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AGRICULTURAL LABOR LEGISLATION

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON

BOR AND PUBLIC WELFARE

UNITED STATES SENATE

NINETY-FIRST CONGRESS

FIRST SESSION

ON

S. 8

A BILL TO AMEND THE NATIONAL LABOR RELATIONS ACT, AS AMENDED, SO AS TO MAKE ITS PROVISIONS APPLICABLE TO THE AGRICULTURE INDUSTRY

S. 1808

A BILL TO AMEND THE FAIR LABOR STANDARDS ACT OF 1938 TO EXTEND THE CHILD LABOR PROVISIONS THEREOF TO CERTAIN CHILDREN EMPLOYED IN AGRICULTURE, AND FOR OTHER PURPOSES

APRIL 16, 17, MAY 6, 16, AND JUNE 18, 1969



Printed for the use of the
Committee on Labor and Public Welfare

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U.S. GOVERNMENT PRINTING OFFICE
32-615 WASHINGTON : 1970

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CONTENTS

Text of: Page

S. 8 ---- 3

S. 1808 ---- 6

CHRONOLOGICAL LIST OF WITNESSES

APRIL 16, 1969

Huerta, Mrs. Dolores, vice president, United Farm Workers Organizing Committee; accompanied by Jerome Cohen, general counsel; and Robert E. McMillen, legislative representative ---- 8

Cohen, Jerome, general counsel, United Farm Workers Organizing Committee ---- 18

McMillen, Robert, legislative representative, United Farm Workers Organizing Committee ---- 22

Panel consisting of Jose Alexander, Dade County, Fla.; Reynaldo De La Cruz, Hidalgo County, Tex.; Marcos Lopez, McAllen, Tex.; and Manuel Salas, Waushara County, Wis., all of the Farmworker Community ---- 44

Salas, Manuel, Waushara County, Wis ---- 45

De La Cruz, Reynaldo, Hidalgo County, Tex ---- 48

Alexander, Jose, Dade County, Fla ---- 51

Lopez, Marcos, McAllen, Tex ---- 54

APRIL 17, 1969

Shuman, Charles B., president, American Farm Bureau Federation; accompanied by Matt Triggs ---- 61

Burrows, Fred W., executive vice president, International Apple Association, Inc ---- 91

Thornton, Richard V., executive vice president, National Council of Agricultural Employers ---- 98

Johnson, Reuben L., director of legislative services, National Farmers Union ---- 103

Larson, Reed, executive vice president, National Right To Work Committee ---- 108

Imming, Bernard J., secretary, United Fresh Fruit & Vegetable Association ---- 114

Creuziger, Charles M., president, Vegetable Growers Association of America ---- 118

Velasquez, Baldemar, president, Farm Labor Organizing Committee in Ohio ---- 122

MAY 6, 1969

Shultz, Hon. George P., secretary, U.S. Department of Labor; accompanied by Hon. W. J. Usery, assistant secretary ---- 133

Wedgworth, George H., general manager and secretary, Wedgworth Farms, Inc., Belle Glade, Fla ---- 169

Sexton, C. R., manager, Oslo Citrus Growers Association, Vero Beach, Fla ---- 181

McGann, Jack, legislative aide of Liberty Lobby; accompanied by Michael D. Jaffee, general counsel ---- 183

MAY 16, 1969

Meany, George, president, AFL–CIO; accompanied by Andrew J. Biemiller, legislative director; William Kircher, director of organization; and Thomas E. Harris, general counsel ---- 187

JUNE 18, 1969

Page

Greene, Rev. Shirley E., on behalf of the National Council of Churches; accompanied by Dr. John Turnbull, staff member, National Council of Churches, Washington, D.C. 211
Graham, Harry, of the National Farmers Organization 227
Braiterman, Marvin, counsel, Commission on Social Action of Union of American Hebrew Congregations 242

STATEMENTS

Alexander, Jose, Dade County, Fla 51
Prepared statement 52
Braiterman, Marvin, counsel, Commission on Social Action of Union of American Hebrew Congregations 242
Burrows, Fred W., executive vice president, International Apple Association, Inc 91
Chavez, Cesar E., director, United Farm Workers Organizing Committee, AFL–CIO, prepared statement 22
Cohen, Jerome, general counsel, United Farm Workers Organizing Committee 18
Creuziger, Charles M., president, Vegetable Growers Association of America 118
De La Cruz, Reynaldo, Hidalgo County, Tex 48
Prepared statement 50
Graham, Harry, of the National Farmers Organization 227
Greene, Rev. Shirley E., on behalf of the National Council of Churches: accompanied by Dr. John Turnbull, staff member, National Council of Churches, Washington, D.C 211
Huerta, Mrs. Dolores, vice president, United Farm Workers Organizing Committee; accompanied by Jerome Cohen, general counsel; and Robert E. McMillen, legislative representative 8
Imming, Bernard J., secretary, United Fresh Fruit & Vegetable Association 114
Johnson, Reuben L., director of legislative services, National Farmers Union 103
Larson, Reed, executive vice president, National Right To Work Committee 108
Lopez, Marcos, McAllen, Tex 54
Prepared statement 55
McGann, Jack legislative aide of Liberty Lobby; accompanied by Michael D. Jaffee, general counsel 183
McMillen, Robert, legislative representative, United Farm Workers Organizing Committee 22
Meany, George, president, AFL–CIO; accompanied by Andrew J. Biemiller, legislative director; William Kircher, director of organization; and Thomas E. Harris, general counsel 187
Panel consisting of Jose Alexander, Dade County, Fla; Reynaldo De La Cruz, Hidalgo County, Tex.; Marcos Lopez, McAllen, Tex.; and Manuel Salas, Waushara County, Wis., all of the Farmworker Community 44
Salas, Manuel, Waushara County, Wis 45
Prepared statement 46
Sexton, C. R., manager, Oslo Citrus Growers Association, Vero Beach, Fla 181
Prepared statement 181
Shultz, Hon. George P., secretary, U.S. Department of Labor; accompanied by Hon. W. J. Usery, assistant secretary 133
Shuman, Charles B., president, American Farm Bureau Federation; accompanied by Matt Triggs 61
Thornton, Richard V., executive vice president, National Council of Agricultural Employers 98
Velasquez, Baldemar, president, Farm Labor Organizing Committee in Ohio 122
Prepared statement 122
Wedgworth, George H., general manager and secretary, Wedgworth Farms, Inc. Belle Glade, Fla 169

ADDITIONAL INFORMATION

	Page
Articles, publications, etc.:	
"Majority Support for UFWUC"	43
Communications to:	
Benedict, Peter C., minority labor counsel, Committee on Labor and Public Welfare, from Thomas E. Harris, associate general counsel, AFL–CIO	207
Williams, Hon. Harrison A., Jr., chairman, Subcommittee on Labor of the Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C., from George P. Schultz, Secretary of Labor, U.S. Department of Labor, Washington, D.C., May 19, 1969	163
Selected charts and tables:	
Distribution of farms and hired workers in May 1968 by:	
Employment size of farm in peak quarter of 1967	168
Gross value of sales in 1967	167

AGRICULTURAL LABOR LEGISLATION

WEDNESDAY, APRIL 16, 1969

U.S. SENATE,
SUBCOMMITTEE ON LABOR
OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 9:50 a.m., pursuant to notice, in room 4200, New Senate Office Building, Senator Harrison A. Williams, Jr. (chairman of the subcommittee), presiding.

Present: Senators Williams (presiding), Mondale, Eagleton, Cranston, and Schweiker.

Subcommittee staff members present: Frederick R. Blackwell, counsel; Robert E. Nagle, associate counsel; Peter C. Benedict, minority labor counsel; and Eugene Mittelman, minority counsel.

Senator WILLIAMS. We begin hearings today on two bills which, together with explanatory material, will be made part of the record at this point. The bills are S. 8, "Collective Bargaining for Agricultural Workers"; and S. 1808, dealing with harmful agricultural child labor.

(The bills, S. 8 and S. 1808, and explanations thereof, appear on p. 3.)

Senator WILLIAMS. It is almost 10 years since the Subcommittee on Migratory Labor began to explore the problems of the Nation's farmworkers and their families. No other group of workers in our society has been more in need of attention and concern of the public and the Congress than this group. No others labor so hard, produce so much, and are so poorly recompensed for their labor.

Since its establishment in the fall of 1959 the Subcommittee on Migratory Labor has proposed specific recommendations and solutions for both the short and long run. It has emphasized that urban areas are unable to absorb the flow of people from rural areas; that it is impossible to obliterate urban poverty without removing its rural causes; and that by making rural areas more attractive we could reduce or arrest the rural-to-city movement of poor people.

As a consequence of these efforts and recommendations, there have resulted programs in the fields of health, child day care, education for children and adults, housing, sanitation, and crew-leader registration. The bracero program has been terminated, and Federal minimum-wage provisions have been extended to 400,000 farmworkers. In sum, there has been hammered out over this past decade a national policy of concern and determination to improve the lives and economic plight of the citizens who plant, cultivate, and harvest our great wealth of food and fiber.

Yet we have much left to do. Despite the progress which has been made, the farmworker is still the lowest paid of all American workers,

and still remains the victim of a formidable list of exclusions from the conventional citizen and worker benefits enacted by Federal and State law, including workmen's compensation for occupational accidents, meaningful social security, unemployment insurance, and wage payment and collection laws. Children of farmworkers are still not adequately covered by child labor laws, with the result that many youngsters work long, tiring hours in the fields to the great detriment of their education, health, and proper growth.

Moreover, even though this Nation, 34 years ago, adopted the principle that the key to labor relations peace was collective bargaining, this principle has not been applied to agriculture. This omission is of particular significance, since there is great likelihood that through legally protected self-help organizations such as labor unions the farmworkers could protect and promote—far better than Government could—their own interests in improving their economic, social, and political status.

There is ample evidence that the public is ready to provide this opportunity. Church, civic, and labor groups have been making a most persuasive case to Congress that collective bargaining must be extended to farmworkers. And the farmworkers themselves are finding their voice and speaking eloquently on their need for this legislation.

Moreover, farmworkers have been striving vigorously for elections and other means to obtain union recognition. Their efforts, and the opposition of farmers generally, have produced increasingly serious community unrest, strikes, and violence.

Most recently, the industry has become caught up in a costly boycott of particular farm products. A nationwide boycott of California table grapes, called by the United Farm Workers Organizing Committee, has been supported by civic and church groups, a presidential candidate, Congressmen, and other political leaders. Some retail chainstores have refused to handle grapes. Statistics reveal that the boycott has had a severe impact on the wholesale and retail purchase, distribution, and transport of grapes.

Farmworkers, already on the bottom of the economic and social ladder, are out of jobs; and strikebreakers, many of them from Mexico, increase tensions. The farmers and growers remain intransigent, and the workers are adamant. Communities are racked with bitterness, dissent, and conflict, and racial overtones mark much of the controversy.

It is against this background that legislation has again been introduced to bring agricultural workers within the protection of the National Labor Relations Act.

I am sure that farm employers have serious problems with respect to labor supply and labor costs. And some farmers will probably fear that collective bargaining will worsen those problems. I personally welcome any valid suggestions and ideas for tailoring collective bargaining to the farm situation, if distinctive features about agriculture which require such tailoring can be demonstrated and proved in our hearing record. We will consider all of the evidence, both pro and con, and do our utmost to develop a constructive, fair, legislative proposal during our executive consideration.

I would note, however, that in my judgment the American public considers the farmworkers' problem a national embarrassment which

91ST CONGRESS
1ST SESSION

S. 8

IN THE SENATE OF THE UNITED STATES

JANUARY 15 (legislative day, JANUARY 10), 1969

Mr. WILLIAMS of New Jersey (for himself, Mr. BROOKE, Mr. CASE, Mr. CRANSTON, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. INOUYE, Mr. JAVITS, Mr. KENNEDY, Mr. MCCARTHY, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. TYDINGS, and Mr. YOUNG of Ohio) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the National Labor Relations Act, as amended, so as to make its provisions applicable to the agriculture industry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 (3) of the National Labor Relations Act, as amended, is amended by striking out the following phrase: "as an agricultural laborer, or".

SEC. 2. Section 8 (f) of the National Labor Relations Act, as amended, is amended to read as follows:

"(f) It shall not be an unfair labor practice under sub-

sections (a) and (b) of this section for an employer engaged primarily in the building and construction industry, or an employer engaged in agriculture, to make an agreement covering employees engaged (or who, upon their employment, will be engaged) in the building and construction industry, or as agricultural employees with a labor organization of which such employees are members (not established, maintained, or assisted by any action defined in section 8(a) of this Act as an unfair labor practice) because (1) the majority status of such labor organization has not been established under the provisions of section 9 of this Act prior to the making of such agreement, or (2) such agreement requires as a condition of employment, membership in such labor organization after the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later, or (3) such agreement requires the employer to notify such labor organization of opportunities for employment with such employer, or gives such labor organization an opportunity to refer qualified applicants for such employment, or (4) such agreement specifies minimum training or experience qualifications for employment or provides for priority in opportunities for employment based upon length of service which such employer, in the industry or in the particular geographical area: *Provided,* That nothing in this subsection shall set aside the

final proviso to section 8 (a) (3) of this Act: *Provided further,* That any agreement which would be invalid, but for clause (1) of this subsection, shall not be a bar to a petition filed pursuant to section 9 (c) or 9 (e)."

SEC. 3. Notwithstanding the provisions of any other law, the amendments made by this Act shall take effect sixty days after the date of enactment.

91ST CONGRESS
1ST SESSION

S. 1808

IN THE SENATE OF THE UNITED STATES

APRIL 15, 1969

Mr. WILLIAMS of New Jersey (for himself, Mr. EAGLETON, Mr. HART, Mr. JAVITS, Mr. KENNEDY, Mr. MCCARTHY, Mr. MONDALE, Mr. PELL, and Mr. YOUNG of Ohio) introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Fair Labor Standards Act of 1938 to extend the child labor provisions thereof to certain children employed in agriculture, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 (c) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(c) (1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee is—

"(A) employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or over, or

"(C) is twelve years of age or over and is employed on a farm to which he commutes daily within twenty-five miles of his permanent residence, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or person standing in place of his parent is also employed on the same farm.

"(2) The provisions of section 12 relating to child labor shall apply to an employee below the age of sixteen employed in agriculture in an occupation that the Secretary of Labor finds and declares to be particularly hazardous for the employment of children below the age of sixteen, except where such employee is employed by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

"(3) The provisions of section 12 relating to child labor shall not apply to any child employed as an actor or performer in motion pictures or theatrical productions, or in radio or television productions."

is long overdue for reform. Until we in Congress take action, we can anticipate ever-increasing labor strife in our fields, with consequent adverse impact on the entire economy and consuming public.

So today we begin hearings on collective bargaining for farmworkers, as well as the prohibition of harmful agricultural child labor.

To start our hearings we will hear first from representatives of the United Farm Workers Organizing Committee. This union is now in the third year of its strike and boycott against California growers of fresh table grapes, which has had such a great impact in bringing the plight of our farmworkers to the attention of all our citizens. It has been dedicated to nonviolent direct action as a tactic for achieving human dignity, and to guarantee by contract improved living and working conditions through collective bargaining with their employers. It has steadfastly held to this purpose and commitment despite the tremendous resistance and opposition of the growers, and in the process has given hope to farmworkers throughout our Nation.

Before we hear from our first witness, I am pleased indeed that a Senator from one of our major agricultural States, Senator Cranston from California, a member of our committee, is here this morning.

Senator CRANSTON. Thank you, Mr. Chairman, for an eloquent statement of a very, very serious national problem which involves the welfare of our economy, our people, which relates to the great hunger problem in our Nation and in our world, and also relates to justice for many American people. We have some very eloquent witnesses, also, to hear from this morning. I think we should proceed with that.

Senator WILLIAMS. We will do that, Senator Cranston.

Mrs. Dolores Huerta, vice president of the United Farm Workers Organizing Committee, will be, appropriately, our first witness, in the absence of Cesar Chavez because of illness.

Mrs. Huerta is accompanied by Mr. Jerome Cohen and Mr. Robert McMillen.

Mrs. Huerta, you appeared before the Migratory Labor Subcommittee as we were on location in your State. We certainly welcome you before the Labor Subcommittee dealing with these two pieces of legislation.

STATEMENT OF MRS. DOLORES HUERTA, VICE PRESIDENT, UNITED FARM WORKERS ORGANIZING COMMITTEE, ON BEHALF OF CESAR E. CHAVEZ, DIRECTOR, UNITED FARM WORKERS ORGANIZING COMMITTEE; ACCOMPANIED BY JEROME COHEN, GENERAL COUNSEL; AND ROBERT E. McMILLEN, LEGISLATIVE REPRESENTATIVE

Mrs. HUERTA. Thank you, Senator.

Mr. Chavez sends his regrets to the subcommittee that he cannot be here today. I would like to read the statement that he wrote and then Jerry Cohen has a statement to make and then we thought, if possible, it would be better if questions could be asked after we make our statements.

Senator WILLIAMS. That will be fine.

Mrs. HUERTA. It is indeed a privilege to address this body, so many of whose members have distinguished themselves over the years by

their genuine concern for the welfare of farmworkers. For this we are grateful. What has impressed us most is your openmindedness, your desire to explore our problems in depth. Unwilling to believe what you have heard or read about the farmworker, some of you have even come to our valley to see for yourselves and experience at first hand our deprivation, our frustration, and our struggle for social justice.

We welcome the decision of this subcommittee to hold hearings on S. 8 in order to explore still further the question of whether and in what way farmworkers should be covered by the National Labor Relations Act, as amended. The fact that so many Senators have joined in cosponsoring S. 8—and that so many Members of the other House have cosponsored a somewhat similar measure—demonstrates at least this much. No one any longer seriously argues that the issue of labor relations legislation for agriculture can be resolved simply by striking the exclusion of "agricultural laborer" from the definition of "employee" in section 2(3) of the act.

Perhaps because of certain similarities between our employment situation and that of the building trades, some have been led in their search for the right answer to experiment with the construction industry exemptions of section 9(f). We do resemble the building trades in certain characteristics of our employment, though not in others—a matter I shall return to later.

First, let me say that we, too, have been learning. In the no-nonsense school of adversity, which we did not choose for ourselves, we are learning how to operate a labor union. The difficulty of our struggle, together with the growing possibility of labor relations legislation for agriculture, has led us to challenge again and again the assumption that coverage under the NLRA would prove the ultimate salvation of the farmworker.

This much at least is certain. His salvation will not be found in sloganeering.

Through long hours of discussion and debate, officers of our union have tried to envision just what real trade union life would be like under various provisions of the NLRA. At times we have wondered whatever led our friends to say we had been denied the protections of that act.

Our conclusion is that we do support coverage under the NLRA, but with certain amendments, for not every kind of amendment will really benefit the farmworker.

The need is for amendments that will make strong, effective labor unions realistically possible in agriculture.

I say "make realistically possible" because laws cannot deliver a good union any more than laws can bring an end to poverty. Only people can do that through hard work, sacrifice, and dedicated effort.

The end to be achieved, and therefore the starting point of the debate, is the elimination of rural poverty in America. How can the Nation, how can Congress help the farmworker close the yawning gap between his own social and economic condition and that of other wage earners, even those of comparable skill in other industries such as manufacturing and construction?

Answer? Through strong, effective, well-run unions. The road to social justice for the farmworker is the road of unionization. Our

cause, our strike, and our international boycott on grapes are all founded upon our deep conviction that the form of collective self-help which is unionization holds far more hope for the farmworker than any other single approach, whether public or private. This conviction is what brings spirit, high hope, and optimism to everything we do.

No one has said it better than President George Meany of the AFL–CIO:

> The United Farm Workers Organizing Committee already has awakened the Nation's conscience. Even more important, it has demonstrated to farmworkers across the country that they can obtain first-class citizenship only through self-organization.

Repressive legislation is not the answer to strikes during harvest time and boycotts of farm products. The farmworker has learned that his subhuman existence is not inevitable. He has awakened to the realization that something better is possible for himself and his family. Laws are not going to stop strikes and boycotts so long as his honest, law-abiding efforts to improve his condition are met with massive, hostile grower resistance. Such resistance will only feed the fires of his own burning frustration. The best insurance against strikes and boycotts lies not in repressive legislation, but in strong unions that will satisfy the farmworker's hunger for decency and dignity and self-respect.

Unionization cannot make progress in the face of hostile employer attitudes unless it receives effective governmental support. Despite a resigned acceptance by some farm employers that collective bargaining under law is inevitable, grower attitude on the whole remains exceedingly hostile. If farm unionism is to make progress, we need sufficient economic power under law to be able to wrench signed agreements from unwilling hands of growers who still refuse to admit that unionization and collective bargaining have a rightful place to take in agriculture for the genuine long-run benefit of all concerned. Coverage under the present NLRA would not give us the needed economic power, and it would take away what little we have.

