY. I can't recall at the moment whether when you testified recently on the potato promotion bill—

Mr. DUNKELBERGER. We did not testify on that, Mr. Foley.

Mr. FOLEY. Would you be able to state today whether your organization would favor charging cost of referendum and referenda and administration on these so-called promotion research programs?

Mr. DUNKELBERGER. We think that if an industry wants to have the Federal Government administer a promotion program designed to benefit the participants in that industry they should pay the bill. If the grower groups are the groups that want it, then the grower groups are the people that should pay for it. They should pay not only for the promotion and advertising, but the administration expenses, too.

Mr. FOLEY. Would this include the cost of a referenda if it is approved?

Mr. DUNKELBERGER. Yes. We recognize the problem that you raised with Mr. Blum of some people paying for somebody else's referendum. I personally doubt that handlers or growers could be made to pay for a referendum in which they voted down an order.

Mr. FOLEY. May I ask if you have any concern about the degree of discretion left to the Secretary in this legislation?

Mr. DUNKELBERGER. Yes. I think that would be very troublesome if it were adopted. It certainly gives him a wide degree of discretion in allocating these expenses. How you treat the problem you raised with Mr. Blum, I have no idea, that is deciding where it is equitable to put the expenses of an order that wasn't adopted. I just don't know which group it would be equitable to pick. I do feel that handlers would be protected at least insofar as they would have a legal right to go to the Department of Agriculture under the provisions in the act, challenge the order, and at least get a hearing on the question of allocation of expenses. Under the bill a regulation assessing the C. & M.S. expenses would have the same effect as a provision in the order, and handlers are authorized to question provisions in the order.

Mr. FOLEY. Would this not be a normal administrative law question in terms of substantial evidence on the record?

Mr. DUNKELBERGER. That is correct, and I am sure you can recognize that the factual showing would be all on the side of the Secretary, and it would be extremely difficult, I think, for any handler or grower group to make a case sufficiently good enough to overcome the presumption in favor of the Secretary's allocation of expenses.

Mr. FOLEY. Would you agree that it would almost be necessary to show the Secretary acted arbitrarily and capriciously.

Mr. DUNKELBERGER. I believe that would be the test required, and as you know, that is very difficult to establish.

Mr. FOLEY. Thank you very much, Mr. Dunkelberger. We very much appreciate your appearance here.

That concludes the list of witnesses for today.

Without objection, the letter of Congressman Al Ullman, the statement of John Mooers, president of the Maine Potato Council, in opposition to the legislation, and the statement of Mr. Ernest Falk, manager, Northwest Horticultural Council, also in opposition, will be put in the record.

(The letter and statements follow:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. October 2, 1969.

Re H.R. 13193, to amend the Marketing Agreement Act of 1937.

Hon. THOMAS S. FOLEY,
Chairman, Subcommittee on Domestic Marketing and Consumer Relations,
Longworth House Office Building, Washington, D.C.

DEAR TOM: I wish to express to you and the members of your Subcommittee my opposition to H.R. 13193 which would require the payment of 100% of the administrative costs of the Marketing Agreement Program by participating commodity groups.

Federal marketing orders, established under the authority of the Marketing Agreement Act of 1937, are a significant factor in Oregon's agricultural economy. I have long been an advocate of the marketing agreement concept, and feel that it is the only vehicle available—outside of federal production controls and subsidies—to overcome some of the disruptions and inequities that are inherent in the marketing of many agricultural commodities. I think the record demonstrates that marketing orders have contributed to stability in the production and marketing of these commodities without upsetting the delicate balance that should exist between the interest of the producer and the consumer.

In short, I believe that we should be doing everything possible to encourage the participation of more commodities and more producing regions in the marketing agreement program. The public benefits, when measured against other federal programs affecting agriculture, are significant. For these reasons, I am opposed to the provisions of H.R. 13193.

I hope that you will make this letter a part of the record of the hearings.

Sincerely,

AL ULLMAN,
Member of Congress.

STATEMENT OF JOHN R. MOOERS, PRESIDENT, MAINE POTATO COUNCIL

Mr. Chairman and members of the Subcommittee, please accept our appreciation for the opportunity to present the statement of the Maine Potato Council and industry concerning the legislation under consideration by your subcommittee.

We are unanimously opposed to the enactment of H.R. 13193 because of the detrimental effect it would have upon the operation, acceptance, and effectiveness of fresh fruit and vegetable marketing orders. As we understand the proposal, it would provide that the costs of administering Federal marketing orders, currently borne by the Department of Agriculture, would be paid by assessing the handlers of the various commodities.

It is our belief that more benefits accrue to consumers and the general public under Federal marketing orders than to farmers. Consequently the costs of administering these quality control devices should be borne by the general public through the U.S. Department of Agriculture as is now the case.

Secondly, for various reasons growers of Maine potatoes have been unwilling to impose Federal marketing order restrictions upon themselves and to require that administrative costs be borne by handlers (which costs would eventually be passed on to growers) would result in even less grower acceptance than we now have.

For these two reasons we respectfully urge you and the members of your subcommittee to oppose H.R. 13193 and to recommend that your colleagues in the House do likewise.

Thank you.

STATEMENT OF ERNEST FALK, MANAGER, NORTHWEST HORTICULTURAL COUNCIL,
YAKIMA, WASH.

I am the Manager of the Northwest Horticultural Council with offices at 1002 Larson Building, Yakima, Washington 98901. The Council is a trade association representing more than 7,500 growers and shippers of tree fruits in the states of Washington and Oregon. The members of the Council are: Hood River Traffic Association, Medford Pear Shippers Association, Wenatchee Valley Traffic Association, Yakima Valley Growers-Shippers Association, Washington State Apple Commission.

Our industry grows, packs and ships apricots, peaches, cherries, prunes, Bartlett pears and winter pears which are under Federal Marketing Orders and apples which are not.

We strongly oppose HR 13193 and urge it not be passed.

HR 13193 would require the growers and handlers of a commodity under a Marketing Order to pay the cost of government administrative services incurred in overseeing Marketing Orders. We are informed that the Director of the Fruit and Vegetable Division stated: "It is estimated that the enactment of the proposed legislation would result in additional administrative costs of \$25,000 per year for each additional Marketing Order that is issued." Imposition of charges to this extent would unquestionably result in termination of the Marketing Orders on our soft fruits. The cost for government administrative services would be several times the entire industry cost in planning, administering and enforcing the Order.

Marketing Orders for apricots, peaches, cherries and prunes are managed through one joint office in Yakima, Washington. The total cost of the Yakima office for administering these four Orders and for participating in administration of the Bartlett Pear Order for the 1968-69 season was \$32,065.

Contributions by the respective fruits were as follows:

Apricots	-----	\$2, 804
Cherries	-----	11, 220
Peaches	-----	5, 610
Prunes	-----	8, 415
Total	-----	28, 049
From Bartlett pear	-----	4, 016
Total Office Cost	-----	32, 065

The sum of \$4,016 was contributed to the Yakima office by the Bartlett Pear Marketing Order for services rendered by the Yakima office, making a total expense of the Yakima office for administering four Marketing Orders and participating in the administration of a fifth—\$32,065. The total budget of the Bartlett Pear Marketing Order, including the \$4,016 paid to the Yakima office, was \$13,431.46.

The total expenditures for these five Marketing Orders was less than \$41,500, or an average of \$8,300 per Order. For the minor administrative services performed by the U.S. Department of Agriculture a charge might be imposed on the growers of more than three times the industry cost of administering these Marketing Orders.

We recognize that it is possible, and we would hope probable, that an assessment of \$25,000 would not be made on each Order but that the assessments would, as authorized in the bill, be apportioned by the Secretary on a basis other than per capital. Presumably, Orders which require more time and attention and involve greater sums of money would be required to pay larger assessments than small Orders such as ours mentioned above. Basing the assessments on the percentage of receipts and other factors would be more equitable than a straight per-capita assessment.

However, assessments on a percentage basis would of necessity contain certain inequities and would have adverse consequences. For example, our fruit growers, and fruit growers throughout the West generally are supporting HR 8536 which

would authorize production research under Marketing Agreement and Order programs. The use of a Marketing Order program to raise funds for production research is the simplest and most equitable procedure by which growers can accomplish this desired result; however, growers might be reluctant to do so if a percentage of the money collected under the Marketing Order for research would have to be siphoned off to the federal government, even though no services would be rendered, or additional expense incurred by the Department of Agriculture in connection with this research activity.

Another example of an inequity from basing the assessment on a percentage basis would arise where Marketing Order funds are used for foreign market development work in conjunction with FAS, PL-480 programs. The Committee administering the Winter Pear Order contributes funds which, along with money contributed by the Northwest apple industry, pay the salary and certain expenses of an industry man stationed in Europe. The major part of the services performed by this man were previously performed by an employee of the U.S. Department of Agriculture. It would be most inequitable to force the winter pear industry to pay a higher assessment under HR 13193 because funds were raised under the Marketing Order to finance this market development work which has been encouraged by the United States government to help improve the U.S. Balance of Payments position and to remove the strain on domestic marketing of pears and eliminate or reduce government domestic programs.

Some growers who oppose all charges for all self-help programs would have an additional argument in objecting to these self-help programs under Marketing Orders.

Enactment of HR 13193 would undoubtedly drive these five soft fruit Orders out of existence. It would effectively destroy the Marketing Agreement law so far as these fruits are concerned. Whether or not it is the intent of the proponents to accomplish this objective, this would be the net result of passage of HR 13193.

The various Orders for our fruits authorize establishment of regulations prescribing minimum standards of grade, size, quality and maturity. Adjustment of these criteria from season to season, based on the size and quality of the crop, makes it possible to avoid or minimize the chaos caused by surpluses, while assuring that only the best quality and most desirable sizes are offered on the market. This eliminates unfair price competition of inferior merchandise.

The Orders also authorize establishment of regulations determining the size, capacity, weight, dimension or pack of containers. Prior to establishment of regulations under the Orders, chaotic marketing conditions were created by the use of deceptive packages. For example: initially most of these fruits were sold in 15-pound lugs. Some packers developed a 14-pound lug with identical measurements of length and width and a reduction of only $\frac{1}{4}$ to $\frac{3}{8}$ inches in depth of the package. It was almost impossible for a buyer to visually distinguish between the standard 15-pound lug and the gyppo 14-pound lug. An immediate consequence of the development of the gyppo lug was the use of "gyppo gyppo" lugs containing only 12 pounds of fruit. These gyppo containers created chaos in the marketing of the fruit through the lower price for the smaller package and demands of buyers for lower prices to meet supposed competition.

Housewives buying these fruits at a retail outlet for home canning purpose could hardly be expected to distinguish between the 15-pound and a 14-pound package. Establishment of the packaging regulations under the Orders was in effect a forerunner of the "Truth in Packaging" legislation.

Establishment of requirements of uniform maturity within a package have also protected the consumer as well as the wholesaler and the retailer. Regulations of this type have brought greater customer satisfaction and repeat sales. Regulations established under the Marketing Orders have benefited everyone—the producer, the wholesaler, the retailer and the consumer.

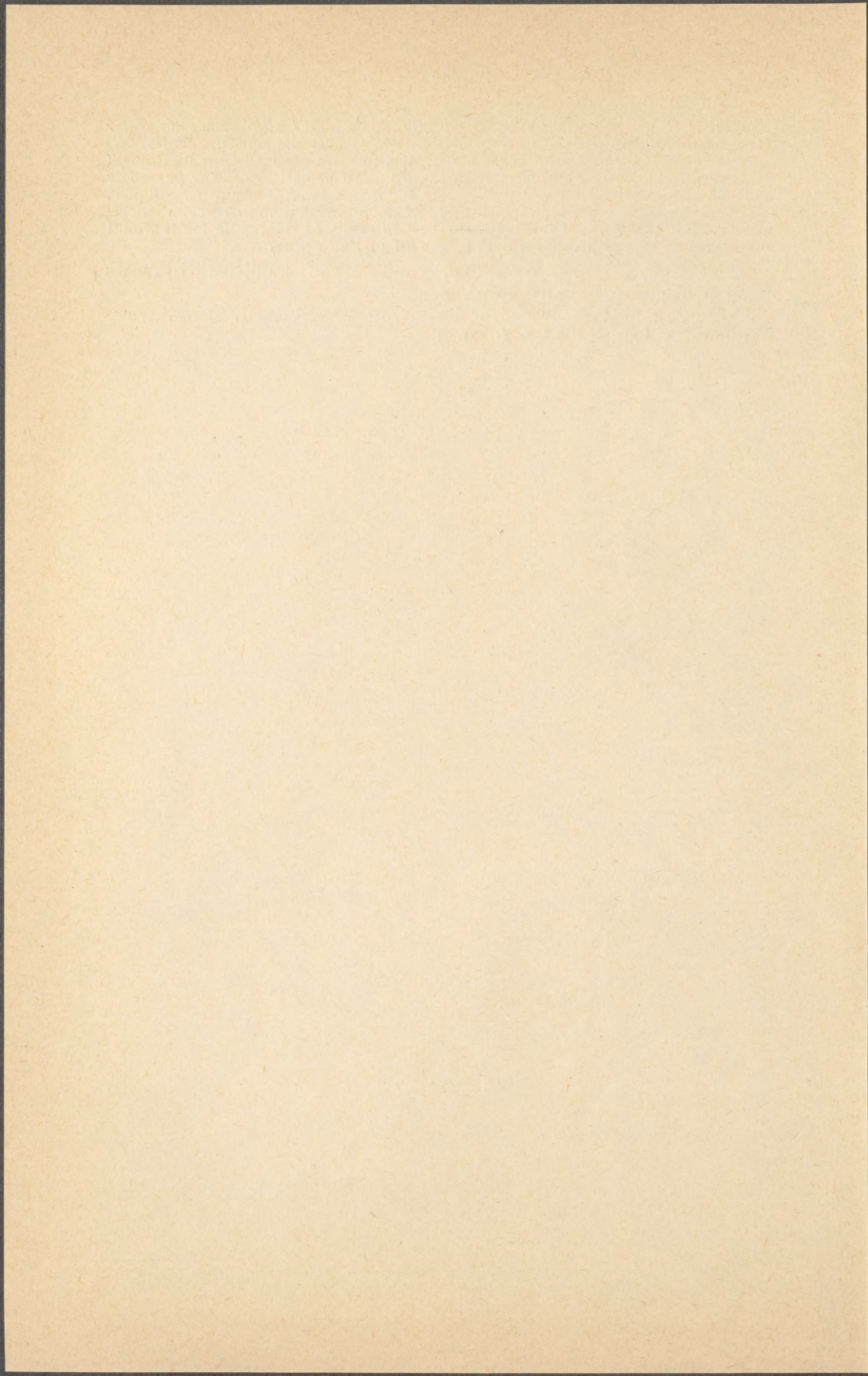
We object to enactment of HR 13193, not only because it would for all practical purposes deprive these fruit growers of the use of the Marketing Orders through prohibitive costs that would be imposed on the growers, but also as a matter of principle. The primary purpose of the Department of Agriculture in overseeing Marketing Agreement or Marketing Order programs is to protect the consuming public. The objective of the law was to permit growers and/or handlers to engage in orderly marketing of quantities required for public consumption with the function of the U.S. Department of Agriculture to protect the consumers against possible abuses. Cost of administering the Interstate Commerce Commission is paid out of the general budget, not out of assessments levied upon the railroads or motor carriers. The same is true for the Maritime Commission, the Securities

Exchange Commission, the Federal Trade Commission and numerous other Departments and Agencies whose function is to protect the general public.

Fruit growers who do not receive subsidies but are engaged in a "self-help" program should not be burdened with the proposed assessment. They pay their own office administration costs; they pay for inspections to assure compliance. They should not be burdened with costs of government administration. Enactment of HR 13193 would not be in the best interests of the public for it would surely result in the death of most if not all of these programs.

Mr. FOLEY. If there are no further matters the committee will recess until 10 o'clock tomorrow morning.

(Whereupon at 11:30 a.m., the hearing was recessed, to reconvene Wednesday, Oct. 1, 1969, at 10 a.m.)



MARKETING ORDER COSTS

WEDNESDAY, OCTOBER 1, 1969

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

The subcommittee met, pursuant to recess, at 10:15 a.m., in room 1301, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

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

Also present: Christine S. Gallagher clerk; William C. Black, general counsel; and Hyde Murray, associate counsel.

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

The subcommittee meets today for the second day of scheduled hearings on H.R. 13193 by Messrs. Goodling and Miller, to recover costs of Federal administration of marketing agreements and orders.

The first witness this morning will be the distinguished representative in Congress from the State of California, the Honorable John V. Tunney.

Mr. Tunney, it is always a pleasure to see you.

STATEMENT OF HON. JOHN V. TUNNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

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

I can't tell you what a pleasure it is to appear before your subcommittee. I want to thank you for giving me the opportunity to do so. I have the highest respect for the chairman and the members of this committee.

Mr. Chairman, and distinguished members of this subcommittee, I appreciate the opportunity to appear before you to speak briefly in opposition to H.R. 13193 which provides for shifting the Federal Government's costs of administering the marketing agreements and orders program to handlers of agricultural commodities in the respective marketing order areas.

The Federal Government's expenses in administering the marketing programs is said to presently total approximately \$3 million annually. They include the expenses of advisory committees established to advise the Secretary of Agriculture, public hearings, referenda to determine producer sentiment, and other developmental work as authorized by the Agricultural Act of 1961.

Administration at the local level is financed by assessment upon handlers as specified in the act. Each year the administrative committee recommends a budget and a proposed rate of assessment to the Secretary of Agriculture. The Secretary fixes the amount the committee may spend and the assessment rate on handlers. The assessment is in terms of a certain amount per box, bag, ton, car or other unit of commodity handled. The local administrative committee is responsible for all expenditures, and is required to keep accurate books and records.

The bill, H.R. 13193, would require that the Federal Government's expenses totaling nearly \$3 million be apportioned among handlers of agricultural commodities in the marketing order areas.

As of June 30, 1968, there were in effect 73 marketing orders for milk, 47 agreements and orders for tree fruits, nuts, and vegetables, and one order for shade grown tobacco. Currently there are 46 orders in effect for fruits and vegetables, 16 of which are operating in California. If the \$3 million Federal cost of administering the marketing orders and agreements were distributed equally among the handlers concerned it would amount to about \$25,000 per order. For example, in the case of the California date industry, which is in my congressional district, it is estimated that shifting of the Federal costs to the handlers would cost them approximately 15 to 25 percent of their annual budget for local program administration.

In many instances this would result in a financial burden of such magnitude as to preclude the possibility of a profit for the respective handlers and would have a similar adverse effect on returns to producers.

We must take into account that the producers of fruits and vegetables have never enjoyed the benefits of direct price support protection. From time to time some Government assistance has been extended to the industry through surplus removal operations. At times when huge surpluses have existed with respect to specific commodities, the Federal Government has purchased quantities of fruits and vegetables for distribution to the national school lunch program and institutions for food assistance to needy persons. Except for such assistance, the industry has assumed the risk and responsibility for providing consumers with a continuous and abundant supply of high quality fruits and vegetables. This is in sharp contrast to price and income assistance extended to producers of a large number of other price-supported agricultural commodities. The law requires that price support be made available for specified commodities to all cooperators. For virtually all commodities, there is no point, or level, at which acquisition of stocks can be terminated.