As Senators know well, there are times when legislative proposals become part of the strategy of calculated retreat. We urge a hard, questioning look at any farm labor proposal designed to make union recognition easier than ever while keeping all the economic power where it has ever been, in the hands of the grower.

Under the complex and time-consuming procedures of the National Labor Relations Board, growers can litigate us to death; forced at last by court order to bargain with us in good faith, they can bargain in good faith—around the calendar if need be—unless we are allowed to apply sufficient economic power to make it worth their while to sign.

We want to be recognized, yes, but not with a glowing epitaph on our tombstone. Union recognition is of value only in terms of what it leads on to. At the end of the trail we seek: not recognition, but signed contracts; not recognition, but good wages; not recognition, but a strong union.

And these things are not primarily a matter of elections and representation procedures, or even of court orders, but of economic power.

To equalize the inequality of bargaining power—this was the high legislative purpose of both Wagner and Taft-Hartley, was it not? The basic reason why we oppose coverage under the present Taft-Hartley, without more, is that it would not correct the inequality of bargaining power between the growers and ourselves.

In the last Congress, the House Special Subcommittee on Labor chaired by Representative Frank Thompson of New Jersey, which will also hold hearings soon on this subject, published a report entitled "National Labor Relations Act Remedies: The Unfulfilled Promise."

The report quotes Mr. William L. Kircher, director of organization of the AFL-CIO, as saying:

> It is very natural for workers to unionize because unionism and the collective-bargaining process enable them to increase their wages and obtain that dignity and self-respect which comes with job security.

Mr. Kircher testified that when there is no employer opposition to the desire for unionization, the union almost always wins the election. In 29 representation elections held over a 13-month period, unions won 28 and tied the other. In all but seven cases the margin of victory was in excess of 2 to 1.

The burden of the report, however, was that "in campaign after campaign in the Southeastern, Southwestern and Midwestern parts of the United States" the union encounters all-out organized opposition not only from the employer, but also from the police, the local courts, and the business and political leadership of the community.

What the report said about the trials of the textile, retail clerks and other unions could have been written as well about our own experience with the table grape industry in California. Anyone who thinks coverage under the present NLRA would be a tremendous favor to farmworkers should study the Thompson report and ponder its contents well.

How then did it happen that so many people for so long a time made so much of NLRA "protections" for farmworkers?

To better understand this, I think we must go back 34 years in time to 1935, when Congress passed the original NLRA, the Wagner Act. We almost made it that time, but not quite, and people concerned about the plight of the farmworker began to say we had been denied the protections of the act. They said it for 12 years when it could fairly be called a prolabor act. They kept on saying it after the Taft-Hartley revision of the 1947 and the Landrum-Griffin Amendments of 1959 converted it into an antilabor act.

The policy of the original Wagner Act and its administration for the succeeding 12 years was to promote unionization of the unskilled and semiskilled workers in mass-production industry. Its aim was to quiet widespread industrial unrest and to meet the social and economic challenge of the Great Depression.

Senators will recall that when the 80th Congress passed the Taft-Hartley Act over President Truman's veto, labor leaders called it a "slave labor act." They were ridiculed by their enemies at the time, and they were ridiculed later when their unions survived. But what survived? Large, well-established unions which had on-going collective bargaining relationships with employers who were by that time accustomed to dealing with labor unions. That's what survived.

Taft-Hartley did, however, accomplish the purpose of its sponsors in that it effectively decelerated the pace of union organizing as annual union membership statistics will show. History will record that Taft-Hartley and Landrum-Griffin, together with continuing business community determination to oppose unions at nearly every turn, succeeded in checking the progress of labor organization in America before it had accomplished half its job.

Even today, some of the most striking gains in union membership are occurring among teachers and other public employees who, like us, must operate without benefit of labor relations law. Public employee unions were greatly helped, it is true, by the Executive order of the late President John F. Kennedy and by similar policies adopted by certain State and local governments.

Where would the large industrial unions be today if Congress had "protected" them from the beginning, not with the Wagner Act, but with the Taft-Hartley Act in its present form?

We, too, need our decent period of time to develop and grow strong under the life-giving sun of a favorable public policy which affirmatively favors the growth of farm unionism.

Of utmost importance is an exemption for a time from the Taft-Hartley and Landrum-Griffin restrictions on traditional union activity. The bans on recognition and organizational picketing and on the so-called secondary boycott would be particularly harmful, and the mandatory injunction in both cases makes them truly disastrous.

How does it happen that the law provides no mandatory injunctions against employer unfair labor practices, such as discharges for union activity or promotion of company unions?

As to the secondary boycott, it is shameful that the richest nation on earth, confronted with the moral challenge of farmworker deprivation, should create a legal fiction of "innocent neutrality" for those who reap a monetary profit from the sale of scab grapes.

Union security is most essential in an industry like agriculture which is marked by seasonal and casual employment and where a work force can build up from a few hundred to several thousand in a few short days and just as quickly disappear.

While the Nation is busy fighting poverty in all its forms, let us not create new situations where nonunion farmworker poverty in "right to work" Texas or Arizona will become a threat to the small measure of union farmworker prosperity in California.

We therefore urge that farmworkers and their unions be exempted from section 14(b) which makes misnamed State "right to work" laws operative in interstate commerce.

All of labor ought to be liberated from section 14(b), but this much at least. It makes no sense for Congress to labor hard at making collective bargaining possible for farmworkers if it leaves untouched that major obstacle which is 14(b). Railroad employees are not subject to right to work laws and we see no reason why we should be.

Regarding section 14(c), we are opposed to any exemption of small growers whether legislative or administrative.

It is a matter of principle with us that the single employee of a small grower is as entitled to his union as anyone else, and if a union cannot represent him under a regulatory law, then it will have to proceed as we do at the present, without benefit of a specific law.

It is perhaps but natural that small growers should see the coming of unionism only in terms of wage cost. We think that the problem is much more complex than that.

If Congress passes a bad law, making us worse off than we are at present, but exempts small growers from coverage, then we might have to concentrate most of our organizing effort for a time on small growers and let the big agribusiness corporations go until we can get the law changed.

If on the other hand Congress passes a law which really makes it possible to get contracts with the big growers, but which exempts the small ones, something else is apt to happen. We would certainly begin by going after the big growers. Then I suspect that internal union politics would have the tendency to force a concentration on getting higher and higher wages from the big corporations while ignoring both the small growers and their employees completely.

This might be a welcome prospect to the small grower who thinks he can find competent, efficient workmen at nonunion wage rates and so continue to compete effectively. We think such a view highly unrealistic if one considers what is going on in the world of agriculture—the mass exodus of small farmers to the cities, the increasing concentration of more and more farmland in fewer and fewer hands. This is taking place without the presence of labor unions in any significant sector of agriculture, and without any consideration of union versus nonunion farm wages. What will happen if unions are permitted to organize big corporate agribusiness but not small growers in this: Big agribusiness will get the benefit of better workers attracted by higher union wage rates, of higher union worker productivity, and of whatever benefit derives from political alliance with the union when there is question of union employers against nonunion employers. This could affect such issues as support payments and other forms of Federal subsidy, Federal money for retraining employees to operate new farm machines, and so on.

Let me say right here that all of this is a prospect which the leadership of our union does not relish at all. Our natural sympathy is to favor the small grower and to help him in every way we can to remain in business and to prosper. We do not want to be forced into a political and economic alliance with large growers against small growers. We are, however, trade unionists and our first obligation is to our members. Our cooperation must be reserved for those employers who believe in unions, or who are at least willing to tolerate unions, and who sign fair union contracts.

We urge small growers to give the matter a great deal of thought before pressing for an exemption from NLRA coverage.

If we could have our own way, what we would really like to see is a family living wage for every farmworker, a family living income for every family-sized farmowner, and a fair return on investment for every grower, whether he is an employer or not.

To this end we urge Congress to give favorable consideration to the proposed National Agricultural Bargaining Act of 1969, or whatever legislative assistance may be needed so that all agricultural producers can obtain a fair price for their produce in the various commodity markets.

Concerning section 302, our only objection is to the requirement of subsection (c)(5)(B) that employers have equal representation with employees in administration of the funds. These moneys are for the benefit of the workers, who have elected to take part of their negotiated pay increase in the form of pension or health-welfare or other benefits. We believe that the trust agreement offers sufficient protection for these funds and that unilateral administration by employee representatives should be legally possible under the act.

Some unions, notably the building trades, derived little benefit from the original Wagner Act, but all of them in some way had something else going for them. The skilled trades together with the professions enjoy, first of all, a natural limitation on labor supply in that their members possess some kind of skill or formal training. In addition, they have been permitted by public policy to restrict freedom of entry to the occupation, or freedom of access to the needed training.

Where would they be today if they had to contend with the same economic forces that we do?

The seasonal farmworker does not possess extensive skills. While experience counts on the farm as well as anywhere, he is scarcely called upon to do anything that cannot be learned passably well in half a day.

Our potential competition appears almost unlimited as thousands upon thousands of green-carders pour across the border during peak harvest seasons. These are people who, though lawfully admitted to the United States for permanent residence, have not now, and probably never have had, any bona fide intention of making the United States of America their permanent home. They come here to earn American dollars to spend in Mexico where the cost of living is lower. They are natural economic rivals of those who become American citizens or who otherwise decide to stake out their future in this country.

In abolishing the bracero program, Congress has but scotched the snake, not killed it. The program lives on in the annual parade of thousands of illegals and green-carders across the United States-Mexico border to work in our fields.

To achieve law and order in any phase of human activity, legislators must pay heed to other laws not made by man, one of which is the economic law of supply and demand. We are asking Congress to pay heed to this law in the light of some hard facts about farm labor supply along our southern border. Otherwise, extension of NLRA coverage to farmworkers in that part of the country will not produce much law and order.

What we ask is some way to keep the illegals and green-carders from breaking our strikes; some civil remedy against growers who employ, behind our picket lines, those who have entered the United States illegally, and, likewise, those green-carders who have not permanently moved their residence and domicile to the United States.

An especially serious problem in agricultural employment is the concerted refusal of growers even to discuss their use of economic poisons or pesticides. There are signs that several Members of Congress are becoming increasingly aware of the dangers posed by economic poisons to human life and to wildlife, to the air we breathe,

and the water we drink. Senator Gaylord Nelson of Wisconsin is to be congratualted for proposing a Federal ban on DDT.

For us the problem is before all else one of worker health and safety. It is aggravated in California by the refusal of county agricultural commissioners to disclose their records of pesticide application and by State court injunction against such public disclosure.

The economic poison threat is a major reason why we need strong unions and collective bargaining in agriculture. Growers who try to pass our complaints off as a cheap smear campaign for consumer benefit reveal thereby that they are not very well acquainted with the daily anxieties and sufferings of their fieldworkers.

Some there may be who dread the adjustments they think may be required by the coming of unionism to ranches and farms. Our leadership has given much thought to this matter.

Perhaps Congress could create a temporary Joint Committee on Family Living Farm Income, along the lines of the Joint Committee on Labor-Management Relations setup in 1947 by the old Taft-Hartley title IV. The new committee would have such time as Congress deems expedient to study and report on such subjects as these: methods for improving employer-employee relations in agriculture; conditions necessary to produce a family living wage for farmworkers and a family living income for farmowners; requisite sizes for various kinds of self-sustaining family-sized farms; requisites for a national policy of enabling and encouraging farmworkers to become self-sustaining family-sized farmowners; structural changes needed to enhance the bargaining power of agricultural producers in the various commodity markets; suitable methods for expanding agricultural production to meet the challenge of hunger at home and abroad; training programs needed to equip unemployed and underemployed persons; both urban and rural, to fill the new jobs created by such expanded production; methods for reversing the current trend toward concentration of more and more agricultural land in fewer and fewer hands.

As one looks at the millions of acres in this country that have been taken out of agricultural production; and at the millions of additional acres that have never been cultivated; and at the millions of people who have moved off the farm to rot and decay in ghettos of our big cities; and at all the millions of hungry people at home and abroad; does it not seem that all these people and things were somehow made to come together and serve one another? If we could bring them together, we could stem the mass exodus of rural poor to the big city ghettos and start it going back the other way; teach them how to operate new farm equipment; and put them to work on those now uncultivated acres to raise food for the hungry. If a way could be found to do this, there would be not only room but positive need for still more machinery and still more productivity increase. There would be enough employment, wages, profits, food, and fiber for everybody. If we have any time left over after doing our basic union job, we would like to devote it to such purposes as these.

Walter P. Reuther, president of the United Automobile Workers, described the right order to priorities for us in these words:

> The journey of farm workers and their families into the mainstream of American life has begun with a struggle to build their own community unions and through them to reach out for the elementary rights so long denied them.

Eventually, we will reach out for the rights denied us, such as full and equal coverage under minimum wage laws and the various forms of social insurance. But first things first. Today we ask the American people and the Congress to help us build our union with some special help in the face of some especially stubborn opposition of long standing. Give us that and the rest will come in due time.

Thirty-four years ago a nation groping its unchartered course through the seas of the great depression faced the threatening storms of social and economic revolution.

The late President Franklin D. Roosevelt met the challenge with the Wagner Act and with other New Deal measures, then considered quite revolutionary, such as social security, unemployment insurance, and the Fair Labor Standards Act.

While these measures modified the existing capitalistic system somewhat, they also saved the Nation for free enterprise.

They did not save the farmworker. He was left out of every one of them. The social revolution of the New Deal passed him by. To make our union possible with its larger hope that the farmworker will have his day at last, there was required a new social revolution.

The relief we seek from Congress today, however, is neither very new nor very revolutionary. It has proved beneficial to the Nation in the past when unions were weak and industry strong. We need and favor NLRA amendments along the lines of the original Wagner Act, but we oppose for this period in history the restrictions of Taft-Hartley and Landrum-Griffin.

Senator WILLIAMS. Mrs. Huerta, you requested that your colleagues give their statements now and then we go to questioning.

Mrs. HUERTA. Yes; I would like to add a comment or two on the end of this.

One of the things that we want to point out to the committee is that legislation will not end the present grape strike or the present dispute that we now have with the table grape growers of California because one thing we have found is that a boycott has a life of its own and the grape boycott has expanded, it has gone overseas, and it is going on all the time. One of the reasons that we are asking for the kind of protection that the Wagner Act gave labor is that the boycott has been the only effective nonviolent weapon that we have found that could really bring the growers to the negotiating table. Our present collective-bargaining agreements that we now have with the wine grape growers were acquired because of the threat of an economic boycott—I should say of a boycott on their products. This is the only reason why we have those contracts.

You know, if you look at the problem, we really don't need legislation if the growers have the willingness to settle but they don't have this willingness. They have all the power. So, the only power that we have is the boycott threat in order to get them to negotiate.

We have two contracts which we negotiated which were never honored, with table grape growers. At the time that we were in a dispute with these two different growers we did have a boycott against them. We called off the boycott in exchange for elections.

We had the elections, we won the elections, and we even negotiated the contract, but they never honored the contract. So we ended up in court.

As you know, the community climate is so against the farmworkers in California and other parts of rural America that we don't believe that we will ever get any kind of decent enforcement in regard to what kind of laws we have unless there is a willingness to enforce them.

You refer to the child labor laws, the other laws that supposedly exist in the State of California for farmworkers. As long as there is not any willingness to enforce those laws they may as well not be there because it is a deception to the American public when they think there is a law that covers people and it does not really cover them. I think if the Congress is really serious about ending the problem of farmworkers then we won't have any halfway measures but such legislation will be enacted that will really solve the problem.

I think one of the reasons that we have this conflict in our country today is because the problems are never taken care of. We get some kind of token legislation and the general public believes that the problem is taken care of but it really isn't. You know, because so much legislation is passed and it is not meaningful enough, it does not give the tools that are needed to solve the problems. Then we have unrest; we have conflict.

I, frankly, personally believe, and a lot of us in the union do believe, that wages are not really the reason the growers do not want to recognize the union. In many areas of California the growers are now paying much more than what our original demands were at the time we struck. In some cases they are paying more than what we now seek in our union contracts.

The amount of money that the growers have poured into the fight to defeat our union is really greater than what they would have paid had they increased wages and gave us recognition and contracts. I really do believe and I think most of the people in our union do believe that the reasons are that they do not want to see the minority of this country, which the farmworkers are composed mostly of, formed in a strong organization of their own. We believe it is a racial thing and a political thing. Farmworkers cannot have political emancipation until they have a strong union.

I can give you an example of what I mean when I say that during the primary elections in California many of the farmworkers were fired from their jobs because they had Kennedy bumper stickers on their cars while at the same time workers under our union contract at the various union ranches were able to participate in the elections and go out actually, door to door, on voter registration and get people out to vote.

But workers that were working in the other places were fired from their jobs just because they had Kennedy bumper stickers.

I think this is the key to the whole issue. The growers do not want to see the farmworkers organized because they don't want to see them politically independent. I think when we talk about dignity and we talk about self-respect, they were also talking about people being able to act as men. It is interesting at the Schenley ranch where we have had a contract for 3 years, two of the men who work there were running in the elections they held yesterday for the school board, and this means that they really have political freedom when they can do this without being fired from their jobs.

Senator WILLIAMS. Mr. Cohen?

STATEMENT OF JEROME COHEN, GENERAL COUNSEL, UNITED FARM WORKERS ORGANIZING COMMITTEE

Mr. COHEN. My name is Jerry Cohen, general counsel for the Farm-Workers. I have been in Delano for 2 years. I would like to address myself to three areas which I think this committee should consider.

The first one concerns the working conditions, the economic poisons, and some of the sanitation conditions.

The second concerns the green-card problem, the use of the green-card labor as strikebreakers.

The third concerns the degree of resistance which we face in our efforts to unionize. In relation to this, I would like to submit to the subcommittee some materials, and briefly discuss the materials.

First is the report on green-card labor by Richard Fineberg, who did a study of the use of green cards in the Delano area. The green-card problem, we feel, has to be solved contemporaneously with the consideration of some kind of collective bargaining procedure, because in the past when we have struck, and we have organized a permanent work force, growers have used green carders to break our strike. In Coachella Valley last June, we organized some growers, and we had thought that a regulation which was promulgated by the Department of Labor, prohibiting green-card residents of Mexico from working behind the picket lines in the United States if they entered for the primary purpose of working there, would be enforced to protect our rights. But the day before the strike began, a judge in a Federal court in Los Angeles issued a temporary restraining order prohibiting the Immigration Service from enforcing this regulation on the grounds it was unconstitutional. We tried to intervene in that case, because we thought we were the real party in interest, we were the people being hurt by the presence of green carders in the field; but the judge did not allow us to intervene. Six weeks later, after the harvest was over, it was determined that the regulation was constitutional. We feel this regulation, with the possibility of injunction, is not an adequate remedy to prevent green carders who live in Mexico from working behind our picket lines.

Until we solve that problem, the growers will have economic power, in terms of their work force, to stall and play games with us at the negotiating table.

As an example, we did a study of the Giummara work force in 1968. Of 413 workers whom our organizers identified in 1966, we found 278 of them had not filed income tax returns. In 1967, 318 of them had not filed income tax returns. Of the 20 labor contractors, seven did not file income tax returns in 1966 and 16 did not in 1967. Many of them didn't register for the draft, and they don't do other things that citizens and people who are permanent residents of the United States will do.

I think the reason they don't do it is because, as Mr. Fineberg points out in this report, what many green-card residents of Mexico are doing is coming to the United States to earn money to spend in Mexico.

We have nothing against green-card residents participating in our society, and coming and living and working side by side with us. But what we want is some kind of legislation or implementation forcing

them to maintain residence in this country because, if they have to maintain a residence in this country, they are going to have to be faced with the living standards that we are all faced with and they are going to want higher wages. So, we would like this committee, and we also would like the Judiciary Committee, to consider some kind of solution to the green-card problem.

Related to the green-card problem is the use of illegals—wetbacks. In the month of August 1967, we struck Giummara vineyards. In that same month, 1,200 illegals were picked up in the Bakersfield area alone. That is the area in which Giummara is located. Eighty-three workers that were illegal were pulled out of the Giummara vineyards. That is almost 10 percent of his work force. I don't think they got there by accident. I think that whole problem has to be looked at very carefully. That is the first consideration we would like this committee to think about.

Secondly, I just want to focus on two aspects of working conditions of farmworkers in San Joaquin Valley and elsewhere. The first of those aspects is the use of economic poisons in the field—pesticides. Last summer in 1968, in the Coachella Valley, when we struck, various farmworkers complained to us that they had been hit by wet drift spray. When we went back to the San Joaquin Valley, more farmworkers told us about this. I went to the Kern County agricultural commissioner to try to find out what the growers were using in their fields. I went there at 11 a.m. in the morning. I was told to come back the next day. At 1:33 p.m. the same day, a temporary restraining order was issued preventing me from seeing the reports of the spray. That is one of the fastest injunctions ever issued in that valley.