Price support, as you so well know, is made available through loans, and purchases in lieu of loans; purchases on the open market, direct payments, and marketing certificates. For specified crops, feed grains and cotton, additional income assistance is provided to cooperators through acreage diversion payments as an incentive to curtail acreage of such crops.

The realized cost to the Federal Government of price support and related programs totaled more than \$3 billion during fiscal year 1968. In view of the huge expenditure to stabilize the prices of a selected group of agricultural commodities, it appears incredible that an attempt should be made to shift the administrative costs of a self-help

program from the Federal Government to the handlers of commodities now covered by marketing agreements and orders.

Mr. Chairman, marketing agreements and orders are designed to improve returns to growers through orderly marketing. They are self-help programs, through which fruit and vegetable growers or other eligible commodity groups can work together to solve marketing problems that they cannot solve individually.

Under a marketing agreement and order program an industry can regulate the handling and marketing of its crop. It can prevent erratic flow of its product to market, prevent low-quality produce from depressing prices, standardize containers, or attack other marketing problems that may trouble the producers.

In many ways marketing agreement and order programs are an extension of the cooperative marketing principle. The idea underlying these programs dates from farmers' first cooperative efforts to improve the quality of marketings and balance shipments with market demand.

Marketing agreement and order programs authorized under the Agricultural Marketing Agreement Act of 1937, help regulate the handling of commodities in interstate or foreign commerce—and this includes commodities that do not cross State lines if they burden, obstruct, or affect interstate commerce.

This act itself does not impose regulations over the marketing of any agricultural commodity. It merely provides the authority under which an industry can develop regulations to fit its own situation and solve its own marketing problems.

These programs are designed to establish and maintain orderly market conditions for commodities, moving in or affecting interstate or foreign commerce, at fair prices to the consumer, and with equitable returns to the producer and handler. Their purpose is to give to the farmer some of the marketing advantages long enjoyed by other industries.

The programs differ from other agricultural adjustment measures in that they combine voluntary and regulatory control—initiated, set up, and directed by the industry. I wish to emphasize further that each industry bears the local costs of administering the program. The programs also demand aggressive group participation in their operation and development, with resultant interest and emphasis placed upon furthering agricultural private enterprise.

The fundamental principles behind marketing agreements and orders can be stated in a few short sentences.

Marketing agreements and orders have one, basic clearcut purpose—to improve returns to growers.

Under marketing agreements and orders, the growers and handlers in an industry can work together to solve problems they can't solve individually.

Marketing agreements and orders provide self-help marketing tools that an industry can use in attacking its particular marketing problems.

Each marketing agreement and order program is tailor made to fit the particular industry.

Marketing agreements and orders are started by the industry, designed by the industry, approved by the industry and run by the industry.

Each marketing order program must be voted in by growers and they can vote it out by the same method.

In view of the benefits of this program to producers and handlers of the commodities covered, and to consumers generally who will receive the benefits of a continual, high quality supply of the particular commodities at all times at stable prices, it would appear that efforts should be made by the Federal Government to strengthen the program rather than to weaken the program by shifting the Federal Government's administrative costs to the local industries.

I would like to ask this committee to make a diligent inquiry as to USDA estimates of the costs to industry of this bill. I know that growers are skeptical and I believe an objective analysis will show the costs to be exorbitant.

Mr. Chairman, this legislation is neither necessary nor desirable from an economic viewpoint. It is inequitable in view of direct economic assistance to other sectors of the agricultural economy and would adversely affect the self-help features of the marketing agreement and order program. The bill in my opinion should be defeated.

I would like to conclude by introducing into the record a statement from the Date Packers Council of California giving their views on H.R. 13193.

I might say, Mr. Chairman, that they take a very strong position against the legislation.

Mr. FOLEY. Without objection, the statement of the Date Packers Council of California will be included at this point in the record.

(The statement follows:)

STATEMENT OF DATE PACKERS COUNCIL OF CALIFORNIA, INC., INDIO, CALIF.

The Date Packers Council is an association of California date growers and packers. Its purpose is to promote better understanding between growers and handlers of dates, and to encourage sound trade practices which will benefit the producer, the handler, the wholesaler and the consumer.

The California date industry wishes to go on record opposing H.R. 13193 for several reasons, the most important being the additional cost to the industry. The bill, as it is written, gives the Secretary of Agriculture a blank check with the authority to collect any amount of money he thinks is necessary for his operation, without budget hearings. California date growers would never agree to their money being spent without some voice as to how it would be spent. Another reason is that this bill is an indication of how the Congress and the USDA, with their current interest in the consumer and the so-called needy people, appear to have forgotten the farmer who is largely responsible for the fact that food costs have risen less than almost any consumer item in the cost-of-living index since 1947-49. By 1966 food costs had increased 35 percent, rents 52 percent, medical care 85 percent.

Hardly a week passes without a USDA news release telling the American housewife how lucky she is to be able to feed her family at a cost of only 17 or 18 cents out of her disposable dollar. They should be telling her that the COSTS of marketing food has sent her grocery bill up 130 percent in less than 20 years, and that the farmer has no control over these costs. She should be told that the per farm income in 1966 was only \$5,024 and that this means that each farm person had \$1,730 in disposable income.

Consider the farmer as a consumer. Farmers spend more than \$33 billion a year for goods and services just to produce their crops and livestock—and another \$12 billion for the things we all buy (like food, clothes, medicine, furniture, and other goods and services). They also pay taxes, about \$2.5 billion this year.

Commodity groups using marketing orders are making a great contribution to a more efficient and increased production in agriculture and these programs are self supporting. All local expense is collected through handler assessment

and the administrative costs of the marketing order section of the USDA, C&MS are from Section 32 funds. There are no price support or other subsidized programs. Section 32 funds are accumulated from the duly collected on agricultural commodities imported into the United States. It is our understanding that U.S. purchases of agricultural products from abroad the past fiscal year rose 6 percent in value over the 1967-68 level.

An estimate of average tonnage of dates imported into the U.S. in the past five years of 35 million tons per year, means that approximately \$500,000 per year is collected in duties on imported dates each year. The California date industry, with 98 percent of all dates grown in the U.S., exports about 4 million pounds. We are hard pressed to sell this many in export since we must compete in the world market with dates grown in the Middle East. It is not necessary to point out that our dates are in a very unfavorable position in the world market. We must also compete with cheap Middle Eastern dates in the domestic market. They are delivered to handlers in this country duty paid and freight to destination cheaper than we can grow dates.

Parity price for California dates on August 15, 1969 was \$206.00 per ton. Ten years ago on August 15, 1959 parity was \$308.00 per ton. This is a 33½ percent drop in a decade in which we have seen the fastest rise in production costs in the history of American agriculture. In the past year, the Index of Prices Paid by Farmers for Commodities and Services, including interest, taxes and farm wage rates, published August 29, 1969 by the Statistical Reporting Service, shows an increase of 5 percent above a year earlier.

We have tried to get some idea from the USDA as to the additional costs to the date industry if H.R. 13193 becomes law. We have been unable to get this information but have been told it would be not less than 15 percent of our annual budget based on the current 46 fruit and vegetable marketing orders plus the milk orders. We would naturally assume that if the number of marketing orders should drop by 50 percent, our costs would double. There is a good chance that, with the increase in cost of operation passage of this bill would create, many commodity groups will find the benefits of orderly marketing do not offset the expense of the program.

The California date industry is using the USDA Processed Foods Inspection Service for inspection of our dates. We are paying the entire cost of their services, salaries, expenses, and administrative costs. For the 1968-69 crop year the California date industry paid the Inspection Service \$87,253.25. This expense is reflected in the growers return for his crop. At the same time these growers serve as marketing order committee members at no salary, no expense money, and pay all local costs of the operation. They do all this in the interest of giving the consumer a better quality product.

It costs a date grower about \$1,000 per acre to make a crop. He is faced with continually rising costs especially for field labor. California farm workers average hourly pay was \$1.67 in 1968 according to the California Department of Agriculture. This was 38 percent above the national average. Because of the nature of the work, a date grower must pay a more favorable piece work rate than other growers. He needs competent labor and must pay more for this competency. Field workers in the date gardens average hourly pay is between \$2.50 and \$3.50.

These are some of the problems bearing directly on the net income and, therefore, the prosperity of the California date grower. Passage of H.R. 13193 would only serve to increase this already back-breaking fight for survival.

Why should fruit and vegetable growers who have never had, have never asked for, and do not want government subsidies, be required to pay for government services other industries are getting from appropriated tax money? Do the airlines pay the administrative costs of the FAA? Do the railroads and truck lines pay the administrative costs of the Interstate Commerce Commission? Do the cotton, peanut, rice, and grain industries pay the costs of the price support programs? We note with interest that the support price for rice is 7 cents per cwt. higher than last December; that the national average support price for 1969 crop peanuts is \$247.50 per ton, \$7.25 per ton *above the 1968 support*. Parity price on August 15, 1969 for California dates was \$206.00 per ton, a drop from \$308.00 in 1959.

It is the considered opinion of the California date industry that, with better management of how Section 32 money is being spent, and the annual increase in importation of agricultural products from foreign countries reflecting an increase

in Section 32 funds being collected, the USDA does not need additional funds for the administration of the marketing order programs.

From a management point of view, it is difficult to see how an administrative body such as the marketing order section of the Consumer and Marketing Service, USDA, can take an unbiased position in the administration of marketing orders if their financial existence is dependent upon groups using the orders. A "close-to-home" example of this is how, at times, the Inspection Service finds it necessary to yield to industry pressure.

If H.R. 13193 is enacted by the Congress it will mean an increase in the consumer price of dates or a decrease in the net income of the California date grower.

Mr. FOLEY. The Chair wishes to thank the gentleman from California for his very succinct and useful statement. He represents one of the most significant agricultural districts in the country. We are particularly happy to have your statement this morning.

Mr. TUNNEY. Thank you very much, Mr. Goodling.

Mr. FOLEY. Mr. Goodling.

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

Mr. Tunney, I would like to suggest that if you will read the opening statements of the two sponsors of the bill yesterday some of your fears will probably be allayed.

Mr. TUNNEY. Thank you very much, Mr. Goodling.

Mr. FOLEY. Mr. Vigorito.

Mr. VIGORITO. No questions.

Mr. FOLEY. Mr. Jones.

Mr. JONES. No questions.

Mr. FOLEY. Thank you again.

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

Mr. FOLEY. The next witness is Judson P. Mason, director, Economics Division, National Milk Producers Federation.

STATEMENT OF JUDSON P. MASON, DIRECTOR, ECONOMICS DIVISION, NATIONAL MILK PRODUCERS FEDERATION

Mr. MASON. Mr. Chairman, I welcome the opportunity to appear before your distinguished committee on behalf of the National Milk Producers Federation.

The federation is a national farm commodity organization, established in 1916. It represents dairy cooperatives and their dairy farmer members throughout the United States. The cooperatives affiliated with the federation do business in all 50 States of the Union. I might say that the cooperatives who are affiliated with the federation supply the great bulk of the milk regulated by all Federal milk marketing orders which are issued personally to the Marketing Agreement Act.

Mr. Chairman, the dairy cooperatives, and farmers are strongly opposed to H.R. 13193. This bill would authorize collection of fees to be paid by dairymen to underwrite certain expenses of the Department of Agriculture for administering the Agricultural Marketing Agreement Act of 1937, as amended. As proposed, the charge against dairymen would amount to \$2.9 million a year.

Under current practices, general administrative costs of the Department, for administering the Agricultural Marketing Agreement Act of 1937, are financed by section 32 funds. The administration of Federal milk marketing agreements and orders, issued pursuant to the act, are financed by assessments per hundredweight of milk.

There is no justification for requiring the dairy industry to finance the Consumer and Marketing Service of the Department of Agriculture.

Since Federal milk marketing orders are imposed by law and not at the request of regulated handlers, the costs for administering the regulations cannot, in any sense, be considered as a "user's fee."

The additional assessments, if paid, would serve to reduce returns to dairy farmers.

If H.R. 13193 were enacted, it would impose a disproportionate burden on the dairy industry. This is because the cost of administering Federal milk marketing orders occurs at the level where the order is administered, rather than in Washington. In the case of orders, other than milk, it is our understanding a greater portion of the work, and therefore, the cost, is borne at the Washington level, thus an equal added assessment with respect to all commodities would result in an unequal burden as between milk and the other commodities which are subject to the act.

Even as regards milk, Federal milk marketing orders provide two types of regulation.

The principle type of regulation is the enforcement of minimum prices against handlers and the administrative fee, as provided by the order, covers this cost. The order also, however, provides marketing services for producers who are not members of cooperative associations, and fees are paid to cover this portion of the program by such dairy farmer producers.

Consequently, if H.R. 13193 were to impose a charge to help pay the cost of maintaining the Washington office for administering the act, it would be necessary also to charge nonmember producers a fee. Otherwise, all dairymen would be assessed to cover the cost of providing services for dairy farmers who are not members of cooperatives.

Earlier in this statement, I mentioned that the general administrative costs for administering the Agricultural Marketing Agreement Act of 1937, are presently financed with funds provided by section 32—or revenue collected as import duties and allocated to the Department of Agriculture. The use of section 32 funds to finance administration of the Agricultural Marketing Agreement Act, in our opinion, represents a use of such funds which is totally consistent with the intent and purpose of section 32.

We do believe, however, if section 32 funds were not available for this purpose, the administration of the Agricultural Marketing Agreement Act of 1937 should be supported by public funds and not charged against the industry which is regulated as part of a public interest measure.

We believe that the provision, as contained in H.R. 13193, is unjustified, discriminatory, and an unwarranted attempt to impose an obligation for financing a Federal administrative agency, created in the public interest, upon agriculture.

The proposal, however, even discriminates against farmers who benefit from programs authorized by the Agricultural Marketing Agreement Act of 1937, as contrasted to farmers who benefit from other agricultural legislation. To our knowledge, none of the costs for administering farm programs enacted by Congress are borne as an assessment against farmers. The passage of a measure such as H.R.

13193 would be a precedent which could have serious consequences for all agricultural programs. We have seen no proposals to finance other public programs, such as the Department of Defense, by charging a fee to industries which supply material. Nor have we seen any proposals to charge consumers' fees for Federal programs administered on their behalf.

We strongly oppose H.R. 13193 and respectfully urge the committee to kill it outright. Then there would no longer be a basis for delaying action on other legislation, such as your H.R. 13242 and related bills to amend the Agricultural Marketing Agreement Act of 1937, as amended, to provide authority to use pool funds of Federal milk marketing orders to foster increased milk sales, and it should be reported without delay. H.R. 13242, and similar bills, were subject to hearing before this Subcommittee on Domestic Marketing and Consumer Relations on August 8, 1969, and was reported by the subcommittee, but held in abeyance by the committee pending consideration of H.R. 13193, which is the subject of this hearing.

This concludes my statement, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Mason.

Mrs. May?

Mrs. MAY. No questions, Mr. Chairman.

Mr. FOLEY. Mr. Sisk.

Mr. SISK. No questions.

Mr. FOLEY. Mr. Goodling.

Mr. GOODLING. Just one observation. There seems to be some discrepancies in figures this morning. The first witness said all marketing orders cost about \$3 million a year and you say that milk alone costs about \$2.9 million.

Mr. MASON. The \$2.9 would be the cost charged against milk to administer the Marketing Agreement Act under this proposed bill. The total cost for administering the Federal orders is something like \$18 or \$19 million, which is now paid.

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

Mr. FOLEY. Mr. Jones.

Mr. JONES. No questions.

Mr. FOLEY. Mr. Myers.

Mr. MYERS. No questions.

Mr. FOLEY. Thank you very much, Mr. Mason. I don't think I have any questions.

You have given a very informative and useful statement.

Thank you very much.

Mr. MASON. Thank you.

Mr. FOLEY. The next witness will be Mr. Headlee Wright, president, National Potato Council, Monte Vista, Colo.

Mr. Wright, we are happy to see you again. We had the pleasure of hearing your testimony not too many weeks ago and are glad to see you back.

**STATEMENT OF HEADLEE WRIGHT, PRESIDENT, NATIONAL
POTATO COUNCIL, MONTE VISTA, COLO.**

Mr. WRIGHT. Thank you.

Mr. Chairman, my name is Headlee Wright, from Monte Vista, Colo. I am president of the National Potato Council, a potato grower, and until June of this year, I was manager of the San Luis Valley Potato Administrative Committee, administering both State and Federal marketing orders in the San Luis Valley of Colorado. I had served as manager for 5½ years.

On behalf of the National Potato Council, and the San Luis Valley potato industry, I am appearing here to oppose H.R. 13193.

Marketing orders were first put into effect in the late 1930's. At the time, the intent was to achieve and maintain parity for the grower, by setting regulations on the grade, size, quality and package of the product sold. The idea behind this was to keep the culls and poor grade merchandise at home, and sell the best. Most marketing orders have not achieved anywhere near parity for the commodity groups, but they have been an excellent tool to provide the consumer with a better quality product.

On the average, the grade and size regulations remove 20 percent of the potato production from the market in Colorado.

If H.R. 13193 were to become law, I feel you would place in jeopardy every marketing order in the United States. On the whole, in areas where marketing orders are in operation, they are backed by a large majority of growers, but to have a marketing order, you must also have compulsory inspection by Federal-State inspection service. There is growing discontent in some areas about inspection. The possibility of one inspector reversing another's decision and the large buyers buying on sight and on price makes many wonder about the value of the inspection certificate. H.R. 13193 might just be the wedge that is needed to cause the break from marketing orders and compulsory inspection. If this should be, then both consumers and growers will suffer.

It would seem to me that since the Agricultural Marketing Agreement Act is a Federal law, given to the Department of Agriculture to administer, and the Department of Agriculture is supposed to help agriculture, then the growers who are operating under marketing orders instead of price support and acreage control should be entitled to this help, and not have to raise the 2.9 million dollars that is said must be recovered from marketing order groups. It also seems like someone is trying to jump on the groups that are at least trying to do something for themselves. These groups cost the Government far less than the ones operating under support price.

H.R. 13193 would in almost every instance, keep any new Federal marketing orders from being considered. The figure of \$25,000 is usually talked about as an average figure for the promulgation of a

new order. Where would this come from, and if it could be obtained from the \$1 million borrowing provision, who would pay if the order was turned down?

To put a marketing order in effect, a grower referendum must be conducted, and two-thirds of the growers must vote in favor, for it to become operative. Would it not be necessary to hold a referendum in all orders to see if this amendment was acceptable?

Over the past 10 years, a broader interpretation of the Marketing Agreement Act has come forth. Every few years, it is necessary to look at an individual marketing order and see if it should be amended and brought up to date. \$12,000 is a figure we have been told would be necessary for amending a marketing order. In many instances, this would cause committees to delay taking advantages of changes or interpretations, and again, cause them to be less effective.

At a meeting of the San Luis Valley Potato Administrative Committee, held September 18th, it was unanimously moved to oppose H.R. 13193, and I was asked to represent them at this hearing. This committee represents approximately 600 growers, producing 70 percent of Colorado's potatoes, or about 9.5 million cwt.