Some of the materials that I am submitting to this committee are affidavits and excerpts from testimony from that hearing. I would briefly like to discuss it. The affidavit of Dr. Irma West states: In 1965 in California there have been 47 deaths attributable to pesticides. The major cause is suicide. The things are so toxic you can use them to commit suicide. There are reports of accidental death. I would like to read from Dr. West's affidavit. She states:

> On a large California ranch in the fall of 1965, a group of Mexican-American workers and their families were picking berries. A 3-year-old girl and her 4-year-old brother were playing around an unattended spray rig next to where their mother was working. The 4-year-old apparently took the cap off a gallon can of 40-percent tetraethyl pyrophosphate—TEPP, a phosphate ester cholinesterase inhibitor—pesticide left on the rig. The 3-year-old put her finger in it and sucked it. She became unconscious, and was dead on arrival at the hospital where she was promptly taken. TEPP is the most hazardous of all pesticides in common use in agriculture in California. The estimated fatal dose of pure TEPP for an adult human is one drop orally and one drop on the skin. This child weighed about 30 pounds.

Every year one or two farmworkers die. A little boy died in Bakersfield recently because he put his fingers in some weedkiller parked in front of his house.

We are trying to get hold of the coroner's report on that.

It is an important problem. We do not think that governmental regulations can take care of it. One of the reasons we don't think so is because of some testimony that was also developed at the hearing in which we were trying to see these records. Mr. Lemmon, from the

State department of agriculture, who has some responsibility for promulgating safety regulations on the use of pesticides, testified that, when an organophosphate poison known as parathion is used in the field, there is usually a 14- to 21-day interval between the time it is used and the time the crew can enter the field. Mr. Lemmon himself happened to have written an article about a poisoning that took place in the 1950's in the Delano grape vineyards, in which 12 of 16 grape pickers were sent to the hospital. They had entered the field 33 days after the application of parathion poison.

We wanted to know why the disparity between the regulation he wrote, of 21 days, when he has on record a case where people got sick 33 days later.

In the peaches last year, there were three separate applications in one orchard. Each one in and of itself was within the minimum safety standards set out by the State currently, but the cumulative effects of these three legal applications were such that when a worker entered that field he died.

Thomas Milby, who is the director of the bureau of occupational health, testified at our hearings, and he was talking about the fact that we live and learn. Well, it is not that we live and learn; it is the fact that people are dying.

We don't want that to be the process by which that becomes standard in the field. We think it has to be part of a collective-bargaining agreement.

The union has to have the punch to force the growers to disclose to us what they are using, and we want to have control over those conditions in the field.

Another related problem has to do with economic poisons which are not that toxic to farmworkers but which have a long residue, such as DDT. We filed a suit in California last Monday trying to get the State agricultural commissioner to stop issuing permits for use of DDT. One of the articles I submit to the committee concerns the effect of DDT on mice. We don't know the long-range effect of DDT on human beings. We do know in Coachella Valley 20,000 pounds of DDT were used on the grapes last year. We think that someone has to be given economic power to deal not only with the growers but with the pesticide companies. We are the only group that is trying to do that in California right now.

Sanitation conditions, not as serious a problem in terms of health but humiliating and degrading to a woman, for example, who has to perform bodily functions out in a grape vineyard because she does not have a toilet. I submitted a letter from Paul Driscoll, a directing attorney of the California Rural Legal Assistance. He has community workers who made spot surveys in January and February. For 13 pages, you will find grower after grower does not have toilets out in his fields. It seems to me that that should not be business as usual in the Delano vineyards. We should do something about getting toilets in those fields. There are about four agencies responsible for enforcing toilet regulations in California, but this seems to be a case where the degree of enforcement of the law seems to vary inversely with the number of agencies responsible for the enforcement. We would like the union to have this power. We know where they have a contract there

are toilets out in the fields because it is required in the contract. Our workers won't go to work if there are no toilets in the field.

Finally, we want a very strong prolabor law. That is why we are here. One of the reasons we want it is because of the degree of resistance and hostility that the growers show us who are ununionized. I think this can be illustrated by giving you a few examples of grower illegality. For example, the use of wets I have referred to.

Recruiting methods. In California, you are not supposed to recruit if there is a labor dispute on your properties without informing the work force that a dispute is in existence.

After the Giummara strike started, we had evidence that the Giummaras were going down to the border and recruiting workers without telling them there was a strike. What that means to the worker in the border area is that he invests money and time traveling to the vineyard. He finds there is a strike there, and he is used a few days as a strikebreaker until he can find other work, or until we get a preliminary injunction against the grower.

Now, it is very hard to get a contempt citation against them, because the workers working inside are afraid to lose their jobs if they give us the information on how Giummara is complying with the injunction. In fact, he has them sign a card saying that they were informed of their rights before they get their paycheck.

Originally, the boycott was against the Giummara vineyards. Rather than deal with us, Giummara traded his good name—he began to switch trade labels in violation of the Food and Drug Act. The Food and Drug Administration put a stop to that.

The most dramatic example of the extent to which growers will go to fight our union has to do with their formation of an illegal company union in combination with some of the members of the John Birch Society. Mr. Mendoza traveled around the country claiming to represent farmworkers. He said he represented the Agricultural Workers Freedom To Work Association which was the true union of farmworkers. Senator Everett Dirksen gave him an award for being the champion of workers' rights.

Four weeks ago now, two of the officers of the Agricultural Workers Freedom To Work Association filed a report under the Landrum-Griffin Act in which they detailed the relationship between the growers and this alleged union. It turns out that Mr. Pandol and Mr. Giummara provided office space for these people, provided typewriters for these people. They went to the extent of setting up an organization called the Mexican-American Democrats for Republican Action. They funneled money to the Mexican-American Democrats for Republican Action, and Mexican-American Democrats for Republican Action gave the money to the Freedom Workers Association. That was grower money; they were using grower offices.

That takes a lot of imagination, and that is a lot of work to go to, to fight our union. It seems to me they could spend their time more profitably if they would sit down and talk to us in a decent fashion.

There is a system in Coachella called the repack system. Under the repack system a worker is forced to work as fast as he can in the heat out in the field to pack as many boxes as he can. Then he is forced to work in the shed at night to repack those boxes. He is

not going to get paid for the work he does from 5 to 10 at night. That amounts to involuntary servitude. If he does not do that work, he doesn't get the job the next day.

Now, these are some of the aspects of this problem that I think the committee should look at. As I say, I want to submit these statements, some of the excerpts from the testimony, into the record.

Senator WILLIAMS. The materials you want for the record are rather voluminous. I would suggest that we make them part of the subcommittee files rather than incorporate them in the full record. We are certainly glad to have them.

Mr. McMillen?

STATEMENT OF ROBERT McMILLEN, LEGISLATIVE REPRESENTATIVE, UNITED FARM WORKERS ORGANIZING COMMITTEE

Mr. MCMILLEN. My name is Robert E. McMillen. I am legislative representative for the United Farm Workers Organizing Committee, AFL–CIO, and our business address is Post Office Box 130, Delano, Calif. 93215.

Senators, I should, first of all, like to offer for the record for the files of the subcommittee a statement of our director, Mr. Cesar Chavez, in a press conference on Wednesday, April 9, where he publicly announced in capsule form the position that has been more fully outlined in his statement here today. The position actually was not new or not a surprise at that time to those who had been closely following our deliberations about our position on the NLRA coverage up to that point.

(The prepared statement of Mr. Chavez follows:)

PREPARED STATEMENT OF CESAR E. CHAVEZ, DIRECTOR, UNITED FARM WORKERS ORGANIZING COMMITTEE, AFL–CIO

The United Farm Workers Organizing Committee, AFL–CIO welcomes the decision by the Senate Subcommittee on Labor and the House Special Subcommittee on Labor to hold hearings on coverage for farm workers under the National Labor Relations Act, as amended.

Some eighty members of the two Houses of Congress have co-sponsored bills (S. 8 and H.R. 9954) to accomplish this result. The bills contain certain amendments aimed to make the act more suitable for agriculture. The real issue is the amendments, for not every kind of coverage will really benefit the farm worker.

The national need is for amendments that will make it possible for strong, effective farm unions to become a living reality. The road to social justice for the farm worker is the road of unionization. This is our deep conviction; this is what gives spirit and life and optimism to everything we undertake—our cause, our strike, our international boycott, the building up of our union.

Let us go back 34 years in time to 1935, when Congress passed the original NLRA, the Wagner Act, with its exclusion of farm workers. People began to say we had been denied the "protections" of the Act. They said it for twelve years when it could fairly be called a pro-labor act. They kept on saying it after the Taft-Hartley revision of 1947 and the Landrum-Griffin amendments of 1959 made it an anti-labor act.

The policy of the original Wagner Act and its administration for the succeeding twelve years was to promote unionism for the unskilled and semiskilled workers in mass production industry. Its aim was to quiet widespread industrial unrest and to meet the social and economic challenge of the Great Depression.

Where would the large industrial unions of today be if Congress had "protected" them from the beginning, not with the Wagner Act, but with the Taft-Hartley Act as it is today?

We too need our decent period of time to grow strong under the life-giving sun of a public policy which affirmatively favors the growth of farm unionism. Only a strong union can deal effectively and on equal footing with the giant agribusiness corporations that run most of agriculture.

These are our major goals:

1. Exemption for a time from the Taft-Hartley provisions which restrict traditional union activity, especially the ban on recognition picketing and the so-called secondary boycott, made especially repressive by the mandatory injunction in both cases.

For us, at this point in history, the secondary boycott is a just use of economic power. It is shameful for the richest nation on earth, in the face of farm worker deprivation, to create a legal fiction of "innocent neutrality" for those who try to reap a profit from the sale of scab grapes.

2. Exemption from the operation of Taft-Hartley section 14(b) which makes misnamed state "right-to-work" laws operative in interstate commerce.

3. It should be made an unfair labor practice for a grower to employ anyone during a strike or lockout who has not actually established a permanent residence in the United States.

An especially serious problem in farm employment is the concerted refusal of growers even to discuss the use of economic poisons or pesticides. Our first concern is to protect the health and safety of the farm worker. The danger posed by pesticides is a major reason why the farm worker needs, and why the nation needs, strong farm unions.

So what we need today is what has proved beneficial to the nation in the past when unions were weak and industry strong. We need and favor NLRA amendments for agriculture along the lines of the original Wagner Act, but we oppose for this period in history the restrictions of Taft-Hartley and Landrum-Griffin.

Mr. McMillen. Let me say, in regard to that, that we appear here today as representatives of a labor organization and its leadership to tell the U.S. Senate and the American people what we believe the needs of the farmworker are and what our needs are if we are to become a strong labor organization able to serve the needs of farmworkers. We do not appear here in the capacity of legislative strategists and some of the questions that we have received from friends and supporters of the farmworker movement have been directed along those lines, posing questions of a practical nature that we don't face today and we may not have to face for several months and may never have to face.

If we could have the kind of labor relations act that we think is really needed to get the job done it would be a labor relations act as outlined in Mr. Chavez' statement, an NLRA containing amendments which would produce, in effect, an NLRA for agriculture along lines of the Wagner Act and without the restrictions of Taft-Hartley and Landrum-Griffin.

The formulation of that position arises, as you may well imagine, as our director has indicated in a statement, after deliberations over a long period of time and as a result of many events and many experiences. One of them was a policy decision as to what would be the best course to take for a small labor organization seeking to build something for the future that would really serve the interests of the farmworkers.

There were certainly those and there are those devoted to our cause of unquestioned loyalty and friendship who would prefer to see us take a different course, not to concentrate all of our effort on the table-grape strike and boycott but, rather, to go out and organize where we could to obtain coverage under the NLRA as it is at present, Mr. Chairman, and to obtain contracts where we could.

The decision that was made was something else. It was to take on a very stubborn group of employers in the valley around Delano and its

environs, Kern County, and Tulare County, later the Coachella Valley in southern California, and to fight that strike all the way to a conclusion, no matter how long it took and no matter how much the cost.

The greatest measure of our resources of manpower and money is going into the strike and boycott today. If we had 10 times as many people working for us and if we had 10 times as much money to spend, the great majority of it would still be devoted to this cause. The reason for the choice is that in looking over the history of farm labor organizing in the past we can note any number of examples of farm labor organizations and collective-bargaining agreements concluded on a scattering basis, here, there, and everywhere, which flourished for a time and then disappeared and none of them really had the effect of breaking the back of stubborn and entrenched and longstanding and determined employer opposition to the growth of unions in agriculture.

Senator WILLIAMS. Can you give us specific examples of what you are saying, of unions that were created, withered, and died?

Mr. MCMILLEN. There are a few examples in this pamphlet "Farm Labor Organizing in 1955 to 1957, a Brief History," publication of the National Advisory Committee.

Senator WILLIAMS. We cannot read that now. Could you give it to us as we sit here and hear you so that we will know more precisely what you are talking about?

Mr. MCMILLEN. Senator, the AFL–CIO, and the AFL before the merger, at different times, chartered various organizing committees. Prior to the AWOC, the Agricultural Workers Organizing Committee, which was merged with the National Farm Workers Association to form our present organization, there was a previous committee in California that was dropped after the expenditure of some half million dollars, I believe, because the leadership of the AFL–CIO felt that the results had not justified the expenditure of time and money.

The National Farm Labor Union, AFL, is an example of a union that was on the scene and is no more today.

In the Di Giorgio strike in 1947 and the cannery strike in 1949, the old cannery workers in the 1930's in California, are a few scattering examples of what I am talking about.

During the course of the struggle and the boycott, I suppose certain things become clear to the union leadership that perhaps were not so clear beforehand. We were told by a number of people in the labor movement, and we still are, that boycotts are largely unsuccessful. Week after week and month after month we get little indications that our boycott is achieving something with respect to a strike where we were not able to stop the harvesting of a crop. Also, we have had experience, Senators, that unions in this country desirous of helping us were themselves prevented by the Taft-Hartley Act from refusing to handle grapes in the course of their employment because that would be an unfair labor practice for them under Taft-Hartley. But when we go abroad to enlist our brother trade unionists in Great Britain or in Finland or in Sweden they are able under their respective laws to refuse to handle struck grapes. Because there is no Taft-Hartley law in such countries, we have been able to pick up valuable assistance from such foreign unions and direct the attention not only of the American people but the whole world on the social question which is the plight of the farmworker in the grape fields of California.

Consequently, we are exceedingly loath to push any legislation which would endanger the secondary activities associated with our boycott. Our boycott is both primary and secondary. It is directed both at the consumer and it is directed toward secondary activity where that can be followed up and where we think it will be helpful.

Certainly if on September 15 of this year we were to be covered by the NLRA in its present form the very first thing that would happen would be that the employers would go to the NLRA and charge us with a secondary boycott. The general counsel would issue his complaint. He would be required by law to go to court on what is called the mandatory injunction. That would be the end of the secondary boycott, a deprivation of which needed economic power. It is about the only economic power that we have in addition to whatever derives from the primary boycott which we look upon not so much as power but simply an appeal to the minds and consciences of people coupled with consumer choices that they are able to make in the consumer market.

Senator WILLIAMS. Could you spell out for all of us here just how the primary boycott operates and where the secondary boycott operates, and how?

Mr. MCMILLEN. If I stand in front of a Safeway store and pass out handbills to people and say: "Don't buy grapes, the grapes are scab from California," and we don't try to stop people from going to Safeway and we don't care whether they patronize that organization, that is a primary boycott, consumer boycott.

If, on the other hand, our efforts are directed toward the store itself and we go to the manager of the store and say:

We certainly wish you would quit handling California grapes and support our people and help us get a strong union going.

And they say:

No, we have to continue to display the grapes and let the people buy them as long as they want to.

And if we say then:

If you don't cooperate we are going to get signed pledges from people or we will go to your employees and ask them to quit handling the product.

Then that is in the nature of a secondary boycott which becomes an unfair labor practice.

Senator WILLIAMS. So on the primary you are saying to the public, "Don't buy the grapes," on the secondary it is saying to the store manager or owner, "Don't carry the grapes." Is that it?

Mr. MCMILLEN. It seems virtually certain that the NLRA——

Senator WILLIAMS. But that describes it?

Mr. MCMILLEN. That describes it.

Senator WILLIAMS. It is your interpretation that if the bill that is before us would be enacted into law that activity would be illegal, is that what you are saying?

Mr. MCMILLEN. Yes, and it would be prohibited almost immediately by a mandatory injunction even if we should win our case on the merits in the long run, a case that might run on to 2 or 3 years until it got to the Supreme Court, and so forth.

The thing that would kill our application of the economic power would be the immediate injunction.

Mrs. HUERTA. Senator, I would like to comment on this discussion here on the secondary aspects.

We really do believe that in the so-called secondary boycott actually the chainstores are really the agents of the growers. I might even quote Clarence Adami, who is the president of the National Association of Food Chains when he said to us at a meeting, "The supermarket is the agent of the agribusiness complex behind it."

Now, the top chainstores account for about 60 percent of total sales throughout the whole country. They are the supermarkets we are speaking about, not the ma and pa stores. We feel as the chainstores become larger and larger that they also have to take on more and more responsibility. I believe that anyone who makes a profit off grapes and off the sweat of the farmworkers has a responsibility because he is also sharing in the profits of the misery of the situation. In this situation you can't take the status quo because the status quo means the farmworkers will remain where they are.

Now, we have had a tremendous amount of difficulty in having just a regular consumer boycott simply because the stores will lie to customers and will say to the customers, "These are not really California grapes, but are Chilean grapes or Argentine grapes." So the people on the boycott make demands that the stores remove the grapes entirely. We have found this is the only effective way to assume that the boycott is successful.

Senator CRANSTON. In your opening statement you referred to how certain laws if passed would cause a greater focus on small farm organizations. To what extent at the present time is the union seeking to organize what are called small farms?

Mrs. HUERTA. We are not really directing our organizing effort at the small farmer. We have directed our organizing effort primarily at the large corporate growers. Actually the small farmer, I think, would probably not employ too many people except at harvest time. I think eventually he could be helped by unions certainly in terms of getting, you might say, adequate labor and maybe even pooling labor. But at the present time we do not have our organizing effort directed toward the small farmer.

We do have two contracts with growers that occupy—one grower we have a contract with, a wine grape grower, only employs 25 people at harvest and I think about three people year round. Our relationship is very, very good with that particular employer.

Senator CRANSTON. Specifically, have you made any effort to negotiate collective bargaining contracts with farms, say, under 100 acres in size?

Mrs. HUERTA. There have been demands placed on a few table grape growers of small size.

Senator CRANSTON. What are your principal targets as organizing at the present time?

Mrs. HUERTA. At the present time our main target is, of course, the table grape growers.

Mr. COHEN. There have been a few small farmers who have come to us and have stated that they would like to sign a collective bargaining agreement with us but, for example, Mr. E. L. Barr, the president of the California Grape and Tree Fruit League, owns a huge shed in Fresno and they have to market their grapes through Mr. Barr's sheds.

They would be worried if they signed a contract with us they could not get their grapes marketed through his shed. They have let us know their intentions. We are not in a hostile posture with the small grape growers.

There is a Delano grower who came to us and wanted to negotiate an agreement but was afraid of what would happen to him economically and otherwise by the citizens in the area.

Senator CRANSTON. In your thinking, what is the breaking point of what is called a small farmer and a large one in the San Joaquin Valley? What is your differentiation between the two, small and large?

Mrs. HUERTA. It is hard to say because it depends on what kind of crop they grow. You can have a ranch as large as a thousand acres that will employ only four or five people. It depends on what kind of crop they have. Certainly on a hundred acre table grape farm there would be probably very, very few people employed. There might be more employed at harvest time. It is a family type operation at any other time.

In my own mind, I think in terms of employees more than any other thing.

Senator CRANSTON. The small grower, of course, would be more easily affected by the strike or boycott.

Mrs. HUERTA. I am not really sure. I have been working on the boycotts now for about a year and I have found that many of the small fruit stands and other small ma and pa stores were buying grapes from the northern part of the State and not buying grapes from the larger growers which were struck in the southern part of the State. I think that the small growers are really hurt more by the type of boycotts that the large growers place them in the marketplace. I think the small growers have tremendous difficulty in marketing the product and they have to work through shippers and they are completely at the mercy of the shippers because they cannot afford to supply the market on their own, as a matter of fact.

Senator CRANSTON. How successful have you been in the organizing drive up to now?