The final point I would like to bring to your attention is the cost to be recovered by this bill. We have been told that it is approximately \$2.9 million. Who is to say this would not be \$5 million. If this bill should be enacted, it would be like signing a blank check and telling the man you gave it to, to spend as little as he can. I can see nothing in this bill that would give marketing order groups any voice in how much might be spent. I don't know of any marketing order group or commodity group who could live with this. Most, if not all, commodity groups are in serious financial trouble now. This is one reason they work with marketing orders, in an attempt to do something for themselves with a minimum cost to the taxpayer. Eliminate these self-help groups and you might find a lot more of us asking for aid in all the varied forms.

Mr. Chairman, I earnestly hope this committee will see the many implications this bill contains, and the great backward movement it could cause in agriculture if it were enacted into law. I sincerely hope you will oppose this legislation.

Thank you.

Mr. FOLEY. Thank you, Mr. Wright.

Mrs. May, any questions?

Mrs. MAY. No questions.

Mr. VIGORITO. No questions.

Mr. GOODLING. Mr. Chairman, I think I would like to make one comment on the statement you made. On page 2 when you say: "It also seems like someone is trying to jump on the groups that are at least trying to do something for themselves." I want to assure you that so far as I am concerned, and I believe I speak for every member of this committee, we are definitely interested in people who are trying to do something for themselves. We want to do everything we can to help them. You may know or you may not know that the potato bill on which you appeared to testify sometime ago is partly responsible for the hearings we are holding here today. The potato group had one method of financing their proposals and a few weeks later another commodity group came before this committee and had a completely different method of financing their proposals. Some of the members

of this committee think that it is improper to do that sort of thing. We think that every commodity group should be handled exactly the same way. That is what we are attempting to do.

As I told the first witness this morning, if you haven't read the statement that was made here yesterday I suggest you get that statement and read it.

Mr. WRIGHT. I will, sir.

Mr. FOLEY. Mr. Jones.

Mr. JONES. No questions.

Mr. MYERS. I only have one comment, Mr. Chairman.

On page 3 you comment about \$2.9 million being spent, or approximately that, and then you say who is to say this will not be \$5 million. Do you think we as representatives of the taxpayers of this country should vote for a blank check?

Mr. WRIGHT. Well, I hope that you wouldn't vote for an open-end check.

Mr. MYERS. Thank you.

Mr. FOLEY. Thank you, Mr. Wright, we are very happy to see you again.

The next witness is the Honorable Phillip Batt, Wilder, Idaho.

STATEMENT OF HON. PHILLIP BATT, WILDER, IDAHO

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

I am Phillip Batt, a farmer from Wilder, Idaho. I am a participant in several marketing orders including those concerning hops, potatoes, onions, and prunes. I am chairman of the Idaho-Oregon Onion Promotion Committee. I am majority leader of the Idaho State Senate but I do not appear here in any legislative capacity.

I compliment the sponsors of S. 816 and H.R. 13193 for their attempts to reduce Government spending. I am in general agreement that as many governmental entities as possible should collect enough money from their beneficiaries to pay their cost.

However, I believe that marketing orders in general are already doing this. Checkoff fees paid direct by the growers pay nearly all costs of marketing orders at the field level. Government supervisory personnel are paid from import fees collected from the same products. The 30 percent set aside from these sources has been more than adequate if I am informed correctly. In addition, marketing orders provides a larger share of the standards under which the Federal-State inspection services collect their fees.

I believe that there might be justification to reduce or eliminate some direct subsidies to farmers, some direct subsidies. Of course, subsidies are by no means limited to agriculture. I am sure that you gentlemen are giving attention to other areas of our economy in your attempts to eliminate unnecessary expenditures.

The Marketing Agreement Act of 1937 provides in the declared policy of Congress that all actions under a marketing order must be approved (or disapproved) by the Secretary of Agriculture so as "to protect the interest of the consumer." Elsewhere, it provides that only such minimum standards are permitted "as will be in the public interest" and that regulations are permitted "as will provide in the interests of producers and consumers an orderly flow to market." If the consumer's needs are a part of the consideration of the act, is it not

reasonable for him to underwrite a small portion of the expenses of administering the act?

If the marketing orders are asked to assume the expenses of administering the act, then in effect those USDA employees, who are directly involved in supervising and advising the marketing orders, will become employees of the industries involved and their interests should be solely for the producer. Who then is going to be charged with responsibility of looking after the public interest? The applicable USDA officials are now in a position to act as impartial referees.

The specialty crops that are subject to marketing order regulations seek no governmental financial subsidy or assistance except of course those mentioned previously by the Honorable Congressman from California. They ask only for the tool provided by the Marketing Act of 1937, as amended to assist them in the marketing of their crops to be the best interest of all concerned.

It should be pointed out also that many marketing agreements are providing substantial funds for research at land grant colleges and the Agricultural Research Service of the USDA. It doesn't seem fair to assess these funds the second time by the USDA.

Thank you for allowing me to give my testimony.

Mr. FOLEY. Thank you, Senator Batt, for your appearance today. I am sure Mrs. May and I are both very happy to see distinguished representatives from the neighboring State.

Mrs. May?

Mrs. MAY. No questions.

I would just like to welcome Mr. Batt. I know many members of his family.

Mr. FOLEY. Mr. Vigorito.

Mr. VIGORITO. No questions, Mr. Chairman.

Mr. GOODLING. No questions.

Mr. JONES. No questions.

Mr. MYERS. On page 2 you talk about the allegiance that the inspectors or the administrators of a marketing order might hold if the checkoff were used to pay their fees. Yesterday I wasn't here at this meeting because we had a meeting of the Subcommittee on Oilseeds and Rice. The rice industry has been paying for their USDA inspectors, and it seemed they didn't have enough control. I don't quite think your argument is entirely valid.

Mr. BATT. Under the marketing order the Secretary of Agriculture is charged with approving all decisions under the marketing order. This is probably in practicalities done by the area supervisors.

Mr. MYERS. This is the way the rice grading is done, too, but there was a checkoff there. The rice industry pays for it.

Mr. BATT. I think it would seem only logical if a person were a direct employee they would be biased in that direction.

Mr. MYERS. It doesn't come from the Department of Agriculture and the supervisors are the department of issue. I think your analogy might not be proper.

Another thing, don't you think if this should become a law the cost will be passed on to the consumer and he will ultimately pay for it?

Mr. BATT. Yes, sir; I agree with that.

Mr. FOLEY. The next witness will be Mr. Fred J. Greiner, Director of Public Affairs of the Milk Industry Foundation, Washington, D.C. Mr. Greiner.

**STATEMENT OF FRED J. GREINER, DIRECTOR OF PUBLIC AFFAIRS,
MILK INDUSTRY FOUNDATION, WASHINGTON, D.C.**

Mr. GREINER. Thank you, Mr. Chairman.

My name is Fred J. Greiner, and I am director of public affairs of the Milk Industry Foundation. The Foundation is a trade association representing processors of fluid milk and fluid milk products in all of the States of the United States. The dairy processor members of the foundation are the affected handlers in H.R. 13193. Representing this group of affected handlers, I appear before you today in opposition to the principles contained in H.R. 13193.

The bill would require that regulated handlers bear the Federal cost of administering the milk marketing order program. If the justification for such a requirement is based upon the proposition that handlers are the users or beneficiaries of the program, we reject such a concept. We believe the costs of administering the marketing agreement and order program should be taken from public funds. We believe this should be the case with respect to both the administration costs of the Washington offices of USDA relating to the program as well as the costs of administering local agreements and orders. Therefore, we would ask the committee to not only consider the question of who should pay the administrative costs at the Federal level but also at the local level.

While we do not accept the principle that any segment of the dairy industry should bear these costs, if nevertheless the Congress in its wisdom determines that some segment of the dairy industry must bear these costs, then we would hold that it is the segment which is the major beneficiary or user of the legislation who should pay. We would further hold that, in this instance, the benefitted user is the farmer or the milk producer and not the milk processor.

To lay a proper base for this position we must review the purpose of the Agricultural Marketing Act of 1937, as amended, which this bill proposed to amend. The Congress, when it initially enacted the 1933 and 1935 predecessor acts, clearly regarded the legislation as being necessary to improve the general economic condition of the Nation. The conditions which needed to be met were stated to be:

It is hereby declared that the disruption of the orderly exchanges of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that those conditions affect transactions in agricultural commodities with a national public interest, and burdens and obstructs the normal channels of interstate commerce.

Clearly this language refers to the broad national interest in a healthy, viable agriculture segment in the American economy.

In further support of the proposition that the 1937 act has for its purpose the public interest, the Congress in expressing its mandate requires the Secretary of Agriculture to fix prices of milk as he finds will reflect certain economic factors as will, quoting again from the act, "insure a sufficient quantity of pure and wholesome milk and be in the public interest." (7 U.S.C. 608c(18).)

Thus, it was the intent of the Congress to establish a program under the jurisdiction of the Secretary of Agriculture that is basically in the national public interest but additionally of great benefit to dairy farmers.

Under these conditions it is not equitable that dairy companies should be asked to finance this great national interest by defraying the

administrative expenses necessary to administer the act. The maintenance of a large headquarters staff in the Consumer and Marketing Service to effectuate the purposes of the 1937 act, the necessary administrative expenses, legal talent, statisticians, economists and other marketing specialists necessary to advise on milk marketing program are all phases of the program that, in our estimation, should be defrayed from public funds of the U.S. Government.

While currently under the present act, handlers or milk processors are required to pay the administrative expenses of operating a local Federal order, even the benefits of this local activity accrue to the general public and dairy farmers and it is our belief that this financial burden should be reallocated to the beneficiaries.

It should also be made clear that there are certain programs of USDA where individual processors are users and do request or purchase certain services from USDA. These are correctly charged directly to the benefited processor. I refer specifically to the installment of resident quality and grading inspectors in manufactured milk product plants. In these instances the presence of the USDA inspector ensures the continued ability of the processor to use the USDA shield, for whatever value that may be worth, on his dairy products when sold in the public marketplace. This is obviously an entirely different circumstance than the one proposed under this legislation.

Furthermore, if the Congress is to give serious consideration to this legislation, then we would propose that the act be further amended to provide for a separate agency within USDA to handle the Federal Milk Marketing Order program. Inasmuch as the Dairy Division of the Department is the largest of those administering marketing order programs, then the establishment of a separate agency to handle milk marketing programs would assure the dairy processors that their moneys were being spent only upon milk order programs and not being diverted to some other commodity.

The entire matter of user fees being levied was raised at the time that the dairy advertising checkoff bill (H.R. 10710) was under consideration before this subcommittee. At that time the USDA witness testified that the costs of administering the advertising checkoff bill could be financed by user fees which would result by the enactment of H.R. 13193.

The advertising checkoff bill is clearly designed to benefit dairy farmers, according to its proponents.

Another proposal pending before the Committee on Agriculture would amend the class I base plan section of the act to make the legislation permanent and more advantageous for favored dairy farmers under Federal orders. Again in this case the user is not the handler but rather the dairy farmers under the order.

Both of the above mentioned bills are wholly for the interest of dairy farmers who are in fact the "users" and both bills, if enacted, will increase the cost of administering the program.

It is difficult to justify charging handlers with the administrative expenses for these dairy farmer programs.

There is no logical reason why dairy companies should suddenly be handed an additional assessment by Congress to defray the cost of operating the Federal Government, when dairy firms are already paying a substantial income tax on earnings with a proportionate share to operate the programs of the Department of Agriculture. Milk orders

are initiated by the Secretary of Agriculture on the request of milk producers. Dairy farmers have the right to accept or reject the secretary's recommendations. Milk handlers do not. The proposed bill would provide for "double taxation without representation."

In closing we wish to reiterate our strong opposition to H.R. 13193 and commend to the committee that consideration be given to transferring the costs administering local order programs from processors or handlers to the public. But if the Congress decides that the user segment of the industry should bear the administrative costs, we submit that dairy farmers are the benefited users of the milk order program.

Thank you, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Greiner.

Mrs. May?

Mrs. MAY. No questions.

Mr. VIGORITO. No Questions.

Mr. FOLEY. Mr. Goodling.

Mr. GOODLING. I would just like to point out one statement you made: Dairy firms are already paying a substantial income tax on earnings. It would appear that they are doing pretty well if they are paying substantial income tax.

That is all, Mr. Chairman.

Mr. FOLEY. Mr. Sisk.

Mr. SISK. No questions, Mr. Chairman.

Mr. MYERS. No questions.

Mr. FOLEY. Mr. Jones?

Mr. JONES. No questions.

Mr. FOLEY. Mr. Greiner, you raised a good point when you mentioned the difficulty of apportioning the costs or assessing the costs of operation of these programs among the various kinds of marketing orders. The dairy order amounts would bear more than half the cost of the existing marketing orders; is that correct?

Mr. GREINER. That is what I understood to be the figure presented by the Department yesterday. Yes, sir; as I understand the total cost would estimate to be \$2.9 million, which the dairy was a little over a million, as I recall. We think that evidently there are higher administrative costs at the Federal level of administering other programs, the ones I am totally not familiar with in the fruit, nut, and vegetable field. If they are at the Federal level it seems to me we run the risk in the dairy industry of having substantial amounts of our money used to effectuate those programs as contrasted to dairy programs should this legislation pass.

Mr. FOLEY. Thank you very much. I appreciate your testimony.

The next witness will be Mr. Doyle Burns, executive director of the National Potato Council.

Mr. Burns, we are glad to see you again.

Mr. BURNS. Thank you, sir.

STATEMENT OF DOYLE BURNS, EXECUTIVE DIRECTOR, NATIONAL POTATO COUNCIL

Mr. BURNS. Mr. Chairman, and members of the committee, first of all I would like to express my appreciation for the opportunity of appearing here concerning this proposed legislation.

My name is Doyle Burns and I am executive director of the National Potato Council.

The National Potato Council is a nonprofit organization of potato farmers dedicated to the improvement, welfare and protection of the potato industry of the United States. I am appearing here today on behalf of this organization in opposition to this legislation. I am also testifying on behalf of the Florida Fruit & Vegetable Association whose annual convention is in session, precluding their being present.

In order to justify legitimate opposition to this ad amendment, we should take a close look at marketing agreements and orders. The points I want to make are pertinent to the fruit and vegetable industry in general and to the potato industry in particular. Most of the arguments would also apply to other commodities using these tools of marketing.

According to the Agricultural Marketing Agreement Act of 1937, as amended, the purpose of this act is primarily twofold; first, it establishes an orderly flow or exchange of various commodities in interstate commerce and thereby bolsters the purchasing power of farmers. This, in turn, maintains the value of agricultural assets which support the national credit structure. Secondly, the purpose of the act is to protect the interest of the consumer. When prices approach parity, the necessary steps are provided whereby the consumer is protected from exorbitant prices.

Marketing agreements and orders can be compared to a carpenter's tool box. They make available to farmers various tools with which to set market standards, regulate product flow and establish price-basing method. All of these may not be needed by any one commodity but they are available whenever they are needed. In the potato industry we have successfully used the minimum standards of quality, size, and maturity to effectively keep the lower grades and smaller sizes of potatoes off the market. Proponents of this amendment would say that such restrictions would cause the price to go up for the farmer, therefore he should pay the administrative costs of government. Here, I believe, is the fundamental crux of this whole misunderstanding. Many pricing studies have been made to determine, among other things, the amount of advance in potato prices when a marketing order is in effect.

All such studies, of which I am aware, have shown that potato prices are very little higher, if any, in the marketing order areas compared to non-marketing order areas. Why, then, would any thinking farmer support an order that would prohibit him from selling everything he can harvest? The answer is simple. He knows that by selling only the best he will have a satisfied customer, and he can expect repeat business. Who, then, is the real beneficiary of the marketing order program? The answer is self-evident. It is the consumer. Mrs. Housewife is receiving a better product than she would otherwise receive. How can anyone expect the farmer to go further than he is presently going? Keep in mind that he is already assessing himself to carry out the provisions of the order. He is already paying for all costs except those being proposed by this amendment. He is already paying 90 percent of the total administrative cost. Does anyone think for 1 minute that he will stand still for the piling on of this additional charge? Remember, he voted this order upon himself. He can also vote it out. He has accepted compulsory Federal inspection, for which he must also pay. He is leaving a substantial portion of his crop at home for which

he receives nothing or at best, a salvage price. In the case of potato marketing orders, this could be the straw that breaks the camel's back.

Potato orders could probably absorb this additional charge without actually destroying their financial structure but there is a principle involved. I do not believe that our people would compromise that principle and the end result would be an almost certain abandonment of all potato orders. This would be followed by a deluge of small, ill-shaped, damaged, immature and otherwise unusable potatoes, upon the consuming public who do not want these potatoes at any price.

Let's look at this situation from the standpoint of the farmer. At the present time he is penalizing himself an estimated \$75 to \$100 on each carlot of potatoes he sells in order to have the marketing order. Hopefully, he will recover at least a part of this through a better price or continued sales. But for a minute just compare his relative position with that of any other farmer who happens to be growing one of the basic commodities.

Subsidies, government loans, price guarantees or restricted production are programs he does not have. To all of us our economic position is relative to everyone else. This farmer knows that billions of dollars are being poured into other agricultural programs. He knows that nearly every industry in this country is subsidized, either outright or hidden, and yet he is being asked to pay a user's fee on a program whose actual beneficiary is not himself. This is a tender spot with many of the perishable commodities. The estimated amount of money which would be recovered is only a small fraction of the benefits accruing to consumers as a result of marketing agreements and orders.

Since the early 1930's we have had many kinds of farm programs. Some of these have been reasonably successful; others were miserable failures. Most of these programs were designed, administered or enforced by government. The cost has been considerable. This, along with other deficit spending, has raised a hue and cry for economy by government; and no one can argue with that. But some reasonable replacement must be found for existing programs. Marketing agreements and orders could be a partial answer to this replacement. Agreements and orders are tools of the farmer. He votes them upon himself. He pays for them, except for the USDA administrative costs in question here. He is charged with the responsibility to make them work. All of this guarantees that he will strive to make them a success. As a desirable alternative, it seems to me we should all be encouraging this type of program instead of making it less acceptable by proposals such as this amendment.

We recognize that Congress is the place where precedent originates but aside from that, at the present time, there is no precedent for the action proposed by this amendment.

Congress, in its wisdom, has set aside 30 percent of all import duties to be used where needed to cope with problems of surplus. These funds, known as section 32 funds, are a separate fund and are available principally to nonbasic perishable agricultural commodities. Marketing orders are tailor made to meet the requirements of section 32. The question of these administrative expenses being paid by the marketing order would be in conflict with the policy of section 32.

On frequent occasions it becomes necessary for USDA personnel to judge or referee when conflicts develop under marketing orders. Oftentimes such conflicts will involve the welfare or the interest of the consumer. Every effort must be made to assure such decisions will

not be biased. Yet with all such personnel receiving their compensation from the orders, it is easy to see the temptation it would pose. Recently, the Chairman of the Interstate Commerce Commission issued a directive which would prohibit associations or other industry groups from paying expenses of the Commissioners. It was stated that such practices caused Commissioners to lean toward industry rather than the consumer or public interest. This amendment is a step in exactly the opposite direction from the ICC ruling.