Mrs. HUERTA. We have nine contracts that are active and two, as I said before, that were negotiated and signed but were never honored. The growers whom we signed the contracts with refused to honor them after we pulled off the boycott. The contract with the Christian Bros., Schenley, these are the ones that we have contracts with now. I might say in our contract the wages are not tremendous. Our minimum is $1.90 an hour. Our employees average $3 an hour. It is not so much a monetary thing that I believe the growers are refusing to recognize but the strength it gives us. Our contracts are extremely strong in terms of security for the worker. We have very strong discharge clauses because the worker has no protection in the field.

We were talking a little while ago about the sanitation. In a place where workers do not have a contract, if they complain about the toilets, they complain about being overworked, they are immediately fired. The whole racial thing is so strong that if we do not have strong language in our contract protecting our workers from this type of racial bigotry then, of course, they have to suffer this.

One of the main, I think one of the main motivations that we have behind our union is that workers want to relieve themselves of the

perpetual discrimination forced upon them by the employers of the community we live in.

Senator MONDALE. Mrs. Huerta, there has been testimony this morning about such things as spraying workers with pesticides and failing to provide field toilets for female as well as male workers. You also indicated that racial discrimination might exist. In what way is that manifested?

Mrs. HUERTA. It is manifested, I think, in the way that people are treated on the job. You might even say they are harassed, overworked.

Somehow the employers seem to feel that workers are not people; they are units of production.

If the man is up in years, 45 or 50 years of age, where he has children in high school at the time, he should be making more money to keep the children in school and give them the things they need for a high school education. He can't because then his productive capacity is lessened and so he is fired.

Senator MONDALE. Were there any growers that kept the Mexican-American workers restricted to the unskilled labor jobs in the field and did not permit them to become truckdrivers and mechanical equipment operators, or to hold some of the less hazardous and maybe more prestigious jobs? Was there evidence of that?

Mrs. HUERTA. Very much so. The dark skinned people they feel are to be kept in the field. The easier jobs such as irrigating, truck driving, mechanics jobs, never are given to the Mexican-Americans or to the black workers. I might even add even more blatantly the table grape growers refuse to hire blacks in table grape picking. The excuse is the fingers are too fat and therefore they can't pick grapes. This is a blatant discrimination. This is one of the reasons why we do have a hiring hall in our contract because if we don't have a hiring hall then we will never break the discrimination pattern. We will never get the Filipino and Mexican people into the packing shed jobs.

In talking about the whole racial situation, you know, we accept it, I think too easily, because we don't really put the blame where it lies. The California growers have perpetuated racial discrimination, one group against the other, for so many years and it is not an accidental thing, it is a very, very deliberate type of perpetuation. They will pitch the Filipino workers against the Mexican workers by having them in segregated camps. Even now in California farmworkers who live on the farm are not covered under the Fair Housing Law. They can still segregate the camp and workers. The Filipino workers—they passed laws to prohibit Filipinos from marrying Caucasians. They passed immigration quotas and they did not allow Filipino men to immigrate. What we have in California is you have all the Filipino workers who gave their entire lives to the agricultural community who to this day were never able to marry or have families of their own. This is the thing that we are talking about.

The complete control of human beings by a very powerful group of men and the whole life of those human beings. We are saying that we can take care of child labor, we can take care of sanitation, we can take care of the crew leader problem. These problems we can take care of. Just give us the weapons to organize into a union and we can remove and change many of the problems that now exist. This will hap-

pen. And it won't happen any other way regardless of what laws are passed because if we do not have the political power to enforce those laws and to make sure that the wrongs are righted it is never going to happen.

Senator CRANSTON. Would you include in your negotiations on union contracts any provisions relating to the use of pesticides?

Mrs. HUERTA. Yes, we do have in our contracts a provision for, first of all, a committee on safety. The committee on safety then can meet with the employers and discuss any type of pesticides that are being used and to make sure that proper instruction is given in the application of those pesticides because many of the workers that apply the pesticides don't speak English and they do not know what they are doing. We have had our nurse with the union go out and speak with employers and the workers to explain the application of the pesticides.

Further, we do have in our contract that the worker must be provided protective equipment, and other things that are needed in the application of pesticides. Also, in the amount of hours they work, this is very important. Prior to the union agreement workers had to spray poison for a certain period of time or during the time of the day when it would become very dangerous, for instance, during the heat of the day.

Senator CRANSTON. Mr. Cohen, you referred to the green card situation in your testimony. How common is the use of green card holders as strikebreakers at the present time?

Mr. COHEN. In the two examples that we know the most about, Coachella Valley last year when the injunction was issued we had approximately 75 to 80 percent of the workers out on some of the ranches, Freedman Ranch. After the injunction was issued, you could go down to Calexico and see the buses coming across the border and workers walking across and the labor contractors would pick them up and bring them in. Our organizers talked to the people in the crews estimated about 60 to 65 percent were green card holders. We did a detailed survey of the Giummara work force and found 65 percent of the workers he was employing during our strike were green card holders. Some of them were permanent residents of the area. Many of them were not.

When I indicated that from the information on the income tax, for instance, when 319 out of 413 workers, possibly 65 percent of them green carders, don't pay income tax, I think one of the deductions we make is that the reason they don't pay is probably because they are in Mexico in April and don't know they have to pay. We know many of them have a pattern which they follow, come up during the months of August to October and then go home. That is a very basic problem that we think will have to be solved.

Senator CRANSTON. What sort of wages will they work for compared to wages of American citizens?

Mr. COHEN. Giummara at that point was paying $1.40. What we were asking for in our contract was $1.90. I think the question relates to the basic statute. I think their presence does tend to depress the wage level that the local citizens are fighting for.

Senator CRANSTON. Do American citizens have any protection at all at present against the competition of the Mexican nationals, when they are inside the country with their green card?

Mr. COHEN. There is a regulation that was written by the Labor Department which says that if a permanent resident of Mexico enters the country with the intent or with the primary purpose of working in a struck place or to continue in employment which started after the strike was in existence and certified, then he should be yanked from that field. But it is very hard to prove what intent that man had.

For example, there was a case involving 10 green carders. I filed a civil suit on the basis of the statute because the border patrol would not enforce the regulations because they said, "We don't know what it means." I think that is reasonable because I don't know what it means. We put pressure on the border patrol. They issued an order to show cause against 10 of them. In the hearing on it even though many of the workers live in a labor camp for only 3 months of the year, the judge said they really were permanent residents of the United States. I don't understand that. I don't think they are.

Mr. MCMILLEN. Some of the facts cited, if I may pick up, in the case of five of the Giummara workers who were plaintiffs in the suit were that they lived in a labor camp at the Giummara Ranch, and that they took a vacation to Mexico to visit with their families, leaving some of their belongings at the ranch. I want to make clear we have no argument with Mexican nationals who have become bona fide permanent residents of the United States and are planning to make their future here.

Mrs. HUERTA. Actually, the local workers, the citizens and the residents are discriminated against in employment. Now, the reason for this is, first of all, because the people who come across the border will work for less money. The other reason that they make tremendous amounts of money on the board they charge these workers. You can go into any of these large corporation farms and you will see the large camps where they will have 300 and 400 and 500 workers. They charge the workers $3 a day for the food they give them. They are making a lot of money off these workers.

The local worker who has a family to support and feed cannot get a job unless he lives in that camp. Most of them cannot afford to do this.

I will give you statistics. Di Giorgio Corp. would go thousands of miles into Mexico to bring up workers but they wouldn't put a bus between Oxnard and Delano, only 30 miles, to provide employment for local workers that were out of the job. In the Schenley camp when we first signed the agreement with the Schenley Co. they had four large camps in which they had hundreds of people they brought from Mexico to work. Every single one of those camps is closed now. All of the work is done at the Schenley camp. All the other places we have contracts we try to pick local farmers through our hiring hall.

Senator MONDALE. When you struck some of the table grape growers and your members came out of the field how long did it take those growers to substitute strikebreakers that they imported from Mexico for the regular labor force?

Mrs. HUERTA. Actually, it only takes them about 2 days. In Coachella it is even less than that. Coachella is so close that the workers are replaced the following day. Then this is the type of injunction where we are limited against in the number of pickets we have. We can't talk

to workers because we get arrested. I was arrested four times while trying to talk to the workers to tell them a strike is on.

Senator MONDALE. Has it been your experience that when you call a strike and your members withdraw from the field that the standard reaction of the grower is to substitute nonresident alien commuter labor for those who regularly work in those fields?

Mrs. HUERTA. Very definitely, they will run down the other side of the border and bring in people immediately to break the strike.

Senator MONDALE. That is a unique point, and possibly difficult to visualize. Yet it is fundamental to the economic life of farmworkers in this country. I don't believe that a single industrial union has organized in this country that has had the same kind of competition that you are exposed to in southern California and in Texas and in Florida. I am convinced that the statistics that we have grossly understate the present volume of competition by nonresident alien commuter labor, many of whom during a strike are actually solicited and brought up from Mexico to this country for the purpose of breaking a strike.

Now, under the National Labor Relations Act, there is nothing that makes a scab illegal. But there is a significant difference between domestic scabs and the almost inexhaustible supply of foreign labor that can be brought in at a moment's notice to crush a strike. Would you agree with that analysis?

Mrs. HUERTA. Definitely. Not only that, but during the 10 years or so that the Congress tried to defeat Public Law 78 the growers were preparing for this. They created their own labor force. I worked for a grower. I remember the first week I was in that office I wrote 153 immigration letters. This, of course, was done to replace all the workers in that area. They gave hundreds of letters. They created this labor force. So we really did not eliminate the bracero program. All we did was substitute with the green carders.

Again, if there is no enforcement on the green card issue, we have no protection on that.

Mr. MCMILLEN. On the same point, in the one State out of 50 where the farm labor force is organized; namely, Hawaii, part of the economic picture there when the organization took place in the mid-1940's was that there was a limitation on the supply of farm labor.

Senator MONDALE. Now, I think Mr. Cohen testified that during these strikes it is not unusual for the growers to send agents into Mexico or to use the radio stations on the border to appeal to Mexican laborers to cross the border and to have buses and trucks located at the border, to bring Mexican labor, nonresident commuter aliens, to these sites of labor disputes for the purpose of depressing working conditions or breaking the strike. Is that accurate?

Mr. COHEN. Senator Mondale, I talked to some of our organizers in the Coachella Valley yesterday about the recruiting that is going on right now. There was a meeting of 1,200 workers in Coachella early this week to discuss organization and the possibility of taking economic actions against the growers. I was told Mr. Mike Bosic, who is the representative of the Desert Grape Grower League, a league of all leading growers, is putting out two broadcasts every morning in Mexico advertising for workers. He is not informing them that there is a labor dispute in existence, which is a violation of the California

law. He is doing what you are talking about, what is going on right now in Coachella.

Senator MONDALE. Is this one of the reasons you feel so strongly that the only real economic pressure you can bring to bear on a large grower is the boycott? Is it not true that even though you may have organized a vast majority of a grower's present employees, that he can bring in almost immediately foreign labor willing and desperately needing employment from Mexico to stifle the organizing effort?

Mrs. HUERTA. Right.

I might add that the boycott itself is a very, very difficult thing for us to do because we feel it is almost like a political campaign. Farmworkers have left Delano, they have gone to cities, to Chicago and Cleveland, people who were never out of the valley, and yet they have to go out in the community and organize the whole community to tell them what the story is, tell them what the problems of the farmworkers are. Maybe in the long run this will hurt the growers because we tell them about the fantastic subsidies that the growers receive and the farmworkers get nothing, not even protection. It is a very difficult thing for us to do. We would prefer not to do it. We would like to win a strike in the field and not have to go out. Even with the Giummara Corp. we tried to have a limited boycott. We wanted to boycott just the Giummara products. We didn't want to remove all table grapes from the American table because we know it would hurt the industry in the long run. When we reported to the Food and Drug Administration they were switching labels, they said, "You know you shouldn't do this." They kept on doing it. In January and February of 1968 there were grapes appearing in the New York market with different switched labels on them.

Senator MONDALE. Mr. Chairman, a couple of weeks ago I went down to the Texas-Mexico border. I put on old clothes and went down to the point where the Mexicans were coming across at six in the morning. I was astonished by the number of commuters—they are obviously commuters—coming across the border. Among other things, apart from the fact I was nearly arrested because they don't want any pictures taken—contrary to the first amendment of the Constitution—at least 45 percent of the people coming across were alleging U.S. citizenship as a basis for crossing. However, these people did not produce U.S. citizenship papers, or birth certificates, but they showed only baptismal certificates. I saw people 18 and 20 years of age who had brand new, crisp, and clean baptismal certificates.

Our immigration officials were accepting these baptismal certificates as a bona fide basis for proof of citizenship. If our present immigration laws permit that kind of subterfuge, we in effect have no immigration restriction at all.

One of the greatest issues is the vagueness surrounding whether or not an alien has to maintain permanent residence. It is obvious that the thousands of people coming across the border are not residents of the United States at all, they could not be.

They come across every morning from an economy where 20 and 30 cents per hour is a good wage for farmworkers and introduce themselves into an economy where at least theoretically the minimum wage for farmworkers is $1.30. They are living at the Mexican standard,

and working at U.S. standards, and of course, these commuters are willing to work at wages well below the U.S. standard.

I think it is hard to visualize this but until something is done about that, I don't see any hope that the normal procedures will work to improve the working conditions of not only farmworkers but others. When I was served in the restaurant I asked the waitress where she was from. She said "Mexico." "What do you make an hour?" "Forty cents." I could barely finish my meal.

They come across by the thousands, and it was a nonstrike situation. What they would do when they are under the pressure of the strike boggles the imagination.

Mr. McMillen. In trying to arrive at a proposal as to how we might deal with this green card problem and also the problem of the illegals we have tried to think of ways and means of reducing the role of the Immigration and Naturalization Service to what might be called purely ministerial duties. What you have just described in the case of the baptismal certificate case is a ministerial duty.

Senator Mondale. In all fairness to the immigration officials, we have given them a series of rules that even we don't understand. How are they going to understand it? Each of the rules involves fact-finding. When they are coming across the border by the hundreds, if you are going to have a factfinding determination of each of them you will have Mexicans backed up to Mexico City by 8 in the morning.

Senator Cranston. You have stressed in your remarks this morning your reliance upon nonviolent methods to achieve your aims and what you are seeking is law and protection of law that you do not now have. There have been references to pesticide laws that may or may not be enforced and to labeling laws that may or may not be enforced, immigration laws that may or may not be enforced and employment laws relating to alien or green carders that may or may not be enforced. Can you list, considering this is a time of violence in America, and outcries about law and order and need for law enforcement, can you list specific laws that you feel are being violated and specific failures by government to enforce existing laws in areas that relate to your activity?

Mrs. Huerta. I think the ones you just mentioned, the green carder, it is even more than a lack of enforcement. It is a law used to defeat us and protect the wrongdoer.

Senator Mondale was talking about the immigration officers. We called the immigration officers in Delano when we knew specifically there were people without any kind of immigration papers working inside the field. They didn't investigate the wrongdoers. They investigated the picket line. They asked Cesar to take out his identification papers and people on the picket line. There is no willingness to enforce the law at all.

You talk about child labor laws, there isn't any enforcement of child labor laws. If you call the industrial welfare commission to come out and investigate, they will say, "Well, we are going to give them a warning. If they don't do right then we will give them a citation." Actually, the course we have taken is that we try to get someone to file the thing directly in court. And you are not going to get

justice in the court anyway. So what good does that do? No matter where you go, whether it is an agency, court, or Federal officer or State officer, there is no one who can enforce the law because the growers in California and in Texas and in Arizona have all the political power and we have none of it.

Senator SCHWEIKER. I would like to ask, along the same line: the present law is very clear in saying that the green carders, so to speak, should not be brought into a situation which would adversely affect working conditions or labor dispute; you are saying nobody is enforcing this and nobody is listening to you?

Mrs. HUERTA. Exactly that. There was a case in the southern part of the State where an immigration officer was housing the illegals that were picked up and taken to work.

Mr. MCMILLEN. Our supporters in the Coachella Valley certainly are convinced that the following occurs. The border patrol picks up foreign nationals who have entered the United States illegally and puts them in camps to await the trial of their smuggler, so to speak. While in camp the illegal foreign nationals are allowed to go out and work in the field at the going rate of pay.

Senator SCHWEIKER. Who within the Labor Department or Immigration, whenever you discussed it, admits they are not doing it? What communications or experience have you had with the officials here who are responsible?

Mr. COHEN. Last spring we had a series of meetings with representatives of the Immigration Service and the Labor Department. Mr. Noto came to Delano. I made a series of accusations about the border patrol in Bakersfield. For example, Mr. Carmona had a rather large tool chest in his bus. The tool chest was 8 feet long. The tools that he put in that tool chest happened to be wetbacks when the border patrol came. The border patrol stopped Mr. Carmona. They found two wetbacks in this bus but they could not muster the evidence in court to prove that Mr. Carmona was harboring and concealing wetbacks. We told Mr. Noto about that situation. We told Mr. Noto 83 illegals were yanked from the Giummara vineyard in 1 month which was the major force of our strike effort.

We had a series of phone calls that we phoned in to the border patrol about the presence of green carders who we knew just came from Mexico and should be taken out of the fields. Finally, at the end of about a half day of this, Mr. Noto himself said "Something stinks," and we agreed. We are still waiting to correct that situation. That is one of the areas. So we have tried, we do try to cooperate with the border patrol. In the Coachella Valley the witness camp is still in evidence. There are still 32 witnesses in the witness camp in Coachella right now. They have a choice. They can either be detained in a Federal detention center or they can go to witness camp and be used in the vineyards.

Representative Tunney investigated this situation last year because they were only getting $5 a day. So this is going on and this is a continuing practice. Now, that is the illegal part of it. I sympathize with the border patrol when it comes to the green carders because I don't think the present regulation is clear enough to be administered. I think that the border patrol has a point. They say, "Well, this regulation

has intent when he crosses the border." Suppose he forms the intent after he crosses the border?

Senator SCHWEIKER. When they cross do they have to state or fill out a form as to who they are supposed to work for?

Mr. COHEN. They have to fill out a declaration of intent to be permanent residents of the United States. There is currently a suit in the Federal District Court of California about fraudulent use of that mechanism. That suit has been going on now for over a year. In the meantime, we think there are a lot of people who are not in fact permanent residents of the United States who have declared intent to become permanent residents. For example, 319 out of the 413 guys with Giummara did not file their income tax returns in 1966.

Mrs. HUERTA. I would like to mention the futility and helplessness and frustrations of the farmworkers. Giummara Corp. was fined $1,400 for 65 violations of sanitation, child labor laws, et cetera.

Now, these were not by the agency but they were filed directly against Giummara by the California Rural Legal Assistance on the behalf of the people that the violations had been against. This same corporation, Giummara Corp., was given a gift by the U.S. Government of $270,000 for not planting cotton. This is a mockery. J. G. Boswell, who sits on the board of directors of the Safeway Stores received almost $3 million from the Federal Government for not growing cotton. This same man, J. G. Boswell, recently fired one of his workers because she had a union newspaper. She had it.

Do you see what we are up against in terms of power? We have none at all.

Senator WILLIAMS. Could I ask now, you have described what appears to me to be a breakdown in enforcement of existing law. Is that an accurate description?

Mrs. HUERTA. Yes.

Mr. MCMILLEN. As regards the illegals, it is an accurate description. The green card problem as has been pointed out is somewhat more complex. These people carry the indicia of legal entitlement in the United States.

Senator WILLIAMS. But the law enforcement should be able to pierce this fraudulent veil.

Mr. MCMILLEN. There ought to be a way.

Senator WILLIAMS. On this other farm, there was the sanitation regulation that was violated.

Mrs. HUERTA. Yes. All the laws—Senator Cranston was asking about the laws—all the laws are violated. The growers bought a full page ad in the Boston Globe and said California farmers have been covered by 13 laws. Marcos called me. I said, "Marcos, you have been a farmer all your life, what laws were you covered by?"

He said, "None."

The laws are on the books, but none are enforced.

Mr. COHEN. Senator Cranston asked for specific examples. Let us take Giummara. Giummara fired two people for union activity. That is a violation of 923 of the California Labor Code. The Giummaras recruited people without informing them there was a labor dispute in existence in violation of 973. We got an injunction against him for doing that. The company union violates 1122 of the California Labor Code.

Mr. Giummara mislabeled his grapes and that is a violation of the Food and Drug Act; misrepresenting the nature of the labor that goes into picking those grapes.

Mr. Giummara, we think, is harboring and concealing illegals. That is another example. I think we can go down the list of growers and the child labor laws and sanitation laws.

I would like members of the committee to read Mr. Driscoll's letter. It is 13 pages full of no toilets. It is a consistent pattern. We believe that business as usual in the vineyards means crime as usual, as well.

Mrs. HUERTA. The same thing is true of social security laws. What happens, everybody deducts social security deductions and they put them in their pocket. Disability insurance is supposed to be deducted from the workers and turned in to the State. It is deducted but never turned into the State.