The organization I represent is doing everything possible to upgrade the quality and improve the appearance and acceptability of our product. We want to continue this effort and the principal tool we have available for this purpose is the marketing order.

Adoption of this amendment would not only kill the existing orders, it would almost certainly preclude the development of any new orders.

None of us, in our personal business, would be killing to obligate ourselves for costs, expenses or services over which we have no control, yet this is what we would be asking marketing committees to do. The decision of how much these administrative costs would be will be decided by the Department, but they will be paid by the industry. This created problem could be the opening wedge which would divide and destroy the working relationship between the industry and government, a relationship which must be harmonious and cooperative if marketing orders are to be a success.

Briefly, let me review the points which I believe totally discredit this proposal:

(1) The farmer is already paying the mechanical operating costs of the program. He assesses himself a percentage of his sales for this purpose.

(2) The real beneficiary of the marketing agreement and order program is the consumer.

(3) Nonsupported crops are the principal users of marketing agreements and orders. They already feel they are being discriminated against because of supported crop programs. This proposal would surely cause them to disown and vote out their present orders. Keep in mind that marketing orders are generally pretty hard to justify to farmers. Because there is seldom an immediate, direct return benefit, it is a hard matter to sell a farmer on its virtues and it is even harder to keep him sold. Things such as this proposal can turn an entire program topsy-turvy.

(4) Programs that encourage farmers to take a hand in solving their own industry problems should be encouraged. A small sum of money expended here could save a substantial amount in another area.

(5) In this day and age of high pressure selling and selective, discriminative buying, every product, agricultural or otherwise, must strive for perfection and quality. This is a factor which cannot be denied or ignored. To insure continued delivery of acceptable perishable farm products, everything possible must be done to encourage and expand marketing order programs.

(6) This is an unreasonable proposal from a practical business standpoint. When I go to a restaurant, I know what my meal will cost. When I ask for repairs on my car, I know what the bill is going to be. If I go to the hospital, I can calculate what the charges will amount to. But in this proposal, there is no provision whatsoever for the committees administering the programs to control the funds deemed suffi-

cient by the Secretary. I would not conduct my personal business in this manner; I don't believe anyone would voluntarily.

H.R. 13193 is not in the best interest of the consumer, the farmer, agriculture or this country. I respectfully ask that this Amendment not be passed.

Thank you.

Mr. FOLEY. Thank you very much, Mr. Burns.

Mr. Goodling?

Mr. GOODLING. Mr. Chairman, I would like to attempt to clarify some misunderstanding that has arisen over this bill. I don't know if you were here or not, but as I told a previous witness this morning, potato growers are partially responsible for us being here this morning on this particular bill. I believe you appeared before this committee when the potato bill was being discussed, did you not?

Mr. BURNS. Yes, sir; I did.

Mr. GOODLING. You say in your statement you liken marketing agreements to a carpenter's toolbox. You say there are available to farmers various tools with which to set marketing standards, regulate product flow, and establish price-basing periods. Now, there was nothing in that original bill that would compare to this at all. If you recall, that was strictly for promotion and research and we are confusing the issue. I have said on a good many occasions when one commodity group, one farm commodity group wishes to advertise at the expense of another farm commodity group, then that commodity group should pay the freight, and I still insist that is a proper thing to do. We are confusing the issues. There is nothing, as I said, in that potato bill that compares with what you said in the marketing order. That was not a marketing order in the strict sense of the word. Aren't we confusing the issues?

Mr. BURNS. Mr. Goodling, there evidently is a basic difference of opinion here as to what the potato bill would do. Most of the talk, and I recognize this has been true, has been about advertising. I know that this thing has come up about the competition between products concerning advertising. So far as I am concerned, and I think I represent the thinking of most of the people who were back of the development of the Potato Research and Promotion Act, as a small part of what this bill will do, we are trying to think of something to enhance the product, to improve the quality of the product available to the consumer. We can have research projects to find out where damages occur to potatoes in the path they travel from the farmer to the retail outlet. I am sure there are a great many Congressmen, and I know that the Department receives letters from consumers complaining about the quality of potatoes in the grocery store. We recognize this is a serious problem. This is one thing we want to do under the Potato-Research and Promotion Act. Advertising is a very small part of the total program that will be developed under the Potato Research and Promotion Act.

Mr. GOODLING. You didn't stress that when the other bill was under consideration, did you? What was in that bill that would allow you to do that sort of thing?

As I recall, practically all it said was research and promotion.

Mr. BURNS. I don't have a copy of the bill here, but in my testimony—I would be happy to dig up a copy of it. This is the thing I did stress in my testimony at that time was that advertising is not a major part of it. We are thinking in terms of some of these other programs.

Another would be export. We would like to see a dehydrated product go overseas and have the balance of payments of this country, looking at it from the public interest standpoint.

On the question of whether research of this type would be beneficial to the consumer, I would like to give you one example. The cotton people and the Cotton Act, which has only been in operation for 2 years, but already through its efforts of this program we have come up with a straight press or wash and wear process for pure cotton. Those of us who like to wear cotton shirts are going back to cotton shirts because they are comfortable and they also have that stay-pressed quality that synthetics had and cotton didn't have until cotton developed the process.

Mr. GOODLING. Do not confuse cotton with any other farm commodity. The Cotton Act, as I recall, was put into effect strictly to combat synthetics and it was not put into effect to combat some other farm commodity. Now, when you are going to do all this research you are definitely going to do it at the expense of some other farm commodity, are you not? You are going to work against wheatgrowers, the ricegrowers, and others. What I am trying to say is I think you should pick up your own tab and you are going to do that. Let's not confuse this with a marketing order.

As I stated, I am not in favor of this bill the way it is written.

Mr. BURNS. This bill that we are talking about today is not pertinent—well, it may be pertinent, but it does not affect the Potato Research and Promotion Act. That is separate legislation. This is only a marketing agreements and orders—

Mr. GOODLING. I agree with that 100 percent but aren't we confusing the issue. We are confusing that potato bill with marketing orders which it is not.

Mr. BURNS. I hope that other people don't, because this is one reason we went this route with ours is because we did not want to confuse the issue between marketing orders and the work that we were trying to do.

Mr. GOODLING. Well, you will agree, I believe, that every commodity group should be treated the same. Would you agree with that?

Mr. BURNS. As a matter of fact, we complained in our testimony this morning that they are not being treated equally.

Mr. GOODLING. That is what we are attempting to do here, not under this bill, I realize that. Some of us have some other ideas we may be able to put into effect.

That is all.

Mr. MYERS. No questions.

Mr. FOLEY. Thank you very much, Mr. Burns.

The next witness scheduled is John C. Datt; however, he has waived his appearance.

John McFall, Congressman from the State of California, a distinguished member of the Appropriations Committee of the House, and the Chair knows from his personal attachment and very close relationship that he is a well-informed member.

**STATEMENT OF HON. JOHN J. McFALL, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. McFALL. Thank you, Mr. Chairman.

It is always a pleasure to come before your committee that is working with these difficult agriculture problems that have such an important impact upon the economy of my district.

I would like to introduce to you this morning your next two witnesses, who will appear opposing the bill. It is unusual for these two gentlemen to come here before this committee opposing legislation. They are ordinarily here supporting legislation.

The first witness will be Anthony J. Tarlock, who will speak for the U.S. Specialty Crops Conference, opposing the bill.

My interest in this is that almost all of the crops that he speaks for are produced in my district, which is adjacent to Mr. Sisk's district in California. I am privileged to have the largest almond growing district in the country where we produce 26 percent of the almonds and we have 51,000 trees. We also produce olives, peaches, pears, raisins—some, Mr. Sisk has most of them—walnuts. I am privileged to have in my district Diamond Walnut Growers and others that process and distribute approximately 80 percent of the domestic crop of walnuts.

The second witness to testify against the bill will be John Huber who will represent the walnut industry. He is a constituent of mine and works for the Diamond Walnut Growers Cooperative, which under marketing order No. 1 distributes approximately 70 percent of the walnuts of the United States.

I know that you gentlemen will be interested in the comments of both Mr. Tarlock and Mr. Huber.

Mr. FOLEY. Thank you very much.

Mr. Tarlock, would you and Mr. Huber like to come forward together?

We will hear first from Mr. Tarlock.

Mr. Tarlock, having read your formal statement, I notice you do not describe the nature of the U.S. Specialty Crops Conference. Would you mind telling the subcommittee just a little bit about that organization before you read your statement?

**STATEMENT OF ANTHONY J. TARLOCK, COORDINATOR OF U.S.
SPECIALTY CROPS CONFERENCE**

Mr. TARLOCK. Yes, Mr. Chairman, I didn't elaborate on the makeup of the U.S. Specialty Crops Conference.

Mr. Chairman, this Specialty Crops Conference is a very loose informal federation of these commodities listed. It came into being at the time of the conversation on the Trade Expansion Act; and on the request at that time, Congressman Hagan who was on this committee, asked me can't we get some coordination in California of these groups that can come in here and speak on a particular subject so that we don't get 10, 15 commodities all coming in, sometimes with the same point of view, but all presenting it a little differently. It was through that request that I put the Specialty Crops Conference together. We haven't been active since the Trade Expansion Act, which incidentally we use very effectively in dealing with the chief negotiator of the United States at Geneva. We served as adviser to him on some technical prob-

lems and as a result of the U.S. Specialty Crops Conference we developed coordination with producers abroad, which has been helping us in our export activities. So I appear together for this purpose.

Mr. FOLEY. Thank you very much. Proceed with your statement.

Mr. TARLOCK. Mr. Chairman, and members of the committee, as Mr. McFall has introduced, I am Anthony J. Tarlock, and I present this general statement on behalf of the almond, date, filbert, hop, nectarine, olive, peach, pear, prune, raisin, and walnut industries of California, Oregon, and Washington.

Some of these commodities have spokesmen here who will testify on their specific industries, others have filed statements with the committee. All operate under Federal Marketing Orders and all are opposed to H.R. 13193.

The U.S. Specialty Crops Conference is an informal association of these commodities for the purpose of collective action on mutual problems.

We have appeared before this committee several times in support of legislation which originated in the committee designed to improve our marketing programs. Some of this legislation was passed by the Congress and has been very helpful to these industries.

This is the first time that I personally or that the U.S. Specialty Crops Conference has appeared in opposition to any legislative bill.

We have always tried to be positive and constructive in seeking legislation that is both beneficial to agriculture and to the public interest in the broadest sense.

We believe that the proposed legislation is detrimental to agriculture and is not in the public interest for the following reasons:

(1) Federal marketing orders are self-help programs that are industry financed.

There are some 48 Federal marketing orders covering fruits, nuts and vegetables. Of these, 27 are in the States of California, Oregon, and Washington, covering some 23 different commodities whose farm value annually is over one-half billion dollars.

Growers and handlers of these commodities assess themselves over \$0.265 million annually to operate these programs which cover a variety of grades and size, packaging, research, and volume regulations. In addition these industries annually pay many more millions of dollars in inspection costs to enforce quality and sanitation standards.

In contrast, the operational expenses of all of the U.S. Department of Agriculture acreage control and allotment programs, involving price supported commodities, from the county level up, are paid with funds appropriated by Congress.

(2) Almost all of these programs are spending part of their annual budgets for research, market development and trade promotion. Over one-half million dollars a year is being spent by these programs in California, Oregon and Washington for these activities.

The research funds collected pursuant to these orders are used primarily for research grants to Land Grant Colleges, USDA's Agricultural Research Administration, and other State and Federal Agencies. These expenditures are resulting in improved crop forecasting procedures, safe food protectants and preservatives, improved product sanitation, better packaging, improved handling and marketing efficiency, and many other benefits to the general public.

In cooperation with USDA's Foreign Agricultural Service, many of these industries have developed export markets that are greatly assisting the United States in its balance of payment problem. Currently, annual export sales of almonds, citrus, prunes, and raisins amount to over \$170 million.

This bill would discourage such expenditures by these industries for such research and market development activities.

(3) These commodity groups, using marketing orders, have been very successful in correcting their own problems in years of surplus and in improving the quality offered to consumers, without calling on Government for financial assistance. This is in the public interest and the use of such programs should be encouraged rather than discouraged as would be the effect of the proposed legislation.

(4) The Marketing Agreement Act of 1937, which H.R. 13193 would amend, requires that all actions under a marketing order be approved by the Secretary of Agriculture (or be subject to his disapproval) so as to protect the interests of the consumer. Other provisions require that actions taken must be in the public interest and that regulations permitted will be in the interests of both producers and consumers.

The employees of USDA assigned to the administration of marketing orders therefore are carrying out to a large degree the protection of the consumers' interests as charged by Congress, whereas the administrative committee, composed of growers and handlers and others are primarily concerned with economic problems of growers and handlers.

If this bill is passed it would tend to impair the position of the Secretary of Agriculture and his staff as impartial referees.

In view of the current emphasis on consumer interests, it appears inconsistent that Congress is at this time considering a bill such as this at the request of the Secretary of Agriculture.

Finally, a most important objection that we have to the bill is the difficulties of apportionment of expenses between classes of marketing orders and individual orders within different classes. This problem would be insurmountable. There are vast differences between the character and area coverage of many marketing orders that have been issued. Milk marketing orders, for example, differ substantially from those regulating fruits and vegetables.

There are substantial differences between order and regulating fresh or unprocessed commodities compared with those covering processed commodities or products. These differences result in substantial variation in the supervision that the Department must give one order as compared to another.

It would be impossible to devise any formula by which expenses of administration could be allocated in any manner approaching equitability. The bill recognizes these difficulties and attempts to avoid them by declaring that assessments shall be apportioned among all handlers subject to all marketing orders "by such method of apportionment as the Secretary finds will be equitable, giving due consideration to the differences among the several marketing agreement and order programs." In spite of the fact that hundreds of committeemen and administrative personnel are directly involved in the operation of marketing orders and have a vast amount of expertise, their advice or opinions were not sought by the Secretary of Agriculture on this legislation which has such a direct effect on their operations. We there-

fore have no idea of how the Secretary plans to develop or arrives at an equitable assessment system.

We strongly recommend to the Congress that greater savings in U.S. agricultural program costs could be made by increasing the amount of section 32 funds spent on marketing order development and administration rather than by reducing such expenditures. It is obvious from the record of the commodities I represent that these self-help programs have resulted in greatly reducing the need for the use of section 32 for direct assistance.

H.R. 13193, instead of encouraging wider use of marketing orders, does just the opposite; it would discourage the use of these very effective marketing tools.

Thank you.

Mr. FOLEY. Thank you, Mr. Tarlock.

Mr. Goodling?

Mr. GOODLING. No questions.

Mr. FOLEY. Mr. Sisk?

Mr. SISK. I would like to welcome Mr. Tarlock before the committee. He has been a long-time good friend of mine. He is from my congressional district. I appreciate his testimony.

Mr. FOLEY. Mr. Jones?

Mr. JONES. No comment.

Mr. FOLEY. No further comments.

We will next hear from Mr. John F. Huber.

STATEMENT OF JOHN F. HUBER, ON BEHALF OF THE CALIFORNIA AND OREGON WALNUT INDUSTRY COMMITTEE

Mr. HUBER. Mr. Chairman, members of the committee, my name is John F. Huber, and I am employed by Diamond Walnut Growers, Inc., of Stockton, Calif. This statement is being presented in behalf of over 20,000 growers who produce walnuts on 180,000 acres of land in California, Oregon, and Washington, and in behalf of six farmer cooperatives and 50 independent walnut packers and shellers, all of which are governed by a Federal Marketing order (7 CFR 984).

In order to effectively and efficiently market our supply of walnuts, we participated in the development of Marketing Order 1. Since 1933, we have utilized this order and, as a result, have developed a stable and prosperous industry.

For the current season our industry has budgeted \$130,000, to administer the program, which includes grade and size regulations, minimum standards of quality, and allocation of a portion of the supply to export markets. This budget includes \$10,000 for export market research and development and \$10,000 for product research; \$20,000 is being spent annually on research projects not now permitted under the act but considered vital by the industry. An additional \$250,000 is spent annually for inspection of the finished product to insure uniform size, quality, and value to the consumer.

As a result of this organized effort, the walnut industry has steadily expanded, and has in recent years entered the export market. Sales are now made annually to about twenty foreign countries. As a direct result of the effective operation of our marketing order, this program will be expanded even further and will make a contribution toward alleviating the balance of payment problem. When we as a country are

attempting to establish a balance of payment through exports, any restriction or limitation on marketing orders, such as the present attempt to assess additional costs, would certainly not be to the best interest of the Nation.

In addition, because of the inherent variation between industries and the marketing orders applying thereto, it would be impossible for the Secretary of Agriculture to determine actual costs of individual orders or to allocate these costs equitably.

Passage of the proposed bill would create a situation where the Secretary would be forced to arbitrarily allocate these charges, and the walnut industry, which has efficiently managed the financing of its order, would be obligated to pay these charges without any control or voice in the matter.

As a result of its closely organized and systematic marketing programs, the walnut industry has not needed any form of government assistance in 15 years, and only twice in almost 30 years. In both instances the amounts involved were small, and through improvements in the operation of the order, the need has been almost completely eliminated.

This record is in sharp contrast to many agricultural industries that do not use Federal marketing orders and to those that have adopted them recently and are still experimenting with program development.

It is our view that the bill before you should not be passed since its overall effect would tend to impede and discourage the development of marketing orders at a time when the very opposite results should be sought. Industries such as the walnut industry should be encouraged to expand their programs and commit greater amounts to research designed to protect and improve grower returns and lower consumer food costs. Other industries not now using marketing orders should be encouraged, not discouraged, to explore their value in solving marketing problems. These are the very objectives for which section 32 funds are provided.

The objectivity of the Department of Agriculture should be strictly maintained as to the essential need of these programs. Growers and handlers must continue to have complete confidence in these orders if the programs are to function effectively. The best interest of the grower or handler would not be served by this bill, and in reality it would tend to create dissension between them.

The walnut marketing order, despite its long history and successful operation, has still not achieved the parity goal for growers, but it certainly has contributed to the stability and economic well-being of our industry.

Enactment of the H.R. 13193 would only complicate the task of the Department of Agriculture in carrying out the responsibility assigned to it by the Congress of assisting American farmers in achieving a price for their product commensurate with prices and wages received by other sectors of the economy.

Section 32 funds are specifically set aside for this purpose and use of a small part of these funds to supervise and develop good marketing orders is the most economic use to which they can be put.

Our industry urges that the bill, H.R. 13193, not be passed.

Mr. VIGORITO. Thank you, Mr. Huber.

I have one question. Do you happen to know offhand the value of our total export of walnuts?

Mr. TARLOCK. Yes, we are just going into the export market and it is running around \$5 million and we are going for another goal in the next 20 years for \$25.

Mr. VIGORITO. Mr. Goodling?

Mr. GOODLING. No questions.

Mr. VIGORITO. Mr. Sisk?

Mr. SISK. Mr. Chairman, I again want to commend Mr. Huber and express appreciation for his appearing before the committee. Truly, the walnut industry has a long and outstanding record of stabilizing a very important industry for us in the West. I want to commend that industry and the job you folks have done in marketing orders.

I am particularly impressed with a statement made in the center of the second page regarding the fact that we should be encouraging further expansion and more commodity groups going into marketing orders. I have long believed that it is really the proper and correct direction for American agriculture to go if the farmers themselves are going to be able to control their own destinies and have something to say about it. I appreciate this statement. I have examined this and hope we can continue to pursue in some of these so-called major commodities in which we are in serious trouble, as I am sure you know, Mr. Huber, to see if in this examining of marketing orders and so on we might not be able to solve some of those problems and control our own destiny.

So I appreciate the comments and statements you have made.

Mr. HUBER. Thank you, Mr. Sisk. Thank you, Mr. Chairman.

Mr. MYERS. No questions.

Mr. JONES. No questions.

Mr. FOLEY. We wish to thank you for being here and presenting two very well written statements.

Mr. HUBER. Thank you, sir.

Mr. FOLEY. The next witness we have is Mr. John C. Datt, assistant director, Washington office, American Farm Bureau Federation.

Mr. Datt, it is nice to see you here again.

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

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

On behalf of the American Farm Bureau Federation which represents 1,796,641 paidup member families in 49 States and Puerto Rico, I want to express my appreciation for the opportunity to appear before this subcommittee with respect to H.R. 13193.

This legislation would amend the Agricultural Marketing Agreement Act of 1937 to provide that the costs of the Federal administration of marketing agreements and orders under the Agricultural Marketing Agreement Act shall be assessed against handlers.

The marketing agreement and order authority of the 1937 act currently is being used for fluid milk, fruits, vegetables, nuts, hops, and tobacco. Federal milk orders are designed to promote orderly marketing conditions—primarily through classified pricing—in the various milk marketing areas. In the case of other commodities where marketing orders are used, regulations governing the flow of commodities to market, quality and packaging are used to achieve the same objective.

All marketing agreements and orders are administered at the local level by market administrators or committees whose expenses are financed by assessments on regulated handlers. In the U.S. Department of Agriculture, the function of Federal administration has been delegated to the Consumer and Marketing Service. The expenses incurred by this Service in connection with market orders and agreements are financed by allocations from funds available under the permanent appropriations provided by section 32 of the act of August 24, 1935.

The expenses incurred by the Consumer and Marketing Service result from the administrative activities necessary to promulgate and implement agreements and orders, effect program amendments, and provide general supervision of such programs.

H.R. 13193 proposes to collect from handlers an amount necessary to cover these Federal administrative costs by imposing a separate charge for this purpose under each order. The total amount of the proposed assessment would be spread among the various marketing orders in existence.

The American Farm Bureau board of directors considered H.R. 13193 on September 9, 1969, and went on record in opposition to the enactment of this legislation.

The administrative costs of the various agricultural price support and production control programs administered by the U.S. Department of Agriculture are paid from funds appropriated directly to the Department for such purposes. The marketing agreement and order approach is an alternative to price supports and production controls. Under marketing order programs, handlers already are assuming local administrative costs. Our board of directors, therefore, believes that it is proper for the U.S. Department of Agriculture to continue to pay the cost of Federal administration of Federal marketing agreement and order programs with appropriated funds.

We urge that the subcommittee not approve this legislation. We appreciate the opportunity to present our views on this matter.

Mr. FOLEY. Thank you very much.

I think Mr. Datt that in the times that you have appeared before the committee you are almost always the last witness on any particular day. I hope you don't feel that is any discrimination on the part of the committee? As I once said before, the lawyers always regard the best spot as the final argument.

Mr. DATT. Thank you very much. I have always enjoyed my appearances before this subcommittee.

Mr. FOLEY. Any questions?

Mr. VIGORITO. No questions.

Mr. SISK. Mr. Chairman, I simply want to welcome my good friend, Mr. Datt, here. Sometimes we agree and sometimes we disagree. I find myself in vigorous agreement with you gentlemen today and appreciate your comments. Let me say we agree a little more than we disagree.

I do appreciate the position of the American Farm Bureau in this area.

I have only one question because to me it goes to the crux of the questions involved in this. Do you, John, see any more justification for attempting to assess administrative costs—the cost of administering programs for agriculture in this area on behalf of the Depart-

ment of Agriculture—than you would, for example than say we should take in a great reclamation program which, as you know, is so vital to the West, and say because of the costs of administering that program that you begin to assess against each project a substantial portion of the cost of administration by the Department of the Interior? Wouldn't they be pretty much on equal footing?

Mr. DATT. Well, first of all let me say that I am not an authority as it relates to the reclamation area. I know a little bit more about marketing orders than the reclamation aspect, although I am generally familiar with it. I think as it relates to the discussion in our board of directors meeting that took place, as reflected by the statement, that where you have like the general price support programs that are in existence where you have administrative costs it is certainly proper to have these paid for by appropriated funds, and I suspect that this would be the general attitude, they would take as it relates to the reclamation projects that you have outlined, although I can't answer specifically.

Mr. SISK. I appreciate your comments, John. I wasn't trying to put you on the spot. Really, the point I am making is that there are certain basic administrative costs by agencies of government that are administering programs that are believed—at least Congress believed when it made the policy—to be in the best interests of the people of the whole country, just as I believe that the reclamation, just as I believe marketing orders can be a valuable instrument for American agriculture as well as protection for State leveraged price for the American consumer and therefore administrative costs dealing with those consumers should be an obligation of the general public and not necessarily depend on the farmer alone.

Mr. DATT. I think that is generally consistent. I think where you get the difficulty, if I might comment, Mr. Sisk, is back to what Mr. Goodling was mentioning earlier, and that is when you start with a, let's say a promotion program or a program that is designed for the specific benefit of one agricultural commodity, I think then you raise the question of whose responsibility is it to pay for the administrative costs of operating that program. Is it the responsibility of that producer group or is it the broad responsibility of say the Department of Agriculture. I think this is the question that really is underlying the whole discussion that you had yesterday and today and tomorrow.

Mr. SISK. Well, I agree, of course, with what you said and I agree with the comments made in the opening day of the session by Mr. Goodling. Of course, this is a matter wherein Congress has to determine some policy.

Now, as outlined by Mr. Huber in regard to the walnut order, there are certain areas in which they do pay substantial costs because they are matters of specific interest and benefit to that industry as against all other industries, and in those areas, of course, they are paying those costs.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Jones?

Mr. JONES. No questions.

Mr. FOLEY. Mr. Datt, we have discussed recently the relation between this legislation and promotion research bills that have been before the committee. I would like to comment on this. It seems to me important that we made a determination on this legislation, not neces-

sarily because the decision here is going to control what the subcommittee does on research and promotion legislation, but if the subcommittee should decide that the legislation will assess the charges of administration against marketing orders, then I think it would follow that the subcommittee would feel it necessary to also assess the charges against research and promotion. I believe it is possible that the subcommittee might refuse to pass this legislation and still consider making charges against research and promotion programs as distinguished from marketing orders. As long as we have this type of legislation pending, it has tended to cloud to a certain extent our ability to come to a decision on the other legislation. That is why I think a majority of the subcommittee felt it was necessary to have a full airing of this particular proposal.

Mr. DATT. Mr. Chairman, let me just add that within the discussion within our board it was totally consistent with your last statement, and that is that while there was discussion of both matters by the board of directors at that time, namely this and the promotion aspect, the board said we will make a decision on this legislation, we will make a subsequent decision and recommendation on that if and when there is a hearing or that question is put to us. We are now having that particular question discussed by our State and county Farm Bureaus and probably will have a recommendation as it relates to that aspect after our annual meeting in December. Our point of view is totally consistent with the point you just made.

Mr. FOLEY. Thank you very much.

If there are no further questions, Mr. Datt, this concludes the second day of hearings on H.R. 13193.

The subcommittee will meet again tomorrow at 10 o'clock to conclude the witnesses scheduled at that time.

Before the subcommittee adjourns, however, I would like to include in the record, without objection, the statement of Mr. Albert E. Mercker. It will be received without objection.

(The statement follows:)

STATEMENT OF ALBERT E. MERCKER, EXECUTIVE SECRETARY, THE VEGETABLE
GROWERS ASSOCIATION OF AMERICA

My name is Albert E. Mercker, and I am Executive Secretary of the Vegetable Growers Association of America. The Vegetable Growers Association of America is the only national association of vegetable growers with over 40 associations representing membership in 32 states. We are now in our 61st year, operating under the same name.

In connection with H.R. 13193, which would provide for payment by handler assessments of the administrative costs of the Department of Agriculture, with respect to Marketing Agreement and Orders, I am here to state that the Vegetable Growers Association of America finds this proposed legislation to be discriminatory and we strongly oppose its enactment into law.

The proposed legislation would require handlers of products under marketing agreements to pay all of the administrative costs of the Department of Agriculture in connection with marketing agreements.

Green vegetables have never received any price support nor have they cost the Government any money except in connection with the operation of marketing agreements and to emphasize the need for stimulating consumption through the Plentiful Foods Programs. The vegetable marketing agreements afford producers an instrument whereby they can voluntarily adjust the supply of their commodity to the estimated demand. Those operating under marketing agreements impose quantity, quality and size regulations on their particular commodity for the purpose of withholding from the market in times of surplus the least desirable proportion of their particular commodity.

Producers operating under marketing agreements and orders have assessed themselves to cover the cost of their administration, including the office of the Manager, the secretarial help, office supplies and travel expenses involved for the manager and the committeemen and the hiring of field men to check the quality of the product marketed at shipping point and through the channels of distribution to the ultimate consumer.

There would be no end to the costs of administering market agreements and orders if all expenses incurred by the representatives of the U.S. Government who pass on the marketing agreements were charged to the commodity producers and handlers.

According to "The Budget in Brief Fiscal Year 1969" issued by the Executive Office, the agricultural budget is about \$5.6 billion, or three percent of the total budget of an estimated \$186 billion.

The full expenses of no other agencies come out of the collections received by the Government for services rendered. What if the same principle should be applied to the Department of Health, Education, and Welfare, the Post Office Department, the Labor Department, and the Department of Justice with respect to judicial cases?

For these reasons the Vegetable Growers Association of America strongly opposes the enactment of H.R. 13193 into law.

Thank you, gentlemen, for giving our views in this matter your full consideration.

Mr. FOLEY. Accordingly, the subcommittee will stand adjourned until 10 o'clock.

(Whereupon at 11:45 a.m., the hearing was recessed to reconvene Thursday, Oct. 2, 1969, at 10 a.m.)

MARKETING ORDER COSTS

THURSDAY, OCTOBER 2, 1969

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

The subcommittee met, pursuant to recess, 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, Vigorito, Jones of Tennessee, and Goodling.

Also present: Christine S. Gallagher, clerk; William C. Black, general counsel; and Hyde Murray, associate counsel.

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

This is the final day of 3 days of scheduled hearings on H.R. 13193, introduced by Messrs. Goodling and Miller of Ohio to recover costs of Federal administration of marketing agreements and orders.

I would like to advise the witnesses and others is the hearing room that by unanimous consent, late last evening the House has gone into session 2 hours early and is now meeting. Hopefully, we will not have a point of order raised against the subcommittee meeting but it may be necessary for the subcommittee members to answer quorum calls.

In fact, we now have a quorum call.

The Chair will recognize the distinguished gentleman from California, a member of this subcommittee, Mr. Sisk, to introduce the first witness.

Mr. SISK. Mr. Chairman, I appreciate very much this opportunity to introduce some distinguished Californians who are here this morning. I am sure their testimony will be of value to the committee.

I would like to say at the beginning that I want to ask unanimous consent, Mr. Chairman, to introduce my own remarks in the record at this point in opposition to the pending legislation and near the end of the hearing I have some other material that I would ask unanimous consent to put in the record.

(Representative Sisk's statement follows:)

STATEMENT OF HON. B. F. SISK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

As I have indicated on a number of occasions to my distinguished colleagues on this Subcommittee, I am strongly opposed to the enactment of this legislation.

H.R. 13193 would in effect destroy much of the work the Department of Agriculture Committees of Congress and others have done to assist these commodity industries in their marketing activities. Most of these commodity groups are expanding their programs to commit greater amounts to research designed to protect and improve grower returns and lower consumer costs. The additional

costs proposed in this legislation would detract from these programs. I have been—as I know many of my colleagues have—encouraging other industries not now using marketing orders to explore their value in solving their marketing problems.

One of my great concerns with this legislation is that we in Congress could be responsible for the breakdown in confidence between the Department and the growers and handlers on marketing matters. The objectivity of the USDA must be maintained—the growers and handlers must continue to have complete confidence in these orders if the programs are to function effectively. The Department has the responsibility of assisting our farmers in achieving a price for their products commensurate with prices and wages received by other sectors of the economy. The Marketing Agreement Act also requires that all actions under a marketing order be approved by the Secretary in order to protect the consumer interests. This may not be the case if these administrative costs are paid by the individuals who the Department must in turn administer.

Mr. IRMAN. I see no justification for the enactment of H.R. 13193.

Mr. SISK. I would like at this time to introduce Mr. Clarence Hill, who is director of grower relations, Consolidated Olive Growers Association, Lindsay, Calif., and a prominent member of our agricultural community in California.

Also Mr. Virgil Rasmussen, who by the way, is a very prominent leader in agriculture in Fresno County. He is actually from Sanger, Calif.

Now, we have also Mr. John Van Horn, who does not happen to be from my particular area; he is the executive vice president and general manager of Pure Gold, Redlands, Calif.

I do not know whether all three of you gentlemen wish to appear together or whether you prefer—you will all be given an opportunity to make statements. If you would like to come to the witness stand together—

Mr. FOLEY. If you gentlemen would like to come up together and sit at the witness table we will recognize you in order, Messrs. Hill, Van Horn and Rasmussen.

Mr. SISK. This is Mr. Hill, the gentleman here. All these gentlemen as I say, are able spokesmen for agriculture in California. All but one is from my district but certainly we welcome them all.

Off the record.

(Discussion off the record.)

Mr. FOLEY. Mr. Hill, we are very happy to have your statement.

STATEMENT OF CLARENCE HILL, DIRECTOR OF GROWER RELATIONS, CONSOLIDATED OLIVE GROWERS ASSOCIATION, LINDSAY, CALIF.

Mr. HILL. I speak today in behalf of the California olive industry in opposition to the pending bill H.R. 13193. My name is Clarence Hill; my background includes managerial positions with a worldwide canning company over a period of 23 years. More recently, I have been employed as director of grower relations of Consolidated Olive Growers, the largest olive cooperative in the world. In addition, I am a substantial olive grower in my own right of some 12 years standing.

Over the span of these 25 years, I have served on boards and industry committees of both State and Federal marketing orders. These included State orders of yellow clingstone and yellow freestone peaches, pears, brussel sprouts and strawberries. Federal orders include strawberries and olives.

I am presently a cooperative cannery member of the Federal marketing order for olives and, also, serve as chairman of the trustees of funds left by the demised California State olive order.

Our olive industry strongly opposes the pending bill which would burden growers and processors with the Department of Agriculture administrative costs of Federal marketing orders.

I personally have had opportunity to work with orders funded by the Federal Government and State orders which are directly funded by those participating in the order.

One of the biggest problems with orders funded by processors and growers is that the administrative people of the order become attached to their particular jobs, and tend to become subservient to those who pay their wages.

It even has gone to the extent where I have seen employees campaign for continuance of a State order.

We believe there is much better economic control of expenditures within an order when the total funds available to them can be limited by Congress. If funded by commodity groups there is a tendency to become more liberal and wasteful and certainly not in the public interest.

Naturally, I have had occasion to observe the manner in which our present Federal marketing order is supervised by the USDA staff and I have to report that it is completely unbiased in its handling.

To be more direct, and possibly even a little self-critical, I represent a relatively small industry of 11 processors in which my company, Consolidated Olive Growers, totals better than 40 percent. It is easy to see, in such a situation, that we might have undue influence if our company were to pay its proportionate share toward funding the administrative costs of a marketing order. We do not want to be tempted nor, frankly, do we want any other processor or grower to be in this position.

We believe injustices have occurred within State orders that were funded by commodity groups, and one clearly in the minds of the olive industry was the instance when, through political maneuvering within the order, my company was deprived of a canner's seat on the Board, and this was condoned and approved by the then State director of agriculture.

The California olive industry does not want to return to such a predicament of being subjected to a situation in which there is not equitable representation of all handlers on the committee.

Thank you.

Mr. FOLEY. Thank you very much, Mr. Hill.

May I ask just for background, what canning industry you were associated with before your present position?

Mr. HILL. Libby, McNeill & Libby, and I was stationed in San Francisco, Chicago, and Europe, Puerto Rico, Hawaii.

Mr. FOLEY. I think many of the members of the subcommittee are concerned in addition to the philosophy behind the proposed legislation with the difficulties of administration in assessing various costs of marketing orders to the handlers. The olive industry, as you point out, is not the largest industry involving a marketing order but I assume there would be some difficulty in determining precisely what costs should be assessed against this industry as against other fruit and vegetable marketing orders.

Mr. Van Horn, we will be happy to have your statement.
 Mr. VAN HORN. Yes, sir.

**STATEMENT OF JOHN M. VAN HORN, EXECUTIVE VICE PRESIDENT
 AND GENERAL MANAGER, PURE GOLD, REDLANDS, CALIF.**

Mr. VAN HORN. Thank you, Mr. Chairman.

My name is John M. Van Horn. I am the executive vice president and general manager of Pure Gold, Inc., Post Office Box 40, Redlands, Calif. Pure Gold is a cooperative marketing organization handling citrus fruits produced in California and Arizona. I am currently also the president of the California/Arizona Citrus League, which is an industrywide organization comprising in its membership practically all of the marketing organizations handling California and Arizona citrus fruits.

In addition to my company, this includes Sunkist Growers and all of the so-called independent marketers and growers in California and Arizona.

It is in my capacity as president of the California/Arizona Citrus League that I appear before you today on behalf of the many thousands of citrus producers in the State of California and Arizona to object to the proposed legislation embodied in H.R. 13193.

The League and its members believe strongly that it would be extremely difficult for Department of Agriculture personnel to maintain objectivity in the administration and enforcement of marketing agreements and orders if it is dependent for its income to pay the cost of administration on assessments against the persons it is regulating. Handlers who are not growers would object that the orders are for the benefit of growers and to improve their returns, not something the handlers want; therefore, the handlers should not be required to pay the cost of administration. Growers who are not handlers could object to assessments on handlers on the grounds that it would make it that much more difficult to obtain the necessary handler approval of a marketing order because that gives the handler one more ground for objecting to an order.

Still more important than the foregoing is the objection that the difficulties of apportionment of expenses as between classes of marketing orders, and individual marketing orders within the different classes, would present insuperable problems. It is my understanding that there are considerable differences between the character and territorial coverage of the many marketing orders that have been issued, or which may be issued. Milk marketing orders, for example, differ substantially from those regulating fruits and vegetables. There are also substantial differences between orders regulating fresh or unprocessed commodities compared with those covering processed commodities or products. Also within each category there are very material differences in the character and extent of the marketing regulation undertaken and this results in substantial variation in the amount of time and attention that the Department must give one order as compared with another. It would seem utterly impossible to devise any formula by which expenses of administration could be allocated between the various classes of marketing orders or within each class between the individual orders.