It takes 2 years to process and to file discovery to find that the law is violated.

Senator MONDALE. My understanding is that when we use Mexican aliens they rarely pay taxes. Among other things, they are advised to claim unlimited numbers of deductions and exemptions. Of course, there is no way of checking that because they don't live in the United States. So, they don't pay taxes.

Secondly, as you pointed out, many of the people we talk to along the border who are waiting to be picked up by the truck told us what they made the day before. They might have made $3. Then they said the driver took 75 cents for social security. We said, "Where is your social security stub?"

The worker answered, "They didn't give us anything."

We all know that 75 cents is far in excess of the percentage that lawfully can be deducted. It is obvious that somebody is skimming their salary and calling it social security. Who is enforcing that law?

Mrs. HUERTA. There isn't any.

Senator WILLIAMS. You have described breakdown in law enforcement. Quite frankly, this is not the province of our jurisdiction here in this committee and yet I think it is worthwhile that you did bring that forth because I also got the impression that you thought strong unions as a general proposition can be more effective in meeting specific conditions and improving specific conditions than law and regulations.

Is that basic to your presentation this morning?

Mrs. HUERTA. Right. We can prove this by the agreement that we now have because in our collective bargaining agreement we do not have child labor, you do have enforcement of social security, disability insurance and other laws.

The one we don't have enforcement on is the Federal tax withholding. Although we have negotiated in our contract that the farmers will be covered by Federal tax withholding, the growers say the Federal Government will not let them deduct the income tax from the workers.

Senator WILLIAMS. Could I raise a suggestion here?

I wonder if this committee could ask you, for its purposes, its study, to prepare draft legislation that you feel would meet the objectives that you have expressed generally for that kind of law that would permit you to create an effective strong union?

Mr. McMillen. We will be quite happy to do that, Senator.

Senator Williams. We have time limitations here and, of course, you have a lot of pressure on you. If that could be drafted and presented to us as expeditiously as possible, we would appreciate it.

Mr. McMillen. We thank you for your kind attention.

On behalf of our director, Cesar Chavez, and our executive board, we want to extend to one and all and to the staff of the subcommittee a cordial invitation to come and visit us in Delano. If you have already been there, come back.

Senator Williams. Excuse me.

I didn't mean to stop this part of our discussion but I have to go down the hall to another committee meeting. That is why I wanted to get my specific request in.

Mr. Benedict has some questions.

Mr. Benedict. I am Peter C. Benedict, minority labor counsel.

As my questions go more to the form of possible legislation than to whether or not there is a need for Federal legislation probably should direct my question to the union's general counsel, Mr. Cohen.

Mr. Cohen. You ought to direct it to our legislative representative, Mr. McMillen.

Mr. McMillen. I might pass some of them over to either of my two colleagues.

Mr. Benedict. As you know, I am sure, one of the most difficult questions that will come up in this area involves a strike at harvest time. There have been several possibilities suggested as alternatives here, such as a complete prohibition of a strike at harvest time, the imposition of compulsory arbitration provisions, or a cooling-off period, say possibly 30 or 40 days.

I wondered what your reaction would be to any of these proposals.

Mr. McMillen. May I say, first of all, if a farm union can't strike at harvest time, the usual case is that it can't strike effectively, period. We vastly prefer to have determination of our agreement at a time other than harvest time and hope we can wind up our negotiations and get going on a new contract long before harvest time comes around.

No union really enjoys a strike and we least of all enjoy a strike at harvest time because that is the one opportunity that our people have to make some money during the year.

We think that the no-strike clause or the question of no strike ought to be a bargainable issue and when we get to the bargaining table it is a bargainable issue.

In addition, I might say that compulsory arbitration is truly outside the scope of collective bargaining as we know it in this country. If the final step in the determination of wages under the new contract is going to be compulsory arbitration, then you start out differently than you do if your final argument is an appeal to economic force.

Consequently, we have to list compulsory arbitration along with legislative wage fixing and administrative wage fixing as separate methods of wage determination rather than a norm of qualification on collective bargaining.

Another part of our answer is that we think agricultural employers as a whole, still, as pointed out in Mr. Chavez' statement, oppose the very existence of unions on the farm and ranch scene in America.

When they are not willing to admit our existence and when they fight us at every turn and in every way they can, we don't think that they are really in a good position to talk about what kind of limitations should be put on our economic power.

Unless we have some economic power, we can't get started at all in the face of that kind of resistance.

Mr. BENEDICT. Nevertheless, this is going to be a primary area of concern both to this committee and to the Senate if this legislation goes forward at all.

I believe everybody dislikes a strike at harvest time. But it is a question that is going to have to be faced up to if we are to do anything in this field of legislation—whether or not there should be some restrictions imposed on this activity.

Senator MONDALE. What has been the experience in Hawaii? They have a little National Labor Relations Act that covers farmworkers. I understand they are permitted to strike at harvest time.

I would think that the processors and canners of peas, corn, and other fruits and vegetables are under the same circumstances, and they have been included in the National Labor Relations Act.

Is there any evidence that it is more onerous to the agriculture industry than to any other?

Mrs. HUERTA. I can't speak of the cannery or Hawaiian contract. I can speak of the farmworkers in California.

The best protection against a strike at harvest is a union contract. This is a negotiable item. I think we can guarantee a strike at harvest without a contract; as long as there is not a collective-bargaining agreement you can be sure that farms will be struck at harvest time. That is a false issue.

If you have a collective-bargaining agreement you don't have a strike at harvest time. If you don't have a collective-bargaining agreement, that is the time the workers will strike. They do it all the time. They do it on their own.

Mr. MCMILLEN. We would like to think that the agricultural employers, themselves, would have something to teach us along this line. Year after year, more small farmers are pushed off the farm and into the cities. We see increasing concentration of more and more agricultural land in fewer and fewer hands because the growers and producers of the agricultural products haven't got the muscle in the commodity market to get a just price for their products.

However you cut it, it seems to us that until they are prepared to withhold products from the market they are not going to get the bargaining power they need.

The whole of agriculture, it seems, is not one that is willing to lose its life in order to save it. Until it does become willing to lose its life in order to save it, none of us will get our just return out of the production of agricultural fruits, vegetables, and livestock.

Mr. BENEDICT. Be that as it may, I don't think your answer is responsive to my question.

Mrs. HUERTA. Actually, we have a no-strike and a no-boycott clause in every collective-bargaining agreement.

Mr. BENEDICT. That may be right. One of the primary areas of an economic strike such as we are talking about, however, is where your

union will be entitled to recognition under the law and you have not been able to reach agreement on a collective-bargaining agreement. This is an area where you do not have a contract containing a no-strike clause.

Mr. McMillen. If we are not allowed to strike at the outset under conditions like you describe in the face of an employer who really wants to keep the union out, then we are not going to get a contract.

Mr. Benedict. Your answer is that you would be opposed to all of these alternatives?

Mr. McMillen. We see no particular reason why agriculture ought to be especially excepted on this score. Strikes are pleasant to nobody. Any employer is in a position to lose and some of them to lose heavily in case of a strike.

It is true that in the case of the grape and tree fruit people, that part of the capital investment which consists of vines or trees is not sacrificed during the strike.

A further point to note here is that until something is done to stop the parade of illegals across the border and those green carders who haven't established permanent homes in the United States, it is not a very serious question because thus far the people we have struck in California have been able to keep going at harvest time despite our best efforts to bring pressure to bear.

Mr. Benedict. Would your union prefer no legislation in this area rather than legislation that contains some restrictions on the right to strike at harvest time?

Mr. McMillen. I think that that is the sort of political or strategic question that we could only answer if we saw an act before us in its completeness.

Our position is certainly that the right to strike is a very precious right of American labor and we have not yet been able to discover anything in our favor that would be an adequate exchange for a sacrifice or a compromise of that precious right.

Mr. Benedict. What we have been talking about so far is situations where the union is entitled to recognition, either through voluntary recognition or secret election, and the employer is obligated to recognize the union and bargain with it.

Now, I would like to go to the area where that is not the case; where you do not represent a majority of employees, and where your union has not been recognized and is not legally entitled to be recognized as their bargaining agent. We get into the area of organizational picketing, we get into the area of so-called informational picketing and area standards picketing where the union is not entitled to legal recognition.

Can you see any distinction in these situations in invoking a ban against picketing or striking at harvest time?

Mr. McMillen. We see some real difficulties if we were to be covered by present restrictions of section 8(b) (7), for example.

We have already had a bad experience with company unions in and around the Delano area; the agricultural workers' freedom to work association, for example. We very much fear that one of the early weapons to be used against us if the exclusion of agricultural labor is to be dropped from the act would be an effort on the part of growers

to recognize and to sign contracts with company unions and to try to establish the contract ban situation where we come under the operation of 8(b)(7). For that reason, we feel we need an exemption from 8(b)(7).

Mr. BENEDICT. Even in a situation where the union is not recognized or entitled to recognition, you would not take a different approach on banning picketing at harvest time? You do not see any need for it?

Mr. MCMILLEN. For a ban on recognition picketing?

Mr. BENEDICT. Or any kind of picketing that I mentioned, any type where you are not recognized or entitled to recognition as the bargaining representative of the employees of growers or farmers.

Mr. MCMILLEN. Of course, under the last of the three cases under 8(b)(7), a union covered by that act is entitled to picket in the absence of recognition or certification of another union or in the absence of contract ban provided a certification petition is filed within 30 days. So that, if we were to be covered by the thing we could in the literal language of the act be entitled to picket for 30 days and then file a petition.

Mr. BENEDICT. I am not asking you if you would be entitled to picket for 30 days. I am asking if you see any merit in banning this type of picketing completely.

Mr. MCMILLEN. No; we see all the merit in permitting that type of picketing before we get unions organized in agriculture.

Mr. BENEDICT. I suggest to you the possibility that in this type of situation where there is organizational or recognitional picketing or area standards or informational picketing that picketing be enjoined upon the filing of a petition for an election, and that you then have an expedited election, after which, if you win, you then come back to whatever provision is made for a union entitled to recognition.

If you lose, then the picketing would be banned permanently or for a reasonable period of time.

Mr. MCMILLEN. Our discussion this morning is mainly centered around the question of economic power and the unfair labor practice question and not on the question of representation procedures.

In looking at the conditions of the expedited election, our feeling at this point is that the election is not all that expedited or need not be all that expedited and it would not be that great a plus in our favor. For one thing, the grower can control the situation by simply refusing to file an unfair labor practice charge. If he does not file the charge, the election is not expedited. The expedition, itself, depends on the discretion of the NLRB and its various offices as to what appeal they are to permit later. At least in the early stages of coverage under the act it seems to us that the time period and the filing of briefs and hearings and the like would stretch out almost the same length as the regular election procedure.

There are other possibilities of expediting representation procedures by inserting a middle step between an employer refusal to honor a demand for recognition and the filing of an election. At the present time, as you know, the NLRB permits a union to go in the unfair labor practice case of refusal to bargain in good faith and to file the election petition at the same time.

If those two things are consolidated and upon employer refusal to recognize you have an administrative determination based on exami-

nation of authorization cards and investigation covering such things as recognition, open hearing, and so on, either the employees clearly want a union, then an order to bargain; they clearly do not want a union, then the petition is dismissed; in case of doubt, have the election.

This would introduce some expediting into the process.

Mr. BENEDICT. You have been talking about 8(b)(7) of the National Labor Relations Act with which I am quite familiar.

I think we have to recognize that a strike or a cessation of operations on a farm is different than in an industrial situation where in one situation there may be financial loss, but in the other you may put the man out of business completely and the employees whom he is employing, also.

There was some testimony here on whether a section 8(f) type of agreement should be made applicable to farm unions. Under the present law that is a voluntary act that an employer may take in the construction industry.

Is it your position that the farm union should be able to strike or picket to obtain this type of contract when it does not represent a majority of the employees involved?

Mr. MCMILLEN. You are talking about prehire agreement?

Mr. BENEDICT. Yes, sir, under the National Labor Relations Act.

Mr. MCMILLEN. After a great deal of labor discussion and consideration and clearly recognizing that the process and conditions are not all one sided, we finally decided to take the position that we don't want the prehire agreement. We think instead that a valid recognition in agriculture ought to be based on a representative labor force, a percentage of what the labor force is going to be at the harvest peak—perhaps two-thirds, three-fourths; something like that.

May I add that we would think it better if the exceptions in the case of agriculture were put in a different section or a different title than 8(f) so that the construction industry exceptions stand by themselves and ours stand by themselves?

Mr. BENEDICT. We also had testimony on replacement of strikers.

Again we will talk about the National Labor Relations Act.

There, at the present time, an economic striker can be permanently replaced and lose his employment. He is entitled to vote in an election for 12 months after his replacement, and I believe that a recent NLRB decision holds that he remains a member of the bargaining unit during that period, but he is not entitled to his job back.

Is it your union's position that this provision should not be made applicable in a farm labor bill, that there could not be a permanent replacement hired for any striker?

Mr. MCMILLEN. We certainly think that the determination of whether the workers want or do not want a union ought to depend on the wishes of those who have gone out on strike and not on the wishes of the replacements.

Mr. BENEDICT. I am talking about what should be written into the law. This is written into the National Labor Relations Act.

What is your union's position on what this farm labor law should contain?

Mr. MCMILLEN. We don't think in the first instance that persons who have been admitted to the United States illegally ought to partici-

pate in the determination. We don't think that persons who have been lawfully admitted for permanent residence but have not established permanent residence ought to be permitted to participate in the determination.

We think those who have left on strike should be permitted to participate in the determination, and this leads on to further complexities as all recognize in agriculture because of the casual and mobile nature of the employment.

After a striker has been replaced, he is a poor man; he needs to find work; he moves down the road or he moves a hundred miles up the highway in search of work. This creates problems that don't exist in the case of a plantworker who leaves the plant on strike and who doesn't search for comparable employment or for strike time employment.

Mr. BENEDICT. Let me try to simplify it for you.

Take the case of an economic striker, a man who has gone out on an economic strike. A replacement is hired and the facts establish that this is a permanent replacement, not a temporary replacement. Then, even when the strike is over, the man who went out on strike is not entitled to his job back under the National Labor Relations Act.

Do you wish that section changed in the farm labor bill? Do you feel the permanent replacement should be discharged by the employer; that the employer should be required to discharge him at the termination of the strike in order to give the striker his job back?

Mr. MCMILLEN. I don't think we have given sufficient reflection to that particular thing to come up with an answer.

The question of replacement, particularly if it is the case of replacement of seasonal farmworkers, brings up the question of who is a replacement and who is not. In our experience with the people that we have been on strike against in California where a strike has gone on for longer than 3 years and it is now in its fourth year, I assume that you would say that the evidence shows that these people are permanent replacements. Yet, there is such a high turnover of employment, particularly in the case of seasonal workers, as to make the question somewhat unrealistic.

I think we would have to reserve the right to answer that one until later.

Mr. BENEDICT. My last question concerns your testimony in favor of a separate labor relations law for farmworkers. I believe your idea was that because industrial and construction unions under the Wagner Act had a period where they had a prolabor law, farm unions need a similar prolabor law in order to stabilize organization of farmworkers.

In the bill which you propose, do you suggest that all types of unfair labor practices should be enumerated against employers but none against unions?

Mr. MCMILLEN. We advocate a decent period of reprieve from the operation of the union unfair labor practices.

We also advocate the retention of the employer unfair labor practices.

We advocate further that it be made an unfair labor practice for employers in agriculture to hire in time of strike or lockout the

illegals and the green carders who have not become actual permanent residents.

Mr. BENEDICT. You advocate, then, that any legislation that is enacted should not contain any unfair labor practices against unions; is that correct?

Mr. MCMILLEN. Along the lines of the original Wagner Act. That is what we had advocated.

Further, we didn't advocate a separate act but our proposals here this morning have taken the form, and we think it is quite adequate that they take the form, of amendments to the present NLRA, either a separate section or separate title.

Senator CRANSTON. If you had not had the green card problem, in your opinion would there have been a boycott or would the union have won its objectives?

Mr. MCMILLEN. We are certain that we would have won the table grape strike at this time if we had not had to contend with the competition of the illegals and the type of green carder who has not become a permanent resident.

Mr. BENEDICT. Thank you, Mr. Chairman. I have no more questions.

Senator MONDALE. Unfortunately, we are running out of time. We have some other witnesses scheduled to appear.

We want to thank you for your excellent testimony, Mrs. Huerta, Mr. Cohen, and Mr. McMillen.

One thing I would ask you to submit for the record is your response to the growers' argument that you don't represent the workers in the field.

What has been the experience? There have been elections. If you will submit something for the record on that rather than going into it now, I will appreciate it.

Mr. MCMILLEN. We will be happy to do so.

Senator MONDALE. Thank you.

(The material referred to previously follows:)

MAJORITY SUPPORT FOR UFWOC

CESAR E. CHAVEZ, DIRECTOR, UNITED FARM WORKERS ORGANIZING COMMITTEE, AFL–CIO

UFWOC has now signed up a clear majority of the legitimate workers in the fields, and we are supported by a majority of all such workers.

This has been demonstrated over and over, as in the two Di Giorgio elections (Arvin and Delano—Borrego Springs) and the Goldberg election.

It has been demonstrated in checks of authorization cards at ranches of six other employers, i.e., Almaden, Gallo, Christian Brothers (Napa and Reedley), Novitiate, Perelli-Minetti and Schenley.

It has been shown in demonstrations of support for the union which were sufficient to satisfy two employers—Franzia and Paul Masson—that their field workers wanted to be represented by UFWOC.

It is demonstrated by tens of thousands of signed authorization cards in our files.

In the case of the 12 growers with whom we began negotiations recently, we have signed authorization cards as evidence of our majority support in each case.

Worker support for our union has been evidenced in recognition strikes throughout the length and breadth of the California table grape industry. The greatest proof a man can offer of his desire to have a union is to lay down his life for the cause. Second only to that supreme sacrifice is to lay down the means of one's

livelihood, which a farm worker does when he walks off the job. Even in the case of a seasonal worker, leaving the ranch of one employer today means at best the uncertainty of finding another tomorrow, at worst the fear of being blacklisted as a staunch union supporter.

At times the high price of the recognition strike has eventually produced a union contract. At Di Giorgio we took a majority of the entire workforce out of the fields four separate times, one after another. We could have done it forty times with the same negative result. It was the pressure of a boycott and that alone which finally led to negotiations and an eventual election and contract.

At other times the high price has been paid in vain, as when an estimated 900 out of 1,000 left the Guimarra ranch demanding recognition for our union, only to see this employer steal their jobs and trample on their aspirations by importing nonresident greencard strikebreakers.

The election, as such, has not seemed to make much difference when an employer had the will and capacity to resist our demands. In the case of the Goldberg election mentioned above, an election victory was followed by a contract, but the contract went unfulfilled.

In the Coachella Valley in 1968, we obtained authorization cards equal to two-thirds of the harvest peak table grape employment. When the growers refused to allow a representation election, we held a demonstration election with neutral observers present which resulted in a top heavy majority for our union. The election was no more successful than the walkouts or the authorization cards in convincing the growers who were able to recruit strikebreakers at will along and across the Mexican border.

There was never much reason to place great hope in representation elections. The growers know that their field workers want a union. They do not need an election to convince them of that. They have the recognition strikes and the authorization cards.

Like the rich man of the Gospel parable, "They have Moses and the prophets. . . . If they do not hear Moses and the prophets, neither will be they be convinced if some one should rise from the dead."

Neither will the growers be convinced if our union wins an election, provided they have the economic power to resist.

That is why our union is unwilling at this point to sacrifice the right to carry on a boycott for the sake of getting an election law that will not give us a single contract. That is why we make so much of the international boycott of California table grapes.

Senator MONDALE. Will the next witnesses please come to the witness table?

A PANEL CONSISTING OF JOSE ALEXANDER, DADE COUNTY, FLA.; REYNALDO DE LA CRUZ, HIDALGO COUNTY, TEX.; MARCOS LOPEZ, McALLEN, TEX.; AND MANUEL SALAS, WAUSHARA COUNTY, WIS., ALL OF THE FARMWORKER COMMUNITY

Mr. SALAS. Mr. Chairman, our names and residences are: Jose Alexander, Dade County, Fla.; Reynaldo De La Cruz, Hidalgo County, Tex.; Marcos Lopez, McAllen, Tex.; and Manuel Salas, Waushara County, Wis.

As you can see, we are a diverse group. We do not have in common a single organization nor the same geographical area. Our panel has no chairman. We will be making separate statements to you although we will all be happy to answer any questions as a panel.

We feel that our views are broadly representative of the concerns of farmworkers in scattered parts of the country. We are very grateful for the testimony which was so ably presented before you this morning by Mrs. Dolores Huerta of the United Farm Workers Organizing Committee, AFL–CIO. They have excited the attention of farmworkers

across the country as they struggle not only for the rights of their members but also for the rights of all of us.

Because of circumstances which we want to explain to you, we live in parts of the country where a farmworkers union has not yet developed or grown strong. But each of us in our own way wants to tell you that there is a lot of strong feeling among unorganized farmworkers over the lives they have to lead and that we very much want to be represented by a union. This view is held by many farmworkers all over the country.

For your information we are able to be in Washington because we are attending a meeting of a committee of the National Council of the Churches of Christ in the United States of America as well as testifying before you. Our travel expenses have been met by the State Councils of Churches and the denominations which are supporting the meeting. We are grateful to these people for making it possible for us to be here today. We would like to make clear to you, however, that we speak for ourselves and not as their spokesmen nor as the spokesmen of any other organization. Now we would each like to present testimony to you.

Senator MONDALE. Would each of you introduce yourself and give us your address and the organization you are associated with?

Mr. ALEXANDER. I am Jose Alexander. I come from South Florida. I am a member and a representative of OMICA.

Senator MONDALE. The next witness?

Mr. DE LA CRUZ. My name is Reynaldo De La Cruz, Hidalgo County, Texas.

Senator MONDALE. The next witness?

Mr. SALAS. My name is Manuel Salas, Waushara County, Wisconsin.

Senator MONDALE. The next witness?

Mr. LOPEZ. My name is Marcos Lopez.

Senator MONDALE. It is 12:10. We can take your statements as written and include them in the record as though read. Each of you can make your oral comments or summarize if you wish. I think that would be the better way to proceed. However, if it is necessary to read the statements in your opinion you may proceed.

Why don't we begin at this end or whatever order you decide to proceed in?

STATEMENT OF MANUEL SALAS, WAUSHARA COUNTY, WIS.

Mr. SALAS. Senator, my experience is in Wisconsin.

Wisconsin has what is called the NLRB law which recognizes the right of farmworkers to organize. For those who feel that the NLRA law will solve the problem of farmworkers, I would like to say they are mistaken for when farmworkers organize against agribusiness of this country they need more than certain rights, more than just the right to organize, more than just the right to negotiate.

Unless one has certain economic threats that one can carry out if necessary, one will not be able to do anything for their union. For instance, we have discussed, I heard the discussion of whether farmworkers should have the right to strike or not. It is very naive to believe that any company will give farmworkers their rights out of the goodness of their heart.

We went on strike. We went on strike during the harvest season. We got an election. We got our union. But, as most of us know, it only takes a little while, a few more days of work in most cases, to gather the crop. After that, there is very little need for those farmworkers.

In other words, negotiation did not get us anything but we did go back to work and we did gather those crops and we did ourselves destroy that most powerful weapon, that economic threat, over the companies.

If we have to have some means to defend ourselves, it has to be the strike and the boycott.

In another instance, one of the reasons we were successful in Wisconsin was that it was very difficult, if not impossible, for the growers of Wisconsin to bring scab workers from Mexico; it is quite a distance; and the growing season is very short. That is not the case in Florida or California. In those places, it is very easy to bring scab workers to replace the workers.

We feel we have to have the right to strike. We feel we have to, if necessary, boycott because those are the only ways that we can really stand up for our rights against agribusiness of America.

Now, we have heard your statement, what your impressions are as to what would happen to our jobs while we are on strike. Well, we believe that at those places that we were employed those are our jobs and while we are on strike those jobs don't belong to any scab or anybody else who goes in there and those people should get out of there as soon as that thing is settled. Those are our jobs and there cannot be any kind of negotiation about whom those jobs belong to.

Like I said, we were lucky because scab workers were not brought from Mexico or from any other part of the country which is less fortunate than perhaps where we are. But if that had been the case, we would have felt as strongly as we do for those jobs for the people who go on strike.

The farmworkers are in a very weak position. All of us have worked in the fields. Our parents worked in the fields; our grandparents worked in the fields. Any laws that we might consider here that are only passed or proposed to merely fool either the farmworkers or the people into thinking that it will solve their problem is not worthy of the Senate or House of Representatives.

If we are here to do anything, we must genuinely propose something that will solve the problem and not propose legislation that will weaken the farmworkers of America.

Thank you.

(The prepared statement of Mr. Salas follows:)

PREPARED STATEMENT OF MANUEL SALAS, WAUSHARA COUNTY, WIS.

Mr. Chairman, my name is Manuel Salas. All the time we were migrants working on the farms all over the country, we knew that the farm workers' problem was a very real one which would require quite a lot of help. The solution of the growers has always been that things should be kept the way they are as they were working fine or they were for them. Now that the farm workers' union has exposed the conditions of the farm workers to the people of America, we see everywhere a demand for a change in the condition of the farm worker. Before America had been shown under what conditions its produce had been gathered and some uproar had been heard but agribusiness of America has weathered those storms and nothing was done about the conditions. The difference now is that the farm

workers have their organization which will not be detoured from its struggle for social justice for the farm workers. Up until a few years ago we could, all who are not farm workers, get some sort of satisfaction from any improvement that was made in the working and living conditions of farm workers. But to us who are farm workers there was little to be satisfied about. We thank our friends who have long struggled for the rights of farm workers. We have many and it has been a long struggle. The struggle is not over. It has just started as it has a long way to go, but now it goes with a new emphasis. Up until farm workers had their own organization it was others who decided what was good for farm workers. The agribusiness of America has decided for many decades what is good for them and has acted accordingly to stop any possible legislation for farm workers and to perpetuate a system of serfdom. Now the farm workers of America have entered the arena of legislation and social action to achieve social justice for farm workers. The agribusiness of America has long contended that the farm workers problem is a special one and how right they are but for different reasons than they claim.

The most exploited group in America is now to be helped by the extension of a law that has for many years failed to change the basic conditions of a large number of workers. From Florida to Texas to California to Wisconsin, we have created a serfdom to gather our crops and now we are here to change all of that by a simple extension of a law that has often been weakened to make it more difficult for the poor of America to have any real voice in their own economic life. Now if we are here to help achieve social justice for farm workers, we have to recognize that simple extension of National Labor Relations Act coverage is not enough. For if we are to really help the cause of the farm workers and if we are not really here to change that poverty and exploitation that we are not really interested in giving the poor a chance, an honest chance, to have a chance for a better life. Farm workers have to have special protection not just a law to make that struggle a "fair" one. If the law makes it a "fair fight" to have a 200 lb. man and a flyweight fight each other as long as they follow the "Marquis of Queensberry" rules, then it commits a great injustice.

Now if we believe that by changing rules we equalize the contest we are fooling no one, especially the farm workers. If we are really interested in achieving social justice for the farm workers of America, we have to equalize that struggle. We have to have positive legislation to allow the farmworkers to achieve that justice that we are gathered here to work for. Unless, of course, we are not interested in justice but merely in continuation of the struggle under different rules but basically the same odds.

It has been said that farm workers should have the right to organize and bargain for their rights but not to strike. That is ridiculous and those who support it are either naive or certainly do not care for justice or for bettering the economic conditions of farm workers. Farm work is not a skilled occupation, it being fairly easy to learn how to do the job but it being a rather hard, back-breaking job does not make it appealing to the majority of our countrymen. So in order to bargain fairly, in order for the farm workers to have a chance against the giant agribusiness, we must be able to strike. There cannot be any legislation that allows farm workers to organize and not to strike. There cannot be a hoax that allows farm workers to unite in a common cause but says you cannot allow them to use the strike to better their condition. Can we be that naive or that cruel? Agribusiness says that a strike will destroy the industry. Are we such fools that we will destroy our jobs? Are we all of a sudden to lose our senses and destroy the only means we have of earning a living? Not only must we have the right to strike but no other workers should be allowed to take our jobs while we are on strike. The agribusiness industry has long found it convenient to send buses and trucks into the border towns of our country to gather workers when farm workers unions are on strike. A crop can be picked in a very short period of time in many cases and therefore this destroys the workers' rights for any meaningful negotiation. We must be protected from anyone taking our jobs while on strike. This is an essential part of any legislation that is to achieve social justice for farm workers.

What means do the farm workers have to struggle against the giant agribusiness that is daily becoming even bigger. Very few. That is why we find it necessary to appeal to the consumers of America and our brother labor organizations. That is why we are here because our efforts in picketing and boycotting has brought the problem to the American people. It is necessary for the farm workers to have the right to secondary boycott. We must be able to boycott and

those who would honor our boycott must not suffer any legal consequences. That has to include both individuals and organizations. Any other position would weaken any farm worker efforts at organization.

Perhaps none of this would be necessary. Perhaps we could come to some agreement that would benefit both parties and certainly we should encourage such coming together. It is time that negotiations should be started between the parties involved but there should not be any reason why those negotiations should not start as soon as possible. Involved are the jobs of people who are dependent on them to a large degree, more than any other group of workers. Agribusiness insists that there is a real chance that the crops might be destroyed by a strike. We must be sure that the crops are not damaged. There should be some kind of penalty against whoever might deliberately delay the start of any negotiations.

We have long claimed that everyone has certain rights regardless of race, color, or creed and now we are engaged in a struggle to see that it is more than a statement. We also claim that it is a crime to kill and maim human life and yet we are allowing it to happen all the time. One of the most effective ways of doing that is to allow the agribusiness of America to move their plants or to go into a different form of their business rather than with their employees. This destruction of human life must not be allowed to continue. We cannot, we should not tolerate such disregard for human life to exist in America. There must be social justice for the farm workers. It is obvious that we are not here to ask for rules that will regulate the destruction of farm workers union. We are here to ask for positive legislation to equalize the struggle of the farm workers for social justice. The agribusiness of America is a very powerful group. Are we to believe that this powerful group will now give the farm workers social justice? The only way we can stand up to this power is to have the legislation that will give the farm worker the power to fight his cause successfully. Any other legislation is a cruel hoax. For to pass legislation that is merely a device to weaken farm worker organization is too shameful to consider. We also must not pass legislation for the sake of fooling the American people in to believing that it will solve the problems of farm workers when all it does is distort the picture and make it even more difficult for the farm worker to get social justice. America must have social justice for the farm workers who make it the best fed nation in the world. Anything else is not worthy of our country.

STATEMENT OF REYNALDO DE LA CRUZ, HIDALGO COUNTY, TEX.

Mr. De La Cruz. In Starr, Tex., during hearings conducted by Senator Williams several years ago, the problems of the farmworkers were brought to the attention of the Senators taking part in the hearing. So, it is not something new to Washington, that the farmworkers lack the protection of the National Labor Relations Act. By that, I mean that we need laws that can give us recognition, laws that can give us power to feel free to put a price to our sweat, to give us the feeling of brotherhood between us, the farmworkers and the employer, a law that won't give us any restrictions.

By that, I mean we need something that can give us the authority to negotiate and work the way it should be. If we cannot get the right to negotiate, then how are we going to solve our problems? Even if we are given the right to negotiate, if we are not given the right to strike and boycott, the grower can refuse to sign a contract. So now we have to depend only on the strike.

But if that is taken away from us, what is there left for us to do? Do we have to be always dependent on welfare, on things that depend on what the growers want to give us? I don't think that is what we are asking for.

We need a law that won't give us any restrictions whatsoever because we need to be treated as human beings and we need to have the right to fight for that thing that we need most and that is the right to collective bargaining, the right to protest.

Many people think that the reason for the strike not being active any more in Starr County is because the people don't want a union. But nobody has ever started thinking that it is not the idea of who wants what but also that it comes back to the lack of protection for farmworkers and because of this lack of protection the growers took advantage of the so-called lack of protection for farmworkers and were able to get an injunction against the union to keep us from picketing. This goes back to the same thing.

If the strike is abolished, then we don't have anything to fight with. If we don't have anything to fight with, we are stranded, we are just like being in the desert, like most of the farmworkers who were more active in the strike. Some of them have had to go to Dallas to work in construction. Others have had to go to work in filling stations.

Domingo Arrendondo, who testified before you as president of the United Farm Workers Organizing Committee in Starr County, now has to go all the way to Houston to work, leaving his family back there and then come back every 2 weeks to see his family and then go back. He was the one who testified before the committee here in Washington, and I think most of you remember that.

Is that the kind of life that is expected of a farmworker if he does not get the right kind of legislation? Does he have to live like a criminal all the time just because he went on strike? Is that a crime?

The green carders are affecting us a lot. It is not that we are against them. They are affecting us in a sense that they come to break our strikes, they take away our jobs and we have to face unemployment. We have to face going up north and struggle for our life while they stay behind; they stay behind and do the work which we should be doing. They don't pay any kind of taxes.

Also, they just come in every day and they are being taken advantage of more than ever. That is a fact because right now green carders are getting from $2 a day to $6 a day. Even they are wanting to organize. But ever since people have been trying to organize green carders it has never been done because they have a great need in Mexico. So it is hard to organize green carders.

Also, when they come to this side of the border, they have to face crew leaders who take advantage of them. But still they have to take something back to their families. Anyway, there still has to be something done. Either they come and live on this side of the border or they stay on the other side. There has to be a decision that has to be made by legislation.

Senator MONDALE. In your opinion, can there ever be effective organization and collective bargaining until some reasonable, but strong restrictions are used against alien commuter labor used for strikebreaking purposes?

Mr. DE LA CRUZ. Legislation has to be made and either the green carders are controlled or we starve.

Also, they use pesticides. Last year there was a crew of 14. The fields had just been recently sprayed with parathion and the whole 14 members of that crew were taken to the hospital and two were nearly dead on arrival at the hospital. Nothing was ever done about it. Nobody ever did anything to put pressure on the growers or to have some regulations on the spraying.

If people are going to be put in there like slaves, like animals, without anything at all to help them, what are we expected to do? Are we expected to live under these conditions all the time without even having nothing to fight back with if strike and boycott is abolished from farmworkers or is not put in the right legislation that we will be given the right to strike or boycott whenever we need these kinds of things to survive?

Also, there is a recommendation that I would like to give that certain restrictions should be placed on payments made by Agricultural Stabilization Conservations Services for taking land out of production. These payments should not be made to growers who pay less than the minimum wage nor should the payment be made to employers who hire more than 10 percent green carders in their work forces.

I think the big industry has strike regulations on employers. If the sugar industry has some kind of certain regulations, why can't it be done on any other kind of work, any other kind of farmwork? We need to have some restrictions that can force growers to pay the minimum wage which is not being paid in Texas now.

Also, these could restrict some of the green card flow and hire more Mexican-American people in the field. Also, in Texas we have the so-called law that is called the right-to-work law, which is something to give strikebreakers the right to receive benefits where a union wins a contract, without even having to pay dues, and to receive all the benefits that the people fought for and sacrificed even their families to get something for their own families, and these people who don't want to join the union still receive the same benefits because of the so-called right-to-work law.

If these kinds of laws are always passed, then farmworkers will be thrown in the drain because we don't have any source of survival with this kind of law we have right now and we are not given the right to organize. Thank you.

(The prepared statement of Mr. De La Cruz follows:)

PREPARED STATEMENT OF REYNALDO DE LA CRUZ, HIDALGO COUNTY, TEX.

Mr. Chairman, my name is Reynaldo De La Cruz. During the hearings in Starr County, Texas, that were conducted by Senator Harrison Williams two years ago, the problems of the farm worker were brought to the attention of the senators taking part in the hearing. So it is not something new to Washington that farm workers lack the protection of National Labor Relations Act. By that I mean that we need laws that can give us recognition; laws that can give us the power to feel free to put a price to our sweat; to give us a feeling of brotherhood between us, the farm workers, and the employer; a law that can't give us any restrictions. Without the protection of such laws our people have been made to live in fear. Fear of losing our jobs, of not having enough to eat the next day, and without the protection of such laws, we also fear getting organized for the same reason—losing our job.

Many people think that the reason for the strike not being active any more in Starr County is because the people don't want the union, but nobody has ever started thinking that it is not the idea of who wants what but also that it comes back to lack of protection for farm workers and because of this lack of protection the growers took advantage of this "so-called lack of protection" for the farm workers and we able to get an injunction against the union to keep us from picketing. I would like to ask for an Act that won't restrict us from striking or boycotting for something that is rightfully ours, something that is part of any person who works in the fields and this is to put a price for your sweat, for your working. Many of the farm workers on strike and who were more active now

have to find jobs elsewhere because they cannot be given jobs on farms and from this we go back to lack of protection under these laws. Some farm workers have been working in filling stations. Domingo Arredondo, who testified before you as president of United Farm Workers Organizing Committee in Starr County is black-listed by the growers and has to go to Houston leaving his family behind. He goes up and works and comes back every two weeks. Do we have to live like criminals always having to go elsewhere to find food for our children? Is this what we are really fighting for That is why we need National Labor Relations Act to cover farm workers so that we can feel free to act as human beings and to be treated as such.

Also I would like to see something being done about the green carders. It is not that we are against green carders but it is that we have to eat too and by having green carders coming in every day to take our jobs, we don't have any job. We are pushed to the point where we are fighting each other when we should be together working as brothers and companions.

Also there should be restrictions on pesticide use in the fields. Farm workers are just turned into fields without being given a thought that that person has to work in a field that has insecticides in it and without thinking of people getting sick, without having insurance or protection for people who have an emergency or get sick from insecticides. We need something to protect us from getting sick in the fields. We need this insurance. We need job protections and so forth.

So far farm workers have been neglected from any kind of benefits such as workmen's compensation and unemployment insurance. People have to work in the fields without expecting to have anything back, without expecting any kind of benefits. That is why we are urging you to have the National Labor Relations Act cover farm workers.

In Texas we have the so-called "right-to-work" law which gives the right to scabs to be breaking strikes and what happens to the farm workers who fight for the betterment of their children by trying to bring a decent check that would help his family come out of the poverty in which they live. This person is always turned down, pushed around and harrassed by the police or by the local establishment. Why do farm workers have to be treated like animals whenever they want to speak for themselves? This so-called "right-to-work" law must be abolished.

Now that we have the opportunity to fight for something that we believe in, for something that can really help farm workers be equal with the grower, let's not make the mistake of weakening the National Labor Relations Act by abolishing strikes and boycotts. Let's keep in mind the sufferings that we farm workers have lived by in the years that have passed.

We also recommend that certain restrictions should be placed on payments made by the Agricultural Stabilization and Conservation Service (ASCS) for taking land out of production. These payments should not be made to growers who pay less than the minimum wage. Nor should these payments be made to employers whose work force is made up of more than ten percent green carders.

STATEMENT OF JOSE ALEXANDER, DADE COUNTY, FLA.

Mr. ALEXANDER. I am pretty nervous. I have never been up against a committee like this.

Senator WILLIAMS. You don't have to be nervous here.

Mr. ALEXANDER. They told me a hundred times not to be nervous but I am still nervous.

Senator MONDALE. I had indicated at the outset that you can summarize your statement, but if you prefer to read it, if that is easier for you, go ahead.

Mr. ALEXANDER. No; I think I can do just like the others did.

As you all know, I am from south Florida. I am glad to have the opportunity to tell you about the problems that farmworkers have because we have not been allowed to organize to gain a better life for ourselves.

I would like to explain to you about the law that keeps us from

having strong organizations to defend us for us to live in the very same conditions our fathers and grandfathers lived in.

If this is not changed, our children, too, will have to live and die the same way. Farmworkers are not protected by the National Labor Relations Act and have no workmen's compensation or unemployment compensation, either. That system means the farmworker's children will have to live the same way he did and they will be slaves to farmers who are really just the same as big businessmen.

The farmers keep the wages low by employing labor contractors or crew leaders. Not only do the labor contractors or crew leaders get money that really should go back to the workers, but neither the farmer nor the crew leader wants to take the responsibility of deducting social security, and many times the crew leaders deduct it into their own pockets.

We do not really blame the labor contractors and crew leaders because they are just tools that the farmers use. And the agencies which are supposed to enforce the few laws that we have to protect us are members of the establishment, themselves.

Low wages and illnesses that poor people always are suffering from force parents to take children out of school in order to help with the work or to look after small children so that the mother can contribute to the family's income.

As you can see now from what we have said, it is not just Florida, it is the whole United States. I believe there are migrant people all over the United States. It is not something that is very small, as you well know. It is not something that you can look at and turn your back and forget about. It is something that we have to look into and explore and do something about, not just look at it and forget about it.

Therefore, we demand that the law be changed so that we can be as free as factory workers and others to decide whether or not to organize ourselves and how to go about doing it. To get the benefits for our people, we believe that because we have been abused for so long we need even more protection than industrial workers in order to effectively change the way we are living and our children will live.

We need the protection to protect ourselves from people who are exploiting us so that we will be able to get out of poverty and to gain self-respect and the respect of the rest of the citizens of the United States.

Senator WILLIAMS. Thank you very much, Mr. Alexander.

(The prepared statement of Mr. Alexander follows:)

PREPARED STATEMENT OF JOSE ALEXANDER, DADE COUNTY, FLA.