The bill itself recognizes these difficulties and attempts to avoid them by declaring that the assessments shall be apportioned among

all handlers subject to all marketing orders "by such method of apportionment as the Secretary finds will be equitable, giving due consideration to differences among the several marketing agreement and order programs." This in effect, gives the Secretary of Agriculture power of taxation with no limitation or restraint whatsoever and amounts to saying that the Secretary may assess each handler for any amount the Secretary may, in his uncontrolled discretion, propose.

Though for the reasons expressed heretofore, the amount of additional cost to a particular marketing order is uncertain it is certain that some added costs will have to be borne by producers already hard pressed to make ends meet financially.

Reference to the statistics published by the Fruit and Vegetable Branch of the U.S. Department of Agriculture reveals the California/Arizona navel orange grower this past season received but 71 percent of parity for his fruit, and Valencia orange grower but 47 percent of parity. And this only on the most profitable portion of his production—that which was shipped in fresh fruit channels. If the rest of his production—that portion which is sent to processing plants—were figured into the parity formula his percentage of parity would be still further depressed.

For the reasons expressed herein, and for others I may express if opportunity permits, the citrus producers of California and Arizona vigorously protest against the legislation proposed in H.R. 13193 and respectfully urge that efforts to accomplish its passage be terminated at the conclusion of this hearing.

I want to thank you, Mr. Chairman, and your subcommittee, for extending me the privilege of making this statement.

Mr. FOLEY. Thank you very much, Mr. Van Horn.

Would there be some situations under this legislation where the assessments might be passed on to purchasers or consumers?

Mr. VAN HORN. That is a good theory, Mr. Chairman, and, of course, we try to pass all costs ultimately on to the consumer but it is not always possible because of the supply and demand situation.

Mr. FOLEY. In your judgment, would it vary markedly according to the circumstance of the individual commodity, whether it could be easily passed on to consumers or not?

Mr. VAN HORN. Yes, definitely, depending again on the supply and availability and demand situation. Very definitely, sir.

Mr. FOLEY. Otherwise it would have to be borne by the producers.

Mr. VAN HORN. It would inevitably be borne by the producers.

Mr. FOLEY. The Chair is going to recess the subcommittee due to the quorum call as soon as a Member returns. The staff will pass on my request to take the Chair and continue.

Mr. Sisk is here.

Mr. SISK (now presiding). I believe that, Mr. Van Horn, you had completed your statement.

Mr. VAN HORN. Yes, sir.

Mr. SISK. Is that correct?

Mr. VAN HORN. Yes, sir.

Mr. SISK. Mr. Rasmussen, you had not given your statement yet.

Mr. RASMUSSEN. That is correct.

Mr. SISK. Fine. Then the Chair will be glad to recognize you, then, for your statement. I think what we will do is have all three of you make your statements and give the committee an opportunity to get

back, having answered their names. There may be some queries or questions which we can direct at you en bloc, that is, to the various individuals. So if you will, then, go ahead and make your statement, Virgil, and I believe—Clarence, you have not made your statement?

Mr. HILL. I have made mine.

Mr. SISK. OK. Fine. I just wanted to be sure. Fine. Then, Virgil, you make your statement.

**STATEMENT OF VIRGIL RASMUSSEN, MANAGER, BALLENTINE
PRODUCE CO., FRESNO, CALIF., REPRESENTING CALIFORNIA
TREE FRUIT ADVISORY COMMITTEE**

Mr. RASMUSSEN. My name is Virgil Rasmussen. I am a grower and shipper of California deciduous fruits and grapes which are subject to both Federal and State marketing orders. Of the programs in which I am involved, Bartlett pears and plums have been subject to a Federal marketing order since 1933, Elberta peaches since 1939 and nectarines since 1958. There are also four California State marketing orders applicable to plums and Bartlett pears. California table grapes also carry on a national promotional program under a California State commission arrangement which is similar to a marketing order. I have served on various shipper and grower committees which administer these marketing orders and currently I am chairman of the control committee of the California Tree Fruit Agreement, chairman of the Plum Commodity Committee, chairman of the Nectarine Shippers Advisory Committee, and a commissioner on the California Table Grape Commission.

My associates and I believe that the legislation under consideration is unwise and is not in the best interest of either Government or the affected industries. This proposal would permit the Secretary of Agriculture to prescribe assessments to be paid by handlers which "he finds are likely to be required to meet the expenses incurred during each fiscal year for carrying out this act by the agency of the Department of Agriculture delegated the responsibility for administering this act." The Secretary is thereafter authorized to apportion the expenses among handlers "by such method of apportionment as the Secretary finds will be equitable, giving due consideration to differences among the several marketing agreement and order programs." This gives the Secretary power to tax without limit and, in fact, without answering to any person either in the amount assessed or the method by which he determines the assessment.

Perhaps he needs this carte blanche to assess as it does seem an impossible task to determine what each marketing order should pay in view of the diversity of functions performed and the unpredictable problems which may call for Government attention. Nor is size of budget an accurate indicator of the amount of Government service required since some programs, like plums, assess for inspection while others, like Bartlett pears, require the handler to make direct payments to the inspection agency. Thus, the plum budget this year, 1969-70, is \$223,847 and the pear budget is \$19,610, although the two programs are quite similar. Some programs now assess for fairly large sums for promotion, a function in which the Government is not much involved, while most do not. Federal marketing order budgets vary from \$2,000 per annum to \$300,000.

But costs or the difficulty of assessing costs should not be the primary consideration in rejecting this bill. The Director of the Fruit and Vegetable Division has estimated that it will cost \$25,000 per marketing order to defray governmental administrative charges. We are told there are 48 marketing orders in existence affecting fruits, nuts and vegetables so the total amount of money to be recovered is \$1,200,000 from these commodities. This sum seems insignificant when compared with the \$747 million paid by the Department to cotton producers alone in 1968 or the more than \$2 billion in payments that year to producers of feed and food grains.

Marketing order programs are probably already paying more of their own way than any other USDA program activity. This year the growers of California plums, Bartlett pears, Elberta peaches and nectarines will assess themselves approximately \$1,200,000 to administer marketing order programs for these fruits. Contrast these program expenditures, if you will, with the acreage control and allotment programs in which appropriated funds are used for all activities at all levels of Government.

At stake is the public interest. The employees of the USDA who oversee marketing order operations are and should be largely concerned with the public interest and to a lesser extent with the narrower interests of producers. Thus, the act states that it is the declared policy of Congress "to protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets."

Only those minimum standards of quality and maturity are to be permitted "as will be in the public interest."

Regulations to establish orderly marketing conditions are permitted "as will provide, in the interests of producers and consumers, an orderly flow of the supply" to market.

All of these quotes are from the act itself.

Governmental employees working on marketing orders should maintain an objective view consistent with their duties as protectors of the public interest. To involve them financially with the continuation of marketing orders under their surveillance, or the promulgation of new orders, is to erode this objectivity. It is the nature of growers and shippers to press for immediate solutions when problems arise and to be impatient with procedures which involve delays. Governmental employees representing the public interest must often raise the warning flag to a charging industry desirous of reaching an immediate goal in ways not always consistent with the act. If the governmental representative is in effect an employee of the industry, is he apt to incur the displeasure of its leaders when such circumstances arise?

Those of us who have experience with California State marketing orders under which the costs of governmental services are recovered from the affected industries, can answer this question. There is a marked contrast between the posture of Federal and State employees who work on marketing orders. The State employee usually regards himself more as an industry advocate than a protector of the public interest. He is anxious to develop new orders and to maintain all of those in effect, sometimes even when the affected industry wants to lay

the program aside. Federal employees do not now have these proclivities but they would soon acquire them given the same economic motives.

What of enforcement? Does an investigator whose salary comes in part from the respondent press a case as vigorously as one who is paid for general funds? It seems poor policy indeed to give him an economic motive for doing less than his best in documenting marketing order violations. USDA employees whose salaries, travel expenses, meals, and lodging would be paid by the industry under marketing order control would be similarly handicapped in fulfilling their duties to the public and to consumers.

It would seem to make more sense in the overall U.S. agricultural program to encourage marketing orders wherever possible. The thrust of the proposed legislation is in the opposite direction. These self-help programs have achieved a measure of success in controlling surpluses and improving the quality of offerings to consumers. We could wish that some of the commodities subject to price support and other incentive arrangements involving the payment of public funds would try marketing order approaches in the control of their often massive surpluses.

The specialty crops that are the subjects of marketing orders seek no governmental financial help. They ask only the tools provided by the act in dealing with their surplus problems. We do not believe they should be taxed to provide Government overseers whose primary responsibility is to the public.

I thank the chairman and the subcommittee for the privilege of testifying before you. Thank you very much.

MR. SISK. Thank you, Mr. Rasmussen, for a very excellent statement on behalf of a number of marketing order groups in the State of California.

Now, Mr. Hill and Mr. Van Horn, you had already both given your statement which concludes the three statements. I have briefly reviewed the statements of Mr. Hill and Mr. Van Horn and I would just simply like to ask this one question for clarification.

We had yesterday Mr. Tarlock and Mr. Huber also from California representing segments of the California agriculture and so that all five of you gentlemen have stated a unanimous position here in opposition to the pending legislation. So far as any of you know, and I might just ask you, Mr. Rasmussen, to start with, do you know of any segment of agriculture in California or any organization that has indicated any support for this legislation? Generally, the statements made by you five gentlemen, I might say, represent a unanimous opinion of California agriculture in this area.

MR. RASMUSSEN. I am sure this is a unanimous opinion that we are expressing here. I know of no one associated in any way with California agriculture that favors this bill.

MR. SISK. I appreciate very much your statement, too, Virgil, with reference to the need for certain other commodity groups in the United States to explore the use of the marketing order. This has been one of my concerns now for a number of years when we look at the rather complicated problems in which we are involved in some of these so-called major commodities. I am wondering if there would not be possibility where they could use the marketing order mechanism to an advantage because certainly we are faced right now with attempts to

try to write some legislation dealing with major commodities and frankly, I at this moment, have to admit I do not know and I do not know of anyone in Congress plus the Department who knows exactly where we are going to go in connection with those things.

The gentleman from Pennsylvania, Mr. Vigorito.

Mr. VIGORITO. No questions, Mr. Chairman.

Mr. SISK. The gentleman from Tennessee.

Mr. JONES of Tennessee. No questions.

Mr. SISK. I had hoped that the chairman would be returning very soon. Also Mr. Goodling of Pennsylvania, I am sure is probably on his way back. I think that if we might suspend momentarily in the event that they might have some questions, particularly Mr. Foley, the chairman of the subcommittee. So unless there is objection, I think we will just momentarily hold here and see if they do show up before we dismiss the witnesses.

(A recess was taken.)

Mr. SISK. Back on the record.

I think that in order to conserve time this morning, in view of the pressures—by the way, here is Mr. Goodling of Pennsylvania now, in case he might have some questions. I started to say in order to proceed, are all three of you gentlemen going to remain in the room at least for the next little while so that in case Mr. Foley or other members of the committee who will be returning, might have some questions after reviewing your statements, we will be happy to have you.

Mr. Goodling, I appreciate the fact that you have just returned to the room. These three gentlemen have completed their statements. Mr. Clarence Hill with the olive people in California—you remember we have a bill now pending, one of those we have held up waiting for some determination on this legislation. He is the gentleman in the center.

Mr. Van Horn is the gentleman to his right and Mr. Virgil Rasmussen is the gentleman to his left.

Mr. Rasmussen is representing a number of the grower groups. He happens to be from my home area. Mr. Van Horn is representing the citrus industry primarily, I believe. And they do have their statements if you would like to make any inquiries.

Mr. GOODLING. I have no questions, Mr. Chairman, not knowing what they said in their statements.

Mr. SISK. All right. These gentlemen are going to remain in the room. So, we will proceed with the next witness and after reviewing their statements, if there are questions, we will take them up.

Thanks a lot, gentlemen. We appreciate the trip you made back here and want to assure you that the matters you have discussed will have weight in consideration by the committee in determining policy in connection with any changes in the marketing order and promotion and research programs which are part of our responsibility. So, if you will stand aside, then, and remain in the room.

The committee then will hear from—I see, by the way, our colleague from Texas, Mr. de la Garza, in the room. Did you wish to make any introductions in connection with members, representatives from Texas, Mr. de la Garza? If so, the committee will be happy to recognize you.

Mr. DE LA GARZA. Thank you, Mr. Chairman. I appreciate the opportunity to appear before your distinguished subcommittee, and my

views on this legislation have already been presented to the subcommittee, but I again appear in opposition to this legislation and endorse without reservation the statement to be made by the witness, Mr. Cecil L. Lanier, of McAllen, Tex., who is a very distinguished civic and business leader in our area and a very prominent citrus grower and citrus grove owner. I would like to introduce to the subcommittee Mr. Cecil Lanier, who will present a statement in opposition to this legislation.

Mr. SISK. Thank you, Mr. de la Garza, and Mr. Lanier, the committee will be happy to hear from you.

STATEMENT OF CECIL LANIER, TEXASWEET CITRUS ADVERTISING, INC., PHARR, TEX.

Mr. LANIER. Mr. Chairman and distinguished members of this committee, it is a distinct honor and a privilege for me to be permitted to appear before you and testify in opposition to this legislation you are now considering.

You have before you, I believe, a copy of the statement that I would like to formally make and in the interests of time, if you will permit me to do so, I will simply comment on it and let the record stand on the statement as submitted.

Mr. SISK. Without objection, the statement in its entirety will be made a part of the record and you may make such comments as you desire, Mr. Lanier.

Mr. LANIER. Thank you very much, sir.

My credentials for appearing as an official witness representing the entire citrus industry in the Rio Grande Valley are these, and I present them now. It is a certified copy of the resolution of the shareholders in Texasweet Citrus, Inc., which is a group of handlers in the valley authorizing me and Mr. Eugene Goodwin to appear in their behalf.

Mr. SISK. Without objection, it will be made a part of the record. Hearing no objection, so ordered.

(The resolution referred to follows:)

CERTIFIED COPY OF RESOLUTION OF SHAREHOLDERS IN TEXASWEET CITRUS, INC.

THE STATE OF TEXAS
County of Hidalgo:

Know all men by these presents: I, E. A. Koelle, Secretary of Texasweet Citrus, Inc., a private corporation, hereby certify that the following is a true and correct copy of a resolution passed by the shareholders in Texasweet Citrus, Inc. at a meeting of said shareholders held on the 25th day of September, A. D. 1969 as same appears in the minute book of said shareholders' meeting:

Whereas there is now pending in the Senate of the United States a bill bearing No. S 816, together with a companion bill pending in the House of Representatives, bearing No. H.R. 13193 providing for the assessment of handlers of fresh fruits, under a federal marketing order, by the Secretary of Agriculture for the payment of USDA officials administering marketing orders; and

Whereas the passage of said bills would cast a greater financial burden upon the Citrus Industry of the Lower Rio Grande Valley of Texas than it could bear; and

Whereas a hearing on H.R. 13193 is to be held by the House Agriculture Subcommittee in Washington, D.C. September 30, 1969 through October 2, 1969: Therefore be it

Resolved by the twenty-one (21) shareholders in Texasweet Citrus, Inc., A handler organization comprising all of the major handlers of fresh citrus fruits in the Lower Rio Grande Valley of Texas, do hereby unanimously oppose both of said bills as being extremely detrimental to the citrus industry in the Lower

Rio Grande Valley of Texas and the enactment of such proposed legislation would result in our local marketing order being abandoned; and be it further,
Resolved, That Cecil L. Lanier of McAllen, Texas and Eugene M. Goodwin of Mission, Texas be and each of them is hereby authorized, on behalf of this organization, to appear as witnesses at said hearing and testify in opposition to both bills.

In witness whereof, I have hereunto affixed my signature and the seal of said corporation on this 25th day of September, A. D. 1969.

E. A. KOELLE,
Secretary of Texasweet Citrus, Inc.

Mr. LANIER. The other is a certified copy of the resolution of the Board of Texasweet Citrus Advertising, Inc., which is composed of handlers, growers, shippers, and represents every segment of the citrus industry in the Lower Rio Grande Valley. At this time I will present that and——

Mr. SISK. Without objection, the document will become a part of the record.

(The resolution referred to follows:)

CERTIFIED COPY OF RESOLUTION OF BOARD OF DIRECTORS
 OF TEXASWEET CITRUS ADVERTISING, INC.

THE STATE OF TEXAS
County of Hidalgo:

Know all men by these presents: I, Sid L. Hardin, Recording Secretary for the Board of Directors of Texasweet Citrus Advertising, Inc., hereby certify that the following is a true and correct copy of a resolution unanimously passed by the Board of Directors of Texasweet Citrus Advertising, Inc., at a meeting of said Directors held on the 16th day of September, A. D. 1969:

Whereas there is now pending in the Senate of the United States a bill bearing number S. 816, together with a companion bill pending in the House of Representatives bearing number H. R. 13193, providing for the assessment of handlers of fresh fruits, under Federal marketing orders, by the Secretary of Agriculture, for the payment of USDA officials administering marketing orders; and

Whereas the Board of Directors of Texasweet Citrus Advertising, Inc. has heretofore unanimously passed a resolution opposing the passage of said Bills upon the grounds that said Bills, if enacted into law, would cast a greater financial burden upon the Citrus Industry of the Lower Rio Grande Valley of Texas that it could bear and if said Bills be enacted into law, it would result in our local marketing order being abandoned; and

Whereas a hearing on H.R. 13193 is to be held by the House Agriculture Subcommittee in Washington, D.C., September 30, 1969 through October 2, 1969; and

Whereas the Board of Directors of this corporation deems it necessary to send two competent witnesses to appear before said Sub-Committee and testify in opposition to said House Bill: Therefore be it

Resolved by the Board of Director of Texasweet Citrus Advertising, Inc., An organization representing citrus fruit growers, independent handlers, cooperative handlers and every phase and segment of the Citrus Industry in the Lower Rio Grande Valley of Texas that Cecil L. Lanier of McAllen, Texas, and Eugene M. Goodwin of Mission, Texas, be and each of them is hereby authorized to appear as witnesses at said hearing and testify in opposition to said House Bill; and they and each of them is hereby designated as authorized witnesses representing the entire Citrus Industry of the Lower Rio Grande Valley of Texas.

In witness whereof, I have hereunto affixed my signature.

Mr. LANIER. I am sorry to have to report to you that Mr. Goodwin will not appear due to the fact that he had some important business come up that interfered with his making the trip at this time. So, I will be the only witness representing the citrus industry.

The policy as we see it of the Congress in this act, was definitely to protect the interests of not only the producer but also the consumer and in general the public. That is the reason for it as we see it. It simply provides a vehicle for us to ride whereby we can control with the

consent and advice of the Secretary of Agriculture on our own business, and that is what we are trying to do at the present time.

I have made some quick calculations from the weighted averages of citrus prices during the past year and I find that on oranges we received for the year ending in June, 1969, an average of 47 percent of parity. On grapefruit we received an average price of 62 percent of parity. This legislation or these marketing orders are as we see it, simply to present a situation where all concerned can receive fair treatment and fairness as we see it, means fairness to the producer and to the consumer as well.