Mr. Chairman: My name is Jose Alexander. I am a farm worker from South Florida and I am glad to have this opportunity today to tell you about the problems that farm workers have because we have not been allowed to organize to get a better life for ourselves. I would like to explain to you how the laws that keep us from having strong organizations to defend us force us to live in the very same conditions that our fathers and grandfathers lived in. If this does not change, our children too will live and die the same way.

Farm workers are not protected by the National Labor Relations Act and we have no workmen's compensation or unemployment compensation either. Since we do not have organizations to protect us, government programs which are supposed to help us can humiliate us and insult us when we go for help.

We don't have any power and so American democracy doesn't work for us. The laws which gave rights to all the other working people in this country, don't give any rights at all to us farm workers so we are no better than slaves.

Since we don't have any rights or any power, we cannot change the bad working conditions and low wages which maintain a slave labor system. That system makes sure that the farm worker's children will have to live the same way he did—they will be slaves to farmers who are really just the same as big businessmen. The farmers keep the wages low by employing labor contractors and crew leaders. Not only do the crew leaders and contractors get most of the money that really should go to the workers, but they also cheat us out of our Social Security, which is the only insurance we have. Neither the farmer nor the crew leader wants to take the responsibility of deducting social security, and many times the crew leaders deduct it into their own pockets. We do not really blame the labor contractors and crew leaders because they are just tools the farmers use. And the agencies which are supposed to enforce the few laws that do give us some protection are members of the Establishment themselves.

Low wages and illnesses that poor people always are suffering from, force parents to take children out of school in order to help with the work or to look after small children so that the mother can contribute to the family's income. That means that our children can't get an education so that they could find better jobs and earn more money to live better. Also, since we are forced to migrate to find work, we have to take the children from one school to another and this way they never can get a good education. Because we are poor, we have to live in the small and crowded pigpens that the farmers give us or rent to us. The children who are going to school cannot study under such conditions, and since they often do not have shoes, lunch money, or money for paper and pencils, they miss many school days. You may say that there are programs to help these children, but I would like to give you an example of how these programs don't really help us. The school lunch program would be a good thing if parents were told that it existed, but the program doesn't put out any advertisements or paper telling about it and the teachers are not supposed to mention it to the parents—the parents are supposed to ask for it. When they go to apply for the program, they are given a form to fill out, and if they do not know how to read and write English, they aren't given any help from the schools. They feel humiliated, and the form never gets filled out, so the child goes hungry.

Another way that they keep the farm workers in slavery is by always keeping us in debt. Since the wages are so low, and sometimes there is work and sometimes not, many families have to borrow money to make it through the times when work is slow, or they are waiting between crops, or when they have to pay a big doctor bill. They often must get this loan from their crew leader, and that means they feel obligated to keep working for him, no matter how he treats them. And even if they don't owe their crew leader any money, he can always claim that they do, and the law listens more to a big crew leader or farmer than a poor farm worker. This power that the crew leaders and farmers have over the workers makes it impossible for the worker to protest, because he is likely to end up in jail or floating in some back canal.

As you can see now, from all that we have already said, it is extremely difficult for us to find ways to change, since we are forced to think about the difficult job of everyday living and providing for our families the best we can with what little we have. A man who must be constantly struggling to live and keep his family alive has little energy to organize with others, think of new solutions, or try new paths, such as getting more education. Everything is against us organizing and trying to get some power so we can do what we know is best for us, but we are trying to organize ourselves in spite of everything. We need protection of law so that when we try to organize we don't get beaten, thrown into jail, or kicked out of our jobs. We don't want to have to fight to have the right to improve ourselves; we want to get right down to the real job of making a better life for our people. Anyhow, we should not have to fight for a right which is given to all other American workers, which is the right to bargain with your employer to get fair wages and good working conditions. If this country is really a democracy, then there should be the same rules for everyone; no group should be special; no group should be discriminated against. There should be equality under the laws of our country.

The law right now says that the farm workers have no right to organize. That is not right. Farm workers should have a choice whether they want to organize

themselves or not. They should be free to make their own decision, instead of having it made for them in a law that they had no say in making.

Therefore, we demand that the law be changed so that we can be as free as factory workers and other workers to decide whether or not to organize ourselves and how to go about doing it to get the most benefit for our people. And we believe that, because we have been abused for so long, we need even more protection than the industrial workers in order to effectively change the way we are living and the way our children will live. We need the power to protect ourselves from the people who are exploiting us, so that we will be able to get out of poverty and to get self respect and respect from the rest of the citizens of the United States.

STATEMENT OF MARCOS LOPEZ, McALLEN, TEX.

Mr. LOPEZ. I am Marcos Lopez, from McAllen, Tex. I am a migrant worker. I follow the migrant stream from the Rio Grande Valley of South Texas to Colorado, to the area of Meade and Longmont, Colo.

We have trouble with the farmers where we work in Colorado with the Great Western Sugar Co. We usually have trouble with farmwork because the fieldmen who are with the company work together with the farmers in order to suppress 2 or 3 acres from the acres they pay the workers. They usually don't pay the original price that they agreed to when the field is dirty, so that people cannot make enough money. We probably make about $8 or $9 a day, sometimes working 15 hours a day.

The people who contract us down in south Texas promise all the migrant workers fair housing and all the things we need and they do this so as to get the people to come up north. When we get to the State of Colorado where we are going, and the farm where we are going to work, the housing is more like chickenhouses. The rooms are about 8 feet by 10 feet and sometimes we put a family of eight there and they have to cook there, sleep there, and live there. The water is not running water. The farmers use this kind of cistern that they put water in. You get a load of water and it stays there 3 or 4 weeks. It gets dirty and it gets insects in there. And yet the people have to drink that water because there is nothing else.

There was a friend of mine in Colorado who just because he asked the farmer for a reasonable price on the work was told to empty the house and go somewhere else. He didn't want to pay him any more than he already paid. That is the reason. A lot of farmers in the area do the same to the poor migrant worker.

On topping onions, they went to the farmer and the farmer tells the worker, "You help me finish my crop here and I will give you 2 or 3 cents a sack for a bonus." If for one reason or another the worker leaves the job, then the farmer won't give him the 3 cents he promised. So, he keeps that for himself. Some farmers pay $1.15 an hour.

Then you go to the labor office and ask them why can't they force the farmers to pay more, the employees at the labor office say, "We can't make this farmer pay more than that. He gives you a steady job and we can't get him to pay more."

They do it because they don't want to lose their jobs; they don't want to get mixed up with the farmers so that they could have their job for a longer time.

There is another situation: Some farmers pay their workers $1.40 an hour and give them work for 3 months, but from that $1.40 they subtract 10 cents for bonuses and if the workers don't finish the job for the farmer, then the 10 cents they have already earned the farmer keeps

to himself. The farmers and the farm companies are kind of bad in Colorado for all the migrant workers. The people who go there will get this kind of treatment down there.

Some farmers hire workers for year-round jobs at a salary of about $200 a month and with the $200 a month the worker has to pay his own gas bills and he works nearly 7 days a week, 15 hours a day, and no day off, and no holidays or anything.

So, there is a pretty bad situation in Colorado.

The law can change that situation and we would like to negotiate with the farmer so that we can have the right to organize our own people and so we have better wages and conditions and better facilities in housing.

That is about all I have to say.

Senator WILLIAMS. Thank you very much.

(The prepared statement of Mr. Lopez follows:)

PREPARED STATEMENT OF MARCOS LOPEZ, MCALLEN, TEX.

My name is Marcos Lopez, McAllen, Texas. I am a migrant worker and the migration stream that I follow is from the Rio Grande Valley, South Texas, to Colorado. We usually work around the area of Meade and Longmont, Colorado and we have always experienced trouble with the farmers because they never want to pay what they should—a reasonable price.

The farmers do not want to measure the fields because that makes it easier for them to subtract two or three acres from each field. The man that we complain to is the field man. A field man is a company employee that settles these disputes.

The farmers and the field men always agree on everything and they've always stolen from the worker.

A friend of mine worked in the area of Meade this year with this farmer and he asked the farmer for a reasonable price because the fields were dirty. Then the farmer told my friend that he didn't have any more work and to empty the house as soon as he could. It has happened to several other people this same way.

Also the people that conntract the workers to go up North promise us good housing, beds and clean water. And that's just to trick the people into going up North, because the houses they give us look like chicken houses, the water sometimes has to have insects taken out of it because sometimes it stays there for weeks and gets dirty with all kinds of insects. And yet the people still have to drink that water and it happens to us and to a lot of other people.

And there are also farmers who promise to give the workers, a Bonus when they top onions. They tell the workers that they will give them two or three cents on each sack they make. And for one reason or other the worker has to leave before the onions are done, the farmers won't give them the Bonus they promised, they keep it for themselves.

Then there is the farmer who hires people by the month and pay them two hundred dollars a month. That worker has to work fifteen hours a day and work Saturdays and Sundays. They never get a day off. Yet the worker still has to pay for the light and gas bills.

There are also farmers there that pay the workers $1.15 a hour and you ask the Labor Office about it and they tell you that they can't force them to pay the worker more. Another reason they, the Labor Office, won't force the farmer to pay more is that they have to think about their job.

Why can't this farmer pay more? There are other farmers that pay some workers $1.40 a hour but they then take ten cents off for Bonuses. And you won't receive the bonus until the job is finished, that is if you live before the job is done. Even the money you should receive for three months work.

TOMATOES—PANDORA, OHIO

The people had no running water and their houses were about 10 by 12. There was ten in our family. Some of us had to sleep outdoors and some of us slept in cars.

Some places were paying nineteen cents a box and others twelve.

Sometimes there were two families in one room houses. The houses had kerosene stoves, no iceboxes and some of them had no screens and there were many mosquitos and flies.

Situations at Hartford, Michigan were the same. The same families were living in barns. The farmers stored chemicals, poison, and weed killer on top of the barn. People who lived in the basements of the barns got sick because the chemicals would fall on the beds, food and water. Some of the children started playing with the chemicals and other stuff.

There were no restrooms and many times the farmers would park their machinery in the doorway of the barn and one time one of the women sprained her ankle.

WHAT HAPPENED AT HART, MICHIGAN—FARMER: RONALD LONGCORE

We didn't have running water, and three families used one small room which used to be a garage that had one stove. There was no bath and no restroom. This guy had about one hundred and fifty people and they were scattered around the city, in barns, garages and basements which didn't have any screens or doors.

On Saturdays he wouldn't pay unless the people worked the hours he wanted them to work. And after they would pay the workers, they took off some money for house utilities.

The situation was also very bad in Oceana County. I told the farmer that I was going to quit and he said he wouldn't pay us because then all the other people might quit.

So the way he operated was, he worked the people until Sunday; a seven day week. He then was paying the workers on Saturday afternoon, so the people couldn't leave. If they would leave like on Thursday, Friday and Saturday of the previous week they would not receive pay or the bonus.

Senator WILLIAMS. On the last point, where were you working—was it 15 hours a day?

Mr. LOPEZ. Fifteen hours a day, for the pay of $200 a month.

Senator WILLIAMS. You were paid by the month?

Mr. LOPEZ. Yes.

Senator WILLIAMS. Where was this?

Mr. LOPEZ. In the area of Weld County, Greeley, Colo.

Senator WILLIAMS. How large a farm did you work on?

Mr. LOPEZ. I didn't work on this farm. A friend of mine worked on this farm.

Senator WILLIAMS. How large a farm was it where your friend was?

Mr. LOPEZ. They raised 200 acres of beets, about 150 acres of corn.

Senator WILLIAMS. Do you know whether there were 10 or more fellows working on that farm?

Mr. LOPEZ. There were three workers on that farm.

Senator CRANSTON. There was testimony earlier by Mrs. Huerta and Mr. Cohen regarding violations of various laws in California, failure to have law enforcement in that State.

Do you have examples, in the States where you work, where laws are simply ignored by law enforcement officers?

Mr. DE LA CRUZ. The minimum wage in Texas is ignored completely.

Senator CRANSTON. What is the minimum wage there?

Mr. DE LA CRUZ. It is supposed to be $1.30 this year.

Senator CRANSTON. You are referring to the Federal law?

Mr. DE LA CRUZ. Yes.

Mr. SALAS. The same thing with housing. In every section of the country where you go to, the housing is bad. You have an inspector inspecting the camp. He finds them in very bad condition, but he gives the grower a temporary permit to have workers there for the season. You can't call that enforcement of the law.

Senator CRANSTON. You spoke of families driven to welfare by these conditions. Do you believe many people are on welfare, because they cannot earn enough at the present time by farm labor, who would not be otherwise on welfare?

Mr. SALAS. One reason they are on welfare is because they cannot have the jobs that should be provided for them to work on. If they can't work in the field, they have to go on welfare.

Also, a lot of kids can't work in the fields, so they have to go on welfare. There is this combination.

If you work in grapefruit or oranges, you won't make more than $2 a day. That is where they are using more of the green-carders right now, because they are making $2, or $6 at the most. That is when the conditions are better when they get $6, you know. Still, that doesn't help the farmworker that lives on this side of the river. He has to pay taxes, rent, and all this kind of thing.

There are families that are living in houses that they are paying a very high amount of rent, and they don't even have any furniture inside; they don't even have anything. They just have whatever little things they use to sleep on the floor. Very few dishes. When they go to the welfare department to apply for some kind of assistance, they are turned down.

There was this lady who applied for emergency food. The lady that was supposed to give the vouchers for this emergency food said she had already gone to this lady's house and she had seen it often full of meat and that the kids didn't have any milk. They use that as a way to get her out of there, but the truth is that the lady didn't even have a regular stove. The only thing she was using was a three-burner stove that works on kerosene. You don't have ovens in those kinds of stoves.

These kinds of conditions are there because of the lack of work.

Senator CRANSTON. Are the child labor laws violated or are they enforced?

Mr. SALAS. I don't think they are enforced. There are kids coming from Mexico, 13-, 14-, and 16-year-old kids, that have as Senator Mondale said, American papers, baptism certificates. They should be in school here. They are working in the fields. If our kids would be working in the fields, then maybe I would be thrown in jail, because I would be violating the law by not putting that kid in school. So, what regulations can you all give for this kind of thing?

Senator MONDALE. I talked to a teacher in an early childhood center in McAllen, Tex., who told me some of the children in that preschool effort worked in the field, because they found little infants could get under the trees better and pick the cherries at the bottom. Some of those kids worked at the age of 3, 4, and 5 years.

Mr. SALAS. They have to work, because they are not paying enough wages for the families to work by themselves. Something has to be done about it. The grownups can make enough money, and leave the kids at home. The growers take advantage of these things and tell them, like in Michigan, if you don't have a big family with a lot of kids, you don't get a house to live in and work. If it is just a couple, then they won't let you live there, because you don't have enough manpower to work in the cherry trees.

Senator MONDALE. Mr. Alexander, how old are you?

Mr. ALEXANDER. 28 years old.

Senator MONDALE. How many children do you have?

Mr. ALEXANDER. Seven.

Senator MONDALE. How much money did you make last year?

Mr. ALEXANDER. I took an estimate, and I averaged, in a year's time—waiting between crops and moving from place to place—I earned about $35 a week.

Senator MONDALE. $35 a week. You had to provide your own car, transportation?

Mr. ALEXANDER. I still haven't found somebody to furnish that for me.

Senator MONDALE. How do you move around? Do you move in somebody's else's truck?

Mr. ALEXANDER. No, sir; I am one of the fortunate that do have credit, good enough credit to buy my own vehicle.

Senator MONDALE. You figured you made about $35 a week, and you have to take care of seven children and a wife?

Mr. ALEXANDER. That is right.

Senator MONDALE. You are a member of OMICA?

Mr. ALEXANDER. That is right.

Senator MONDALE. Have you tried to organize for OMICA, tried to get workers to join and set up an organization?

Mr. ALEXANDER. Yes, I did.

Senator MONDALE. Have you ever lost a job because of that, or lost credit, or been in other ways intimidated because of your efforts?

Mr. ALEXANDER. Yes, I have.

Senator MONDALE. In what ways?

Mr. ALEXANDER. Well, I sort of have to go into my life's story if I have to tell you that.

Senator MONDALE. Give us a few examples. We should have all day, really, because this is the story; this is really what is going on. We ought to have you on, the four of you, for 3 days, to tell us what it is really like. That is part of the tragedy of the time pressures under which we have to operate.

Give us a few examples.

Mr. ALEXANDER. If you wanted to take the 3 days, we could because we are not losing any more by staying here than we lose by going back home.

Senator MONDALE. We tried it in 3 days in Alaska and we lost three of our Senators.

Mr. ALEXANDER. Right now, going back to your question, I am out of a job in Dade County.

Senator MONDALE. Were you fired?

Mr. ALEXANDER. I wasn't actually told that I was going to be fired because of the organization but I think I would have felt better if he had told me he was going to fire me because of the organization.

Senator MONDALE. Have you ever risked personal hazards to your health or to your life as a result of your efforts?

Mr. ALEXANDER. I don't understand you.

Senator MONDALE. Have any efforts been made to hurt you physically?

Mr. ALEXANDER. Like threats, you mean?

Senator MONDALE. Threats; yes.

Mr. ALEXANDER. Yes. In Dade County, we have three representatives of OMICA. One of our representatives was shot at two times. He was lucky because they missed him. We have, I don't know what you would call it, but I have been trailed; somebody has followed me all the way to the house and that has been for about 2 weeks, every night. They would follow me all the way to the house and leave me home. I haven't been able to get the license plate number or who ordered it.

Senator MONDALE. Did you have some credit with some farmer with whom you were working who was required to be repaid when they found out you were working and organizing for OMICA?

Mr. ALEXANDER. No, sir. Like I said, I have been one of the lucky ones; what little I make I try to get along with that, not try to get in debt with the farmer. A lot of times the migrant gets in debt with the farmer and the migrant says he wants to quit or move on. If he doesn't make enough money to pay the farmer, there has to be a barrier for that migrant.

Senator MONDALE. I would like to ask the man from McAllen: Have you had a VISTA program in southern Texas working with the farmworkers?

Mr. LOPEZ. Yes.

Senator MONDALE. Do you have such a program there?

Mr. De La Cruz can answer it.

Mr. DE LA CRUZ. Yesterday I telephoned there and there is something going right now. The VISTA program was tried to be abolished from the valley in Hidalgo County because there was one of these kids from the Mexican-American Youth Organization who got drunk. When they got this kid out, there was a reporter trying to take pictures of this kid when they got him out. His brother didn't want the lady to take pictures because he was deformed, so they didn't want her to take pictures.

There was a VISTA volunteer and he kind of tried to call the lady so that she wouldn't take pictures and he touched her and as she turned she got tangled with the wires of the camera, whatever she had, and he was charged with aggravated assault. He is in VISTA.

Judge Wilson, who is one of the main characters trying to abolish the VISTA program there, set the charge for aggravated assault and I think he is on a 6-month suspended sentence.

But they are really trying to get the program there because they know it is getting to the people and the only way that people can get organized now.

Senator MONDALE. Mr. Blackwell, I think it might be a good idea if we could at least for the files include some of the testimony received by the nutrition committee in Fort Myers as to the administration of the food programs as they relate to farmworkers. It shows the same pattern of discrimination. It is there that the chairman of the county board testified that the migrants who lived in this county weren't their people, these were Federal people, and the only way they will work is if you starve them.

Mr. BLACKWELL. We will work to bring that testimony over into the testimony of today.

Senator MONDALE. Fine. I think that will help some of this pattern.

It wasn't Dade County but it was the people who work in Dade County or in Collier County or Lee County that had these experiences.

Just one question, Mr. De La Cruz.

Do you work with an organization known as Colonias del Valle?

Mr. DE LA CRUZ. I work for them.

Senator MONDALE. Do you have a Reverend Krueger working and assisting you?

Mr. DE LA CRUZ. Reverend Krueger was working for the Bailey Migrant Ministry in Texas.

Senator MONDALE. Is he still working for them?

Mr. DE LA CRUZ. No. He was fired because of his activity with the people, his involvement with the poor people, instead of with the local establishment.

Senator MONDALE. Thank you very much.

I wish we had much more time.

What the four of you have said has been very useful and helps strengthen this record.

(Whereupon at 12:55 p.m., the subcommittee recessed, to reconvene at 9:30 a.m., Thursday, April 17, 1969.)

AGRICULTURAL LABOR LEGISLATION

THURSDAY, APRIL 17, 1969

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 9:30 a.m., pursuant to recess, in room 1318, New Senate Office Building, Senator Harrison A. Williams, Jr. (chairman of the subcommittee) presiding.

Present: Senators Williams (presiding), Pell, Mondale, Cranston, Javits, Saxbe, and Schweiker.