We had chaotic conditions that existed in the Lower Rio Grande Valley of Texas prior to the present marketing order under which citrus is operating. And by that, I mean that we have the power to regulate but we do not have the power to enforce without the assistance of the Federal Government.

We could regulate sizes and quality and containers but we could not enforce the adoption and use of it by all of the handlers. Therefore, the trade as we call it, could not have any assurance of what they would receive. Even though they might order No. 1 fruit from one house and No. 1 fruit from another house, they would not be the same unless you have some enforcement order that you can control and force these people to put up a uniform pattern. People being as they are, they naturally do not do that sometimes. They take advantage of every opportunity to sometimes I call it, cheat a little.

We have another problem in the Lower Rio Grande Valley of Texas that is not common to some of the other areas and that is imports from Mexico—I pointed out seven industries—commodities in my testimony showing increases in the past 4 years of from 22 to as much as 732 percent increase in imports. The 732 percent has to do with the strawberry industry, and, gentlemen, it has completely killed the strawberry industry in the Lower Rio Grande Valley of Texas. There is not one commercial strawberry grower left on this side of the river. The reason is because strawberries are primarily from what we term stoop labor and it can be done so cheaply in Mexico that Mexico is now growing all of the strawberries that we get, or California or some other areas are having to grow, them.

I would like to point out that there are reports that you gentlemen read, I am sure, in the press at times and sometimes hear in committees regarding the wage scale that we pay our laborers in the citrus industry and in the vegetable industry in the Rio Grande Valley. Let me assure you as one who employs from 20 to 40 laborers per day 12 months out of the year, the least amount we ever pay anyone is the minimum wage of \$1.30 an hour at this time. It will be \$1.45 in 1970, plus the fringe benefits that go with it, and many of our laborers make \$2 an hour and up.

By a simple comparison, in Mexico the light laborer gets \$1.25 to \$2 per 12-hour day in American money. Of course, they are paid in pesos but that is the equivalent of a \$1.25 to \$2 a day in American money. So, it is real easy for you to see why we cannot compete against that kind of wage scales and production costs.

Mr. FOLEY. (now presiding). May I interrupt there, Mr. Lanier? Concerning the various competitions from Mexico, I note that some figures indicate a very substantial increase of imports and some slight. I take it that beans, for example, are handled more by machinery.

Mr. LANIER. Beans presently are handled 90 percent by machinery, and, of course, carrots are now handled by machinery. Everything is being mechanized that possibly can be to avoid this labor situation.

Mr. FOLEY. Is the labor cost the only substantial factor and advantage to the Mexican producers, or is there any other?

Mr. LANIER. No, sir, Mr. Chairman, it is not. They have the same land, the same fertility, the same water that we have. It is at a much cheaper price. Their land values are not nearly so great and their tax situation is very advantageous over ours.

Mr. FOLEY. I see. Thank you.

Mr. GOODLING. Mr. Chairman, along that same line, is there an import duty on these products from Mexico?

Mr. LANIER. There is an import duty on those products from Mexico.

Mr. GOODLING. What would it amount to? Is it sizable?

Mr. LANIER. No, it is not sizable. It will not nearly compensate for the difference in the labor costs.

Mr. GOODLING. Now, who administers it?

Mr. LANIER. Who administers—

Mr. GOODLING. Your State of Texas or U.S. Department?

Mr. LANIER. No. U.S. Department of Agriculture, as I understand it.

Mr. GOODLING. And who sets the rates?

Mr. LANIER. Well, the rate is set by the Federal Government, by you people here in Washington.

As I understand it, the marketing orders are issued in four categories. One of them is milk, one is fruits, one is vegetables, and the other is specialties, which includes dates and walnuts, peanuts, raisins, et cetera. And there are a total, as the information I have reveals at the present time, of 114 of these existing. With USDA administration cost of approximately \$3 million, this simply adds up to \$26,000 per order if you divide them equally.

The tomato order, for instance, in our area is one that is dormant. There again, it is because the tomatoes are being grown in Mexico and not in the United States any more insofar as our area is concerned, the Rio Grande Valley. That would simply mean that the stronger orders such as the Valley Citrus Committee would have to be assessed additional moneys other than the \$26,000 allocated to it, and we foresee as much as \$100,000 or more being assessed against our citrus industry there which would be the equivalent of \$8 or more per ton because it is only assessed against fresh fruits. This is significant, I admit, when you think of it in dollars, but it will be something that will break our backs there I fear.

Our people at the present time are economy minded. I say that for this reason. We have had numerous bond issues on which we have voted in the area which I represent in the past 18 months and with few exceptions, none of them have passed, and those that have passed have had to do with education. Our people are very conscious of education and they will vote for a bond issue for education when they will not vote for anything else.

Now, when we go back to our people and assess more money against them for the administration of this Valley Citrus Committee, I believe that they will rebel. I think that they will ask for a vote and rescind this order. If this should happen, we would return to the same chaotic

conditions that existed before the order and, gentlemen, we cannot live under those conditions and exist as citrus producers.

I would like to point out, too, that the citrus industry does not get any Government subsidy. We do pay all of our expenses on the local level.

Now, that is not true with all Government programs, and I refer to wheat and cotton and peanuts and, for instance, the best example probably would be the soil conservation program, and the USDA pays that all the way down even through the county level.

Now, if the citrus industry is to be singled out and taxed differently to other bodies, then this is discrimination as between industries, and we feel that it is an unjust cost.

The bill further gives the Secretary the power to levy assessments as he deems best. It also gives him the power to employ the people to enforce these regulations. That would leave those of us who are paying the bill, or would be paying the bill under this legislation if enacted, paying for employees over which we would have absolutely no control. That we do not think would be to the best interests of our industry or to the best interests of anyone concerned.

If the interest of the entire industry including the grower, the handler, and the consumer is to be served, then I urge you gentlemen to kill this bill before it goes any further.

Mr. FOLEY. Thank you, Mr. Lanier.

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

Mr. FOLEY. Mr. Goodling?

Mr. GOODLING. Thank you, Mr. Chairman.

Mr. Lanier, I think I can assure you as one of the sponsors of the bill that you can go back to Texas and not lose any sleep over this bill passing in its present form. I have said that on several occasions. You were probably not here. There are some things that need to be corrected and I think all of us agree on that. But it is pretty generally the consensus of this committee that this is not a proper approach. So, I want to assure you that you can go back to Texas and not fear any harm from this particular bill.

I think we should correct one thing. You seem to think that this was designed for the citrus grower. That is definitely not so. This was designed for everybody. The way the bill is written it is not simply for the citrus grower. You are in the same category as every other commodity.

I was interested in one of the remarks in your prepared statement and I would like you to comment on it. This has nothing to do with this bill in particular.

"Even though the act was specifically enacted to make it possible for farmers and producers of agricultural commodities to obtain parity prices for their products, the marketing order under which we operate has not resulted in our citrus fruitgrowers receiving parity prices for their citrus fruits."

Would you comment on that? Why is this true?

Mr. LANIER. Simply because parity prices on citrus because of the supply and demand are not possible at this particular time. The other areas that grow citrus are in the same position as we in Texas except that we do not have as strong marketing organizations as California, let us say, and Florida. They do get better than their share of the market we think, sometimes and possibly it is because we do not get

our share of the market that we do not receive more. But I cannot foresee any time in the near future where the prices of citrus in the Lower Rio Grande Valley will nearly reach parity.

Mr. GOODLING. Are you producing too much citrus?

Mr. LANIER. No, sir. We are not producing too much citrus. And another thing there, Mr. Goodling, if you will permit me to say so. Citrus is not like these other commodities, let us say wheat and cotton or peanuts, for this reason. A citrus tree does not begin to bear until it is at least 5 years old and it is not commercial until it is probably 7, 8, maybe even 10 years old. And this is a long term investment, not a seasonal investment, that is, in citrus.

Mr. GOODLING. Well, I can sympathize with your problem because I happen to be a fruitgrower myself. I grow apples and peaches, so I know what you are talking about.

I was interested in one other statement and this again has nothing to do with the bill we are considering. You talk about, "local taxes being raised from 25 to 50 percent over last year."

What is the cause of that?

Mr. LANIER. Well, that is a good question. We would like the answer to that ourselves. It is simply because everything is costing more money these days and to service our debts and maintain our programs, it is necessary to raise taxes.

For instance, in the town of McAllen, where I live, all of the property there has been reevaluated this year and it simply had to be done because the school tax, the maximum had been reached and we had to reevaluate it and raise that evaluation in order to provide funds by taxation to support the schools. And, of course, naturally that applies to the county and the State as well. And this in general, is what has happened over the entire valley.

Mr. GOODLING. Well, I think most of us who own land can cry on your shoulder also because we have the same condition although not quite to the same extent you talk about.

That is all, Mr. Chairman.

Mr. FOLEY. Mr. Sisk?

Mr. SISK. No questions, Mr. Chairman. I appreciate the statement of the gentleman from Texas and having some citrus in my area I recognize we all have some problems. On the other hand, I want to commend the citrus industry for its initiative and for its desire to try to solve some of its own problems. Through this committee we are desirous of seeing to it that you continue to have the machinery and the tools that can be furnished by the Federal Government to make it possible for you to control your own destiny and improve your economic well being.

Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Vigorito?

Mr. VIGORITO. No questions.

Mr. FOLEY. Mr. Jones?

Mr. JONES of Tennessee. Mr. Chairman, I would just like to thank Mr. Lanier for the statement and say that my district at one time was a very vigorous and good quality producer of strawberries and other crops that you mention here from Mexico but we are virtually out of business today for the same reasons you point out in your statement here. I certainly can sympathize with you, and my people, too.

Mr. FOLEY. Thank you very much, Mr. Lanier. I am sorry I was not here when you were presented to the committee. I am sure it is not necessary to say you are represented in the Congress by a very able and articulate member of this committee, Mr. de la Garza, who I can tell you keeps the committee very well informed on the problems and attitudes of the lower Rio Grande Valley. Even if he did not, there is another member of the committee of some influence from the State of Texas, also.

Mr. LANIER. Thank you, Mr. Chairman. We are very proud of our Representative, Kika de la Garza, and he does a good job and we hope he is here with you for a long, long time.

Mr. FOLEY. Thank you very much.

(Mr. Lanier's full statement follows:)

STATEMENT OF CECIL L. LANIER, McALLEN, TEX.

My name is Cecil L. Lanier. I reside at 1513 Esperanza, McAllen, Hidalgo County, Texas.

I am a citrus grove owner and citrus grower in the Lower Rio Grande Valley of Texas. I am President of Citrus Management Corporation; a Director and Vice President of Edinburg Citrus Association of Edinburg, Texas; Director and Past President of Texas Citrus Exchange, a central marketing association handling the sales of citrus fruit of five cooperative marketing associations in Texas; Past President of Texas Citrus Mutual; President, Texasweet Citrus Advertising, Inc., an organization representing every segment of the citrus industry in the Lower Rio Grande Valley of Texas; growers and handlers, including independent handlers, as well as cooperative handlers; and am on the Board of Directors of McAllen State Bank of McAllen, Texas. I am submitting this personal information so that the Sub-committee may be made aware of my qualifications as a witness on behalf of the citrus industry in the Lower Rio Grande Valley of Texas.

CREDENTIALS

I respectfully submit to the subcommittee my credentials as an authorized witness on behalf of every segment and phase of the Citrus Industry in the Lower Rio Grande Valley of Texas; such credentials being in the form of certified copies of Resolutions from organizations representing the entire industry in the Lower Rio Grande Valley of Texas.

I appear here as a witness against the Bill now being considered by this Sub-committee, being Bill No. H.R. 13193; and respectfully urge the defeat of said Bill upon the following grounds and for the following reasons:

The Declaration of Policy of Congress when enacting the Agricultural Marketing Agreement Act of 1937, as amended, under which marketing orders are established, appears in Article 602 of the Act.

Subsection (1) of Article 602 of the Act declares it to be the policy of Congress "to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices."

Subsection (2) of Article 602 declares it to be the policy of Congress "to protect the interest of the consumer by approaching the level of prices which it is declared to be the policy of Congress to establish in Subsection (1); and to protect the public interest."

Even though the Act was specifically enacted to make it possible for farmers and producers of agricultural commodities to obtain parity prices for their products, the marketing order, under which we operate, has not resulted in our citrus fruit growers receiving parity prices for their citrus fruits.

This Bill, if enacted into law, will place an additional financial burden upon our fruit growers because handlers would, in all probability, reduce their prices to fruit growers sufficient to cover the assessments, as provided in this Bill, thereby drastically reducing prices paid the fruit grower for his fruit and instead of the Act making possible parity prices, this Bill, if enacted into law, would further reduce prices paid fruit growers.

Also, as provided in the Act, marketing orders are designed to protect the consumer and serve the public interest. In the event this Bill be enacted into law, the additional cost to growers and/or handlers would certainly increase the cost of citrus fruits to the consumers.

Consequently, this Bill appears to be in conflict with Article 602 of the Act; and is certainly not beneficial to either the grower or the consumer and is, therefore, not in the public interest.

INCREASED LABOR COSTS AND SCARCITY OF LABOR

Our fruit growers and handlers are facing constant labor costs and scarcity of labor, all of which adds to the cost of production and handling of our citrus crops. Further local ad valorem taxes on our citrus groves are being increased this year from 25% to 50% over last year, thereby adding additional financial burden on the grower. The enactment of this Bill into law, would add substantially to the cost of both growers and shippers, who are already burdened with excessive taxation by local, state and national authorities.

DUTIES ON IMPORT SUFFICIENT TO PAY ADMINISTRATIVE COSTS

The duties paid on imports of fresh fruits and vegetables into the United States from foreign countries, are sufficient to pay the administrative costs of USDA in administering marketing orders. We understand, at this time, that 30 percent of all import duties, of section 32 funds, are allocated to cover marketing order administrative expenses of the USDA.

Such imports steadily increase every passing year. For example: I find this report in a recent USDA bulletin on the imports from Mexico:

Commodity	1964-65 (pounds)	1968-69 (through June) (pounds)	Percent increase
Fresh strawberries.....	5,187,000	43,148,000	732.0
Beans.....	8,848,000	10,825,000	22.0
Cukes.....	31,160,000	96,643,000	210.0
Eggplant.....	4,298,000	16,035,000	273.0
Peas.....	4,798,000	6,124,000	27.6
Peppers.....	18,098,000	40,341,000	122.9
Squash.....	5,698,000	18,999,000	233.4

Such imports steadily increase because the agricultural products can be produced in Mexico with cheap labor, low taxes, on good land, at low prices, and sold in the United States in competition with our growers and producers; and as such imports increase, our acreage and production of the same commodities, in our part of the country, decrease. This situation has already resulted in a drastic reduction in tomato acreage in our part of the country and has put all of our strawberry growers out of business.

The financial burden this bill would cast upon our growers and handlers would be, perhaps, "the last straw that broke the camel's back."

PROBABLE COST TO THE INDUSTRY

I have been informed there are 114 marketing orders now on the books in the United States; and if this bill be enacted into law, the administrative cost would have to be divided between 114 orders; and we have been informed the administrative cost in question runs about \$3 million per year; that would be an average cost of \$26,000 per year per order. Obviously, the smaller orders could not stand such an assessment and the larger orders, such as the Texas Valley citrus committee, would probably be required to contribute as much as \$100,000 per year or about \$8 to \$10 per car; and our growers and handlers would probably take action to rescind the order and completely abandon this program and rely upon the State department of agriculture for inspection service, rules and regulations, etc.

CITRUS INDUSTRY GETS NO GOVERNMENT SUBSIDY

Programs under marketing orders and agreements already are paying the administrative costs at the local level; and do not receive any funds under a commodity support program. Whereas, other commodities such as cotton, wheat, peanuts, etc., are not only not required to pay the administrative costs, either at the local or administrative levels, but receive in addition, financial support by Congress from general revenue. This Bill, if enacted into law, would more than likely be unconstitutional on the grounds of discrimination between industries

and would certainly be unfair to the citrus industry. There are many USDA programs where the government is paying administrative costs. They also pay the administrative costs, even down to the county level, such as soil conservation, so forth. Then why should the citrus industry be singled out as the target of taxation?

BILL GIVES THE SECRETARY OF AGRICULTURE DICTATORIAL AUTHORITY TO LEVY
ASSESSMENTS ON THE CITRUS INDUSTRY

This bill makes no express provision for limiting the amount of assessments that can be levied against handlers. The Secretary would have unlimited and unrestricted power to pay such salaries to administrative officials as he might desire and levy a tax to pay such salaries together with all expenses incurred by the administrative officials in the performance of their duties. Long ago our Supreme Court held that the "power to tax is the power to destroy." Further, under this bill, the citrus industry would be required to pay the salaries of employees over which it would have no control; and that would be contrary to our American system to private enterprise and bears some resemblance to the police state.

Enactment of this bill into law would result in our abandoning the marketing order. Already some of our large handlers and growers have become disillusioned with our present marketing agreement and have been considering taking steps to abandon it. The enactment of this bill into law would create so much bitter opposition to the assessments that our marketing order will be abandoned as quickly as possible.

CONCLUSION

If this bill and its companion bill in the Senate be designed to dispose of marketing orders and agreements, which if enacted into law, will be the result, why not introduce a bill repealing the act completely. The enactment of this bill would certainly have the effect of nullifying the entire act.

On behalf of the citrus industry in the lower Rio Grande Valley of Texas, I urge the subcommittee to kill this bill now and thereby save the act for whatever good can be accomplished through marketing orders and agreements.

Mr. FOLEY. The next witness will be Mr. Phillip Hickman, Horntown, Va.

STATEMENT OF E. PHILLIP HICKMAN, HORNTOWN, VA.

Mr. HICKMAN. Mr. Chairman, members of the committee, I am very favorably impressed by being allowed to speak here before you today.

My name is E. Phillip Hickman of Horntown, Va. I am a white potato producer operating under the Southeastern Potato Marketing Order. This particular order operates on an extremely small scale as compared with marketing orders on other commodities. The order is in effect only 2 months of the year and its operating budget is tailored accordingly. The Southeastern Potato Committee has always operated on a minimum financial budget. Its operation does not require an extensive staff or offices.

To saddle small-scale marketing committees such as this with undue expenses incurred by the USDA in administering full-time marketing orders in other commodities would place an unbearable burden on producers operating under small orders. Therefore, I am opposed to the passage of House bill 13193 and recommend that the committee not approve the bill. Furthermore, I request that we be allowed to revert back to the original will of Congress which passed legislation providing funds for the work of the USDA in administering marketing orders and requiring the administrative committee to pay their own expenses.

Mr. FOLEY. Thank you very much, Mr. Hickman. I think you made an interesting statement; particularly your comment on the fact that

there are some very small marketing orders so that again we are faced with the problem of the difficulty in administratively determining what share of the total cost of the consumer marketing service would have to be borne by marketing orders of the size you represent.