Committee staff members present: Frederick R. Blackwell, subcommittee counsel; Robert E. Nagle, associate counsel; Peter C. Benedict, minority labor counsel; and Eugene Mittelman, minority counsel.

Senator WILLIAMS. We will reconvene the Labor Subcommittee for consideration of agricultural labor legislation.

We have with us this morning Mr. Charles B. Shuman of the American Farm Bureau Federation, accompanied by Mr. Matt Triggs.

We also have before us on the hearing agenda the child labor bill, S. 1808. Both of these bills are before us, gentlemen, and address yourselves to both of them or either one of them. I imagine you did want to comment on S. 8.

STATEMENT OF CHARLES B. SHUMAN, PRESIDENT, AMERICAN FARM BUREAU FEDERATION; ACCOMPANIED BY MATT TRIGGS

Mr. SHUMAN. Our statement will be on S. 8. We appreciate the opportunity to present the views of the American Farm Bureau relative to agricultural relations legislation.

Farm Bureau is a general farm organization wholly supported by dues voluntarily paid by 1,796,641 families, members of 2,808 county Farm Bureaus in 49 States and Puerto Rico.

We recommend the enactment of legislation to establish rules governing the relationships of farmers and farmworkers. The major concepts of our proposal are summarized below. In an endeavor to present these concepts in more specific form we have prepared a rough draft of a bill designed to implement them. A copy is attached to the statements provided members of the committee.

Senator WILLIAMS. Could I interrupt, Mr. Shuman? Has that bill been introduced into the Congress?

Mr. SHUMAN. Not yet.

Senator WILLIAMS. But it is anticipated it will be?

Mr. SHUMAN. Yes, sir.

I am not going to read all the material that is presented, but we will present a very brief statement in summary and there is attached supplementary information.

1. A SEPARATE ACT

Legislation governing farmer and farmworker relationships should be incorporated in a separate statute. Such legislation should not be a part of the Labor Management Relations Act.

The original National Labor Relations Act of 1935, reenacted and revised in 1947 as the Labor Management Relations Act, extensively revised in 1959 by the Landrum-Griffin Act, was designed to fit industrial and commercial concerns and their employees.

In the legislative history over the years virtually no consideration was given in the drafting of the act and revisions thereof to its possible application to agriculture. Thus its language and concepts do not reflect any consideration or recognition of the unique factors relating to agricultural production and employment.

The act has been the subject of innumerable judicial decisions and NLRB rulings. A whole body of administrative and judicial law has been built on the framework of the act. These decisions and rulings, constructed on an act devised for nonagricultural labor relations, are in many respects poorly designed to fit the circumstance surrounding the agricultural industry.

We have reviewed in this statement, and in the attached supplementary statement, many of the special circumstances that should be taken into consideration in the enactment of legislation governing farmer-worker relationships.

The concept of a separate labor relations statute geared to the circumstances peculiar to an industry is not unprecedented. The Railway Labor Act governs employee-employer relations in the railway industry. In 1936 Congress enacted title II of this act covering labor relations in the airline industry. Agriculture is a larger industry, and employs more workers than either of these industries—or both combined for that matter.

An extension of the Labor Management Relations Act to agriculture, as proposed in S. 8, would force agriculture into a framework designed for wholly different circumstances and conditions.

2. JUDICIAL DECISIONS BY THE JUDICIARY

We do not believe it is necessary or desirable to delegate responsibility for initial judicial decisions relating to farmer-worker relations to the National Labor Relations Board or to any board or commission or agency.

The conflicting courses and policies of successive National Labor Relations Boards are a matter of record. The Boards' policies have fluctuated depending on who has appointed the majority of the Board. Thus the law, as interpreted by NLRB, has been unstable and shifting. Whatever the merits of handling industrial disputes in this fashion may be, it is neither necessary nor desirable in the case of agriculture.

With this experience of the past as a guide, it is quite feasible to write a statute for agriculture that clearly and specifically places responsibility in this regard in the courts. There is no need to pro-

vide for a Federal agency to exercise a judicial function, or to delegate broad discretionary powers to such agency.

Thus we would propose that certain prohibited acts be defined in specific statutory form. We have endeavored to do this in section 4 of our draft bill.

Any party aggrieved by a violation of the statute would have a right to file a civil action in a Federal district court. We have endeavored to prescribe a procedure for the application of judicial remedies to specific cases (see sec. 6 of our draft bill.)

There remains the question of representation and decertification elections. We would prescribe the procedure for this in specific detail and delegate responsibility to the U.S. Department of Agriculture for this ministerial function. Section 5 of our draft bill would provide a procedure for the performance of this function.

We also believe it would be desirable that a second ministerial function be performed by the Department of Agriculture—the gathering of factual data for the assistance of the court.

We propose, in section 9 of our bill, the creation in the U.S. Department of Agriculture of an Agricultural Labor Service, a comparatively small agency, to perform these two functions.

3. PROTECTING WORKERS

We would propose, and have set forth in section 4 of our draft bill, that certain rights of workers be protected by statute.

These include protection of (1) the right to join a union, or to refrain from joining a union; (2) the right to be free of discrimination because of membership or nonmembership in a union; (3) the right to vote with respect to representation in a secret election; and (4) the right to bargain collectively with an employer if the majority of the employees of an employer so desire.

As in the case of other provisions of section 4, civil actions could be filed by workers or unions in the event such rights are violated.

S. 8, if enacted, would, in our opinion, violate these rights of workers.

S. 8 would legalize a prehire contract, between a union and an employer, which could provide that any workers subsequently employed must join the union within 7 days after employment. The bill would also legalize a contract between a farmer and a union, providing for a preference in employment for any worker referred by the union—in effect a "hiring hall" arrangement.

Although farmers would not be required by law to sign such contracts, it could be expected that many farmers, urgently needing an assurance of labor peace at harvest time, would sign them under pressure.

We submit that these proposals would involve an intolerable coercion of workers. Workers would be denied any right at all to have a voice in whether or not they want to join a union, or be represented by a union, or any choice as to such representation. Farmers should not be compelled to coerce workers to become union members against their will.

The enactment of these proposals would be wholly inconsistent with

the asserted purpose of section 7 of the Labor Management Relations Act, that—

> Employees shall have the right to self-organization, to form, join, or assist labor organizations * * * and shall also have the right to refrain from any or all of such activities * * *.

4. PROTECTING FARMERS

Farmers, too, should be protected against violations of specified rights. As with farmworkers, these rights should be set forth in the statute, and should include (1) the right to be free of secondary, hot-cargo, or product boycotts; (2) the right to avoid being saddled with specified "featherbedding" practices; and (3) the right to be protected against a strike that could result in the loss of a farm product.

These rights, too, are specified in section 4 of our draft bill.

Farmers are indeed uniquely vulnerable to labor disputes. Most businesses can close down for a substantial period of time to sit out a strike without disastrous consequences to the financial position and the future of an employer.

In sharp contrast, a relatively short strike in agriculture at harvest time can result in the loss of a year's income, plus the loss of a substantial investment, often of borrowed money, to bring a crop to harvest stage.

Under such circumstances, a farmer faced with a strike, and crops ripening in the field, would have difficulty resisting any demands made upon him, even though such demands were arbitrary, excessive, or otherwise unreasonable.

We have dealt with other aspects of this vulnerability of farmers in section D of the attached supplementary statement.

We must necessarily oppose, to the limit of our capacity, any legislative proposal which fails to protect farmers from strikes which may result in a loss of farm products.

5. EXEMPTION FROM COVERAGE

The Agricultural Labor Relations Act we support would be limited in its application to farmers who employ an annual average of eight or more workers.

Most manufacturing and commercial businesses have found it necessary to employ legal counsel to assist them in their negotiations with unions; to advise them concerning their rights, responsibilities, and obligations; and to counsel them if legal action becomes necessary.

Attorneys with this specialized experience and knowledge are scarce, and their fees are substantial. In many rural areas there are no attorneys with such experience and specialized knowledge.

Yet, a farmer who did not have such legal assistance available to him would be taking a big risk. The need to employ legal counsel would entail a substantial burden that many farmers, particularly small and medium-size farmers, could ill afford.

In contrast, S. 8 would authorize only such exemption as the National Labor Relations Board in its discretion might approve.

In the attached supplementary statement, we have analyzed many aspects of the issue not mentioned in this statement—or mentioned only briefly.

We would like to review briefly in capsule form a few of the major points set forth therein.

Section A reviews the impact which the enactment of S. 8 would have on farmworkers. A predictable result of the enactment of this proposal would be the disemployment of a substantial percentage of the workers now employed in agriculture. The reasons for such predictable results are set forth in considerable detail. The enactment of the more moderate proposal we recommend would not result in any substantial acceleration of disemployment of workers.

Section B summarizes the adverse effect the enactment of S. 8 would have on consumers. The interests of consumers would be better served by the enactment of the more moderate proposals recommended above.

Section C reviews the effect the enactment of S. 8 would have in accelerating the migration of people from rural to urban areas.

Section D presents additional facts relating to the vulnerability of farmers to labor disputes.

Section E reviews recent interpretations of the Labor Management Relations Act by the courts and NLRB that would substantially increase the vulnerability of farmers if S. 8 were enacted, particularly the decisions that a union may fine a member if the member works when the union has called a strike, and that a union may fine a member for exceeding a union-established production quota.

Section F, captioned "Farming Is a High-Risk Business," and section G, captioned "Farming Is a Low-Return Industry," summarize pertinent economic factors which should be recognized in any consideration of the issues involved in this hearing.

We particularly would emphasize the increasing severity of the cost-price squeeze in agriculture. In 1950, farmers were able to retain 36.3 cents of each sales dollar for their labor and investment return. By 1968 only 18.6 cents of each sales dollar was retained by farmers.

Section H provides basic information relating to farm wage rates. We would emphasize two factors:

First, farm wage rates have increased 6 to 10 percent in each of recent years. Since 1957–59, farm wage rates have increased 59 percent, whereas average prices received by farmers have increased only 8 percent.

Second, all statistical data relative to farm wages substantially understates average earnings of farmworkers, because no data are collected for the higher paid piece-rate workers.

Section I sets forth the need to include in any legislative enactment a prohibition of a product boycott. A product boycott is an arbitrary and drastic action adversely affecting thousands of growers who are not involved in any labor dispute and who, in many cases, employ few or no hired workers.

In section J, we emphasize that card signups conducted by unions are being recognized to an increasing extent in determining representation questions. This is not a reliable method to determine worker preference, and should not be extended to agriculture by the enactment of S. 8.

In section K, we review the need to include in any legislative enactment governing farmer-worker relations an effective means to prevent "featherbedding" practices. The Labor Management Relations Act contains no adequate means of preventing such practices.

In section L, we point out that the firmly entrenched NLRB policy that a wage increase during negotiations is an unfair labor practice would be impractical and unworkable in agriculture in many circumstances.

In section M, we point out that a union, once established in an employer's establishment, has virtual eternal life under the Labor Management Relations Act—because employers cannot petition for a decertification election and employees may be fined by the union if they file a decertification election.

This is one of many facets of this act that would not fit the situation in agriculture. On many farms the labor turnover may be near 100 percent annually. A means must be provided to terminate a relationship not desired by a subsequent labor force.

In section N, we review the fallacy of the argument that the extension of the Labor Management Relations Act to agriculture would benefit small farmers.

On the contrary, a predictable result of such extension would be to concentrate production in the hands of growers large enough to make optimum use of expensive laborsaving equipment.

For all of the reasons set forth above, and in our supplementary statement, we respectfully submit that the proposals we have recommended are preferable to the proposed extension of the Labor Management Relations Act to agriculture.

We request that the attached material be included at this point in the record.

Thank you for the opportunity to present our views.

(The material referred to above may be found in the files of the subcommittee.)

Senator WILLIAMS. You have submitted a great deal of supplementary material here. This is the first I have seen it, Mr. Shuman. Obviously, I could not review it while you were delivering your statement.

I am trying to understand some of the scope of your draft legislation. I gather there are strikes and there are forbidden strikes. What are the elements of a strike that would be forbidden under your proposed legislation?

Mr. SHUMAN. Generally, it is prohibition of strikes that would interfere with the harvesting of a crop, normally harvesttime strikes. That is what we are aiming our attention at in this legislation. Not an attempt to forbid all strikes, but those that occur at critical times and would interfere with the harvest of crops.

Senator WILLIAMS. Your attitude is a strike during the period of planting would be all right; a strike during the period of cultivation would be all right. It is just the week or two of harvesting tomatoes it would not be all right. Is that what this boils down to?

Mr. SHUMAN. The wording in our proposed bill is "a strike in agriculture which may result in the loss, spoilage, deterioration in grade, quality or marketability of an agricultural commodity, or a jurisdictional strike or boycott."

Senator WILLIAMS. Clarify for me what is the harvest period on one farm in the State of Maryland for a crop of tomatoes? What is the harvest period, and, if there is a dispute, where does that dispute go to, a dispute as to whether this is harvesttime or not harvesttime?

Mr. SHUMAN. It would be decided in the court.

Senator WILLIAMS. Which court would that be?

Mr. SHUMAN. It would be the Federal district court.

Senator WILLIAMS. Federal district court. What other disputes under your proposed bill would go to the Federal district court? I gather that would be the arena of decision, because you would not have the National Labor Relations Board in this at all. Am I right?

Mr. SHUMAN. That is correct.

Senator WILLIAMS. Would every case of dispute that had to be decided by a third party have to go to the Federal district court?

Mr. SHUMAN. Yes. It is our opinion with court decisions that this would reduce the political maneuvering, because at the present time it is well known that the decisions that come out of the NLRB are very highly influenced by the political power structure at the time, and you get a tremendous number of disputes and requests for rulings which, if the court was to decide such matters, would probably result in the elimination of some of those that did not have a good basis.

Senator WILLIAMS. Now, could we read together from your draft here?

Mr. BLACKWELL. Mr. Shuman, is this the definition in question, page 9 of your draft bill, subparagraph 3, "a strike in agriculture which may result in the loss, spoilage, deterioration or reduction in grade, quality or marketability of an agricultural commodity, or a jurisdictional strike or boycott"?

Mr. SHUMAN. Yes, sir.

Mr. BLACKWELL. Is this the prohibited area you just read?

Mr. SHUMAN. Yes, sir.

Senator WILLIAMS. Mr. Shuman, are you a vegetable farmer or fruit farmer?

Mr. SHUMAN. No, on our farm we produce grain crops and livestock. We are not in the fruit-vegetable producing business on our own farm. But we have hundreds of thousands of farmers in Farm Bureau who are engaged in fruit and vegetable production.

Senator WILLIAMS. How about Mr. Triggs? Your background comes from the soil, in farming fruits and vegetables?

Mr. TRIGGS. Yes, sir.

Senator WILLIAMS. When you say "reduction in grade, quality, or marketability"—who plants tomatoes? For example, do you plant a seed or do you plant a plant?

Mr. TRIGGS. Most commonly, a plant, but to an increasing extent, you plant a seed.

Senator WILLIAMS. The planting is not done exclusively by machinery. You have farmworkers in the planting of tomatoes.

Mr. TRIGGS. Yes, sir. If you do direct seeding, it is all machinery, but there is still hand planting of plants. You use machinery in this operation, but it is a supplement to human labor.

Senator WILLIAMS. We can just make a statement, then, that workers are used in the planting of the crop I am talking about, tomatoes.

Mr. TRIGGS. Yes, sir.

Senator WILLIAMS. If a strike comes then, and the planting is put off a week or 2 or 3 or 4, would that in any way reduce in grade the ultimate tomato when it is harvested?

Mr. TRIGGS. It might. Our primary concern is with respect to physical loss, not financial loss, and referring primarily to strikes that occur at harvesttime. But we cannot necessarily limit it to harvesttime strikes.

For example, in the case of a dairy farm, that might be covered by the legislation. If there were a strike at any time in the year—and it is a question of fact in each case—if in fact this strike resulted in having to dump milk, or even more critically, in an inability to milk the cows, which would destroy them as effective and economic producing units, we consider that to be prohibitive.

Senator WILLIAMS. How frequently does a cow get milked?

Mr. TRIGGS. The most common is twice a day; sometimes three times a day.

Senator WILLIAMS. I think with continued housing of a cow, I believe the cow is milked three times a day.

Mr. TRIGGS. Sometimes; but most commonly, twice a day.

Senator WILLIAMS. One important point, for young people to see the farm is, they did not like three milkings a day.

There will never be any strikes in dairy under your bill at all.

Mr. TRIGGS. If the strike does in fact result in the loss of milk production and does in fact result in the destruction of the cow as a producing animal, this would be prohibited. Now, there can be lots of strikes in the dairy industry that would not have that result.

In many cases the farm families can continue to operate the dairy for a limited period of time.

Senator WILLIAMS. On the other side of the coin, does your bill that you have been talking about generally provide that there can be no work stoppage on the part of the grower at time of harvest? In other words, he has to harvest his crop.

Mr. TRIGGS. No work stoppage on the part of the grower? I cannot imagine circumstances in which the grower would want to shut down, if that is your point.

Mr. SHUMAN. We would be glad to incorporate that. I don't think any farmer in the United States would complain about that.

Senator WILLIAMS. Call it what you want. I call it lockout. There is no provision for lockout.

Mr. SHUMAN. We would be glad to provide there would be no work stoppage at harvest time. There is not a farmer in the United States that could even conceive of that.

Senator WILLIAMS. We won't wager on that.

Senator JAVITS. I have just two questions I would like to put to you gentlemen.

One, is it fair to say, in considering the nature of your testimony—and forgive me if I cover a somewhat broader field than you already have, because like so many of us here, I am under the compulsion of going to another committee—is it fair to say we now have some measure of agreement between the farm community and the farmworker in that you agree that there ought to be a law?

Mr. SHUMAN. Yes, sir. We can go further and say that there is agreement between at least the part of the farm community we represent and the workers when they have said there should be a procedure for decisions as to representation.

Senator JAVITS. Do you feel also that the likelihood is a more stable labor force would result from some form of law which would govern collective bargaining on farms as contrasted with the existing situation?

Mr. SHUMAN. Yes, sir. We believe so. In fact, there has been considerable evidence in the last year or two that we needed some procedure defined by law.

Senator JAVITS. It seems to me, Mr. Chairman, that for us, the chairman and other Senators, we might be similarly minded, this is an enormous advance, and I would only hope, whatever may be the argument about the terms, that the other farm organizations would join with the Farm Bureau, so that we are all now in the same ball park, and it is just a question of wrestling with the problem rather than having a dispute about the basic economics that labor stability will be needed by a law.

I know that there will be vast differences as to what the law should be, but it seems to me, Mr. Chairman, that already major progress has been made if there is general agreement that there should be a labor-management relations law in the farm labor field.

Mr. SHUMAN. Thank you.

Senator JAVITS. The only other question that troubles me is this. I understand you did not expect that I or others of us would agree with the details of your plan, but we are all cognizant, aren't we, of the fact that you can prevent men from working but you cannot make them work? We all understand that.

Mr. SHUMAN. That is right.

Senator JAVITS. So whether you have a strike or not, people still do not have to work if they do not want to.

Mr. SHUMAN. That is why we believe there is justification for prohibition of an organized strike at these critical periods, because the individual worker can leave, and in these critical periods he would have little or no difficulty in finding alternate work. The producer is under tremendous pressure to keep the work force, so that it is not a one-sided street.

Senator JAVITS. But is it not true, however, that you have the right to sign a labor contract which contains a clause, a "no strike" clause, at whatever reasonable given time? For example, harvesttime? Couldn't you say, therefore, under a normal labor relations act, "Sure, you have a right to bargain for what you want. We insist on bargaining for what we want. We will not sign a contract unless you agree not to strike at harvesttime."

Mr. SHUMAN. Yes, sir, we would have that option, but the experience of "no strike" clauses in these contracts has been almost—well, it has been ridiculous. They have not been abided by. The courts have not sustained the "no strike" clauses. There is absolutely no evidence that this kind of a clause is worth anything.

Senator JAVITS. Isn't it true—you say we have to pass a generous statute in this field. If we accept that principle, couldn't we, in this bill at least, write in rather strong provisions to enforce "no strike" clauses? In other words, there would be nothing to stop us.

It seems to me, gentlemen, with all respect to your position, it would be much stronger if you relied on no-strike clauses, because

if you simply want a "no strike" law, then also you have to have the courts enforce it, just the way they would enforce a provision in a contract, if it could be enforced. But you get away, then, from a mandatory denial to the worker of his best weapon, the strike, allowing him the opportunity to bargain that away, if he wishes, in return for other concessions. It seems to me your position would be very much stronger.

Mr. SHUMAN. We do not accept the idea that limitation on strikes is something that is not—well, I will put it the other way—we believe limitation on the right to strike is often in the public interest, and as set forth in our statement there are limitations on the right to strike in certain other circumstances in our society.

In a recent recommendation the Postal