Mr. HICKMAN. Mr. Chairman, we feel that the will of Congress when they passed enabling legislation setting up the machinery to allow producers to have marketing orders expected the USDA to carry these administrative costs and the primary purpose of establishing marketing orders was to improve the return to producers. And this as has been stated by several other witnesses here. Most producers of farm commodities at the present time are operating at very minimum profit and any additional expenses put upon these producers would put them in a deficit column.

At the present time, it is my own personal opinion that the farm people and farm producers of the United States are today bearing the burden of their excessive economy. We are one that is taking most of the burden of the inflation, farm producers.

Mr. FOLEY. Thank you.

Mr. GOODLING. No questions.

Mr. SISK. No questions.

Mr. HICKMAN. Thank you, Mr. Chairman and members of the committee, for allowing me to appear.

Mr. FOLEY. Thank you, Mr. Hickman. I appreciate your appearance.

The next witness will be Elvin Custis, president, Accomack County Farm Bureau, Accomack, Va.

STATEMENT OF ELVIN CUSTIS, PRESIDENT, ACCOMACK COUNTY FARM BUREAU, ACCOMACK, VA.

Mr. CUSTIS. Mr. Chairman, members of the committee, I would like to take this opportunity to thank you for allowing me to appear here today.

My name is Elvin R. Custis, Jr., of Craddockville, Va. I am a white potato farmer and I am also representing the Accomack County Farm Bureau. Marketing orders, as I understand them, are designed to facilitate the orderly marketing of agricultural commodities and to improve returns to producers. Marketing commodities are organized to operate at the least possible cost to producers. Producers and handlers are normally assessed funds sufficient to operate their own individual marketing orders, based on the volume of business in their specific commodity.

To compel the individual committees to assume a portion of the budget of the USDA without any control over these costs would place an undue financial burden on the producers. This would reduce the financial returns to the producers and be in direct conflict with the original objectives of marketing orders.

Therefore, I respectfully request that the committee not pass favorably on House bill 13193.

Thank you, sir.

Mr. FOLEY. Thank you very much, Mr. Custis.

Mr. Goodling?

Mr. GOODLING. No questions.

Mr. SISK. No questions.

Mr. VIGORITO. No questions.

Mr. JONES of Tennessee. No questions.

Mr. FOLEY. Thank you.

The final witness scheduled for today is Mr. Harry L. Graham, legislative representative, National Farmers Organization. However, Mr. Graham is not in the hearing room. His statement, without objection, will be included in the record in full.

(Mr. Graham's statement follows:)

STATEMENT OF HARRY L. GRAHAM, LEGISLATIVE REPRESENTATIVE, NATIONAL FARMERS ORGANIZATION

The National Farmers Organization is a nationwide association of farmers with members in 50 States which is engaged in collective bargaining in an effort to improve farm income.

It has followed the principles which other segments of the economy have also followed with success, namely, that the way to improve a market price for a commodity is to block enough of it together and market it at a time and place when it is most in demand. To obtain the ultimate influence, it is necessary to have enough of the commodity in the control of the organization that the needs of the market can not be met without that portion under its control. The N.F.O. has successfully accomplished this in several commodities.

The policy of the organization is to support the family-size owner-operator farms both because they represent the greatest economic efficiency and the maximum social and political stability which is essential for the welfare of our nation.

We therefore support legislation which will accomplish our economic, social and political goals, and we oppose those acts which contribute to the weakening of our desirable and essential economic and social objectives. The strengthening of the family farm and the preservation and support of our rural communities.

No adequate discussion of the legislative proposals of H.R. 13193 can be meaningful with-out at least a brief review of the "Agricultural Marketing Agreement Act of 1937, Reenacting, Amending, and Supplementing the Agricultural Adjustment Act, as Amended."

This 1937 legislation grew out of the famous Supreme Court decision declaring the original Triple A legislation invalid. The production controls of the 1933 Act were specifically attacked by the Court decision. The language was changed to eliminate the production controls and the legislation was reenacted.

The purposes of the Act were made clear in the Declaration:

"It is hereby declared that the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that *these conditions affect transactions in agricultural commodities with a national public interest*, and burden and obstruct the normal channels of interstate commerce." (7 U.S.C. 106).

"SEC. 2. It is hereby declared to be the policy of Congress—

"(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, *to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 301*

(a) (1) *of the Agricultural Adjustment Act of 1938.*

"(2) *To protect the interest of the consumer by* (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture *deems to be in the public interest* and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) *authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.*

"(3) Through the exercise of the power conferred upon the Secretary of Agriculture under this title, to establish and maintain such container and pack requirements provided in section 8 (c) (6) (H) such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 8c (2), other than milk and its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be *in the public interest.*

"(4) Through the exercise of the power conferred upon the Secretary of Agriculture under this title, to establish and maintain such orderly marketing conditions for any agricultural commodity enumerated in section 8c (2) as will provide, *in the interests of producers and consumers*, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

"(5) Through the exercise of the power conferred upon the Secretary of Agriculture under this title, to continue for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and *be in the public interest*, if the regulation of such commodity under such order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of this title. (7 U.S.C. 602)

"Sec. 8b. In order to effectuate the declared policy of this title the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, *only with respect to such handling as in the current interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof * * *.*" (7 U.S.C. 608b.)

"That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by this Act, that the issuance of such order *is approved or favored by the processors* who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market." (Sec. 8 (27).)

"No order issued pursuant to this section shall be effective as to cherries, apples, or cranberries for canning or freezing unless the Secretary of Agriculture determines, in addition to other required findings and determinations, *that the issuance of such order is approved or favored by processors who.*" (Sec. 8c (2).)

"Establishing or providing for the establishment of reserve pools of any such commodity or product * * *." (8c (E).)

"(18) The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, *shall ascertain the parity prices of such commodities.* The prices which it is declared to be the policy of Congress to establish in section 2 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area or, in the case of orders applying only to manufacturing milk, the production area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 8b or 8c, as the case may be, that the parity prices of such commodities are not reasonable in view of the prices of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area or, in the case of orders applying only to manufacturing milk, the production area to which the contemplated agreement, order or amendment relates, *he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.*" (8c (18).)

It should be clear that the Congress intended to vest market orders with a public interest. It is also clear that the Congress, in compliance with the Supreme Court decision, limited the contribution this legislation could make to farm income by creating a balance between supply and demand that could bring a parity price.

The record also shows that the aim of getting a parity price for agricultural products under market orders has not been accomplished. Quite the reverse is true.

The Act empowers the administrators of the orders to establish "reverse pools of any such commodity". This power has been repeatedly used, especially in the dairy industry, to make surplus milk from outside the market order areas available in such quantities as to depress the price paid to the producer by keeping the "utilization rate" low.

Congress has in fact recognized that the public interest is being served by appropriating funds for the administrative expenses of the market orders.

The economic benefits of Federal Marketing Orders have not accrued to the producers as the "declaration of purposes" of the original act promised. What the orders have provided is a reasonably regulated market which has avoided wild fluctuations, improved and stabilized the quality of the products, and protected a price schedule which serves the interests of handlers and consumers, but not producers.

Now there is before this committee legislation designed to recover all administrative costs from the producers via collections from handlers. To make this proposal even more offensive to producers, the Secretary is permitted to overcharge the producers by \$1 million and the surplus used to cover any obligation contained in *any* appropriation act.

The fact that this legislation is before this distinguished Committee at the same time that it has before it a bill to destroy the effectiveness of the potato marketing orders by eliminating from the provisions of this Act all potatoes used for manufacturing purposes has not escaped the attention of this witness. Hopefully the potato bill and this bill are not a portent of things to come.

It should be clear by this time that the N.F.O. is opposed to this legislation. Indeed, this Committee and Congress and the Secretary of Agriculture should do just the opposite, pay the costs from the general fund. The real benefits of these programs have accrued to the benefits of the public. They should pay the bill.

We would point out, indeed we would commit our organization to support legislation to recover all of the costs from the producers *if* and *when* the market orders are administered in such a way as to accomplish the economic objectives of this Act. These objectives are to return to parity price on the commodities regulated under the act.

For the present, with the cost price squeeze seriously threatening the economic stability of American agriculture, this is hardly the time for the Administration to promote and the Congress to approve this shifting of additional costs to the backs of those least able to bear them instead of placing them where they belong. This is on the general public which reaps most of the benefits. The proper source is the general fund.

Mr. FOLEY. Does the gentleman from California have a request?

Mr. SISK. Yes, Mr. Chairman. Without enumerating them I have a series of telegrams, letters and statements that I would like to ask unanimous consent be made a part of the record. They are individual statements, brief statements, and letters from a variety of interested California farmers and representatives of marketing order groups in California.

Mr. FOLEY. Mr. Sisk, I have also received numerous letters, statements, and telegrams from organizations and individuals opposing the legislation under consideration. We will include in the record the following three letters and then a list of all those who have submitted material opposing the legislation.

(The information referred to above follows:)

IDAHO-OREGON FRUIT & VEGETABLE ASSOCIATION, INC.,
Parma, Idaho, September 27, 1969.

Re House bill No. 13193, amendment to the Marketing Agreement Act of 1937.

HON. THOMAS S. FOLEY.

Chairman, Subcommittee on Domestic Marketing and Consumer Relations, House of Representatives, House Office Building, Washington, D.C.

DEAR REPRESENTATIVE FOLEY: This letter, in opposition to the above proposed legislation, is submitted in behalf of the members of the Idaho-Oregon Fruit and Vegetable Association, Inc. The member firms of our organization annually market some 12-15,000 carlots of Fresh Fruits and Vegetables from Western Idaho and Eastern Oregon, most of which are marketed under the authority of Federal Marketing Orders, so they have a very definite interest in this proposed legislation. It would be appreciated if this letter would be read at the sub-committee hearing, scheduled for September 30th thru October 2nd, and be made a part of the record for the consideration of all members of the House of Representatives.

The Marketing Agreement Act of 1937, as amended, was, as I understand it, approved by Congress for the purpose of furnishing a "vehicle" for various

Agricultural Commodity Groups to work together to cooperatively up-grade the quality of the produce they market, and by so doing furnish the consuming public with more uniform and better quality merchandise. This action would in turn place the commodity group in a better marketing position insofar as dealing with the first receivers by quality standardization of the product being offered for sale. At the time the legislation was approved, wording was included so that the commodity groups, who elected to place a Marketing Order into effect, would carry a major portion (Variously estimated to be as much as 90%) of the administrative expense incurred in making the Orders function within the law. This was done in contrast to the direct subsidies, including all administrative expenses, authorized by Congress to assist the aviation industry, the cities, the poor peoples' program, the railroads, other agricultural activities, etc. The only governmental financial assistance required today to administer the Marketing Orders is for supervisory personnel to assure the provisions of the Act are adhered to, and this cost is infinitesimal in comparison to any one of the above activities. In addition, it is our understanding that the costs of administering the Marketing Orders are not borne by appropriated funds from tax monies paid by the American Public, but rather the funds used in administering the Marketing Orders are derived from Section 32 collections (30% of the import duties imposed on all products imported into the United States). In effect U.S. Agriculture is therefore paying a goodly portion of these funds by virtue of the competition for markets imposed by agriculture commodities being permitted to enter the United States. Therefore, this bill would merely shift the costs of administering the Act from an outside source of income (Import Fees) to a relatively few industry people.

Consideration needs to be given by the Committee to the fact that very few, if any, of the Commodity Groups now marketing their produce under the Marketing Order Law receive direct subsidies as do the Tobacco, Cotton, Wheat, Feed Grain, Peanut and other segments of the Agricultural Industry. Rather, the groups who have chosen the Marketing Order way are self-help groups, and certainly this attitude needs to be encouraged rather than being discouraged by restrictive legislation. When giving consideration to this proposed legislation, how can the Committee justify in their own minds in requiring the Marketing Orders to be completely self-supporting while full subsidies are authorized for other interest groups?

The administering of the Marketing Agreement Act of 1937 is only a portion of the activities for those persons employed in the Fruit and Vegetable Branch of the Consumer and Marketing Service. It would appear to the undersigned that it will be extremely difficult, if not impossible, to determine an equitable division of the Fruit and Vegetable Branch's expenses chargeable to the several Marketing Orders. Is this circumstance then going to be resolved by the setting-up of a completely separate Marketing Order department within the Fruit and Vegetable Branch with a resulting increase in the total cost of administration to the American Public?

When the Marketing Agreement Act of 1937 was approved by Congress, and in subsequent amendments to the Act, the interests of the American Consumer and the Public were taken into consideration as well as the producers of the product. It would seem reasonable that the Consumer and Public should, therefore, contribute at least a small portion to the expenses of administering the Act. With the use of the Section 32 Funds to cover the administrative expenses of the Department the Consumer and Public are making this contribution in a very indirect manner. Would their position be bettered by approval of this proposed legislation?

In view of the above, the wisdom of approving the subject legislation is very questionable in the minds of the members of this Association. In fact, it could very well be that this legislation could have the opposite effect being sought by increasing the costs of administering the Federal Marketing Agreement Act of 1937 insofar as the American Public is concerned. This certainly would not be in the best interest of all concerned.

We would, therefore, respectfully recommend to you that House Bill No. 13193, and other similar legislation, not be approved by your Committee.

Your truly yours,

E. D. MICHAELSON, *Manager.*

FLORIDA FRUIT & VEGETABLE ASSOCIATION,
Orlando, Fla., September 18, 1969.

HON. THOMAS S. FOLEY,
Chairman, Domestic Marketing and Consumer Relations Subcommittee, Longworth House Office Building, Washington, D.C.

DEAR MR. FOLEY: The Florida Fruit & Vegetable Association, a trade association representing more than a majority of the fruit and vegetable growers in the State of Florida, would like to register opposition to H.R. 13193, "A bill to amend the Agricultural Adjustment Act of 1933, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, to provide for payment by handler assessments of the administrative costs of the Department of Agriculture," which is scheduled for hearings on September 30 through October 2, 1969, before the Domestic Marketing and Consumer Relations Subcommittee, the Honorable Thomas S. Foley, Chairman.

The Annual Meeting of the Association is scheduled for the same dates as the hearing, making it impossible for me to appear as a witness. The Association agrees with the position taken by the National Potato Council on this bill and will be represented at the hearings by Mr. Doyle Burns, Executive Director of the National Potato Council.

I would like to request that this letter opposing H.R. 13193 be made a part of the record.

Very truly yours,

JOFFRE C. DAVID,
Secretary-Treasurer.

SEPTEMBER 25, 1969.

HON. THOMAS S. FOLEY,
Chairman, Subcommittee on Domestic Marketing and Consumer Relations, Longworth House Office Building Washington, D.C.

DEAR MR. FOLEY: The San Luis Valley Potato Administrative Committee, which administers both State and Federal Marketing Orders in Colorado, in our meeting of September 18, 1969 voted unanimously to oppose H.R. 13193. This committee represents over 600 growers who in turn produce 70 percent of the potatoes grown in Colorado.

We feel H.R. 13193 would not be good for Marketing Orders. We are a "self-help" program and only the administrative costs are borne by the government. To ask 2.9 million dollars from Marketing Orders while there are programs such as cotton, tobacco, rice, feed-grains, etc. receiving millions of dollars through support programs and paying nothing is discrimination.

Marketing Orders are good. Through grade, size and maturity regulations they give control to the industry and protect the housewife and ultimate consumer. Market conditions change from year to year, crop conditions and yields also change. Often it is necessary to amend the Marketing Order. We understand the figure quoted as necessary to do this would be \$12,000.00. Undoubtly one would hesitate or even forego making the change. This in turn could bring harm to the industry and consumer both. To start a new Marketing Order would almost be prohibitive. Approximately half the potatoes grown in the United States are now covered by Marketing Orders and even now Maine is considering the reactivation of their Marketing Order as an aid in securing a quality control program. This further indicates that Marketing Orders are good.

We feel that the possible cost of this program under H.R. 13193 could be such as to make it impossible to continue our Marketing Order. When the Marketing Order is no longer in effect the ultimate result would be the disappearance of compulsory inspection. This would result in the marketing of everything grown and complete chaos in the market place and inferior quality and pack reaching the consumer.

Inasmuch as this is the peak of our harvest season it is not possible to attend the hearing to testify. We do request that you make this letter a part of the Hearing record however.

Thank you.

Sincerely yours,

M. B. SMITH,
Manager, San Luis Valley Potato Adm. Committee.

(The names of individuals and organizations sending letters and telegrams opposing the legislation follow:)

United Dairymen's Association, Seattle, Wash.; E. E. Pedersen, general manager.

Red River Valley Potato Growers Association, East Grand Forks, Minn.; Cliff Hagen, executive secretary.

Washington Peach Marketing Committee, Prosser, Wash.; Richard E. Ormiston, chairman.

Washington Cherry Marketing Committee, Grandview, Wash.; R. L. Crossland, chairman.

Idaho Grower Shippers Association, Inc., Idaho Falls, Idaho; Edd Moore, executive manager.

Nut Growers Society of Oregon and Washington, Hillsboro, Oreg.; Benson C. Mitchell, Jr., president.

Robert L. Berner Co., Oregon Division, Cornelius, Oreg.; H. J. Dougdale, office manager.

California Tree Fruit Agreement, Sacramento, Calif.; Virgil E. Rasmussen, chairman, Control Committee, and chairman, Plum Commodity Committee; Le Roy G. Giannini, chairman, Nectarine Administrative Committee; and John Kasabian, chairman, Peach Commodity Committee.

Oregon-California Potato Committee, Redmond, Oregon; Bob Beesley, chairman.

Oklahoma Peanut Commission, Madill, Oklahoma, William Flanagan, executive secretary.

Norpac Growers, Inc., Dundee, Oreg.; J. E. Strike, general manager.

Potato Growers Association of California, Bakersfield, Calif.; Francis P. Pusateri, executive manager.

Grant County NFO Potato Committee, Quincy, Wash.; Lee Downs, Chairman. Matheur Potato Growers Association, Ontario, Oreg.; Raymond Russell, president; Roy Hirai, director (2 separate telegrams).

John Morris, Ephrata, Wash.

Loren Sherbenou, Quincy, Wash.

Sun-Maid Raisin Growers of California, Kingsburg, Calif.; Allen F. Mather, president.

California Almond Growers Exchange, Sacramento, Calif.; W. Glenn Stalker, president.

Bonner Packing Co., Fresno, Calif.; T. V. Hansen, vice president.

California Fruit Exchange, Sacramento, Calif.; Walter M. Tendell, general manager.

Albert P. Keck Co., Indio, California; John Keck, president.

Central California Raisin Packing Co., Del Rey, Calif.; N. Azadian, president.

Harvey Schwendiman, St. Anthony, Idaho.

Melvin J. West, Paul, Idaho.

Robert W. Felmlee, Center, Colorado.

Southeast Peanut Association, Albany, Ga.; John W. Greene, executive director.

Mr. FOLEY. The Chair would like to express his appreciation to the witnesses and those who have been in attendance during the hearings for their cooperation and patience and would like especially to thank members of this subcommittee for their attendance. I would ask the subcommittee members to remain for a few moments. The Chairman would like to convene in brief executive session to consider the legislation before the subcommittee.

Accordingly, the Subcommittee on Domestic Marketing and Consumer Relations stands adjourned at the immediate call of the Chair.

(Whereupon, at 11:10 a.m., the subcommittee went into executive session.)

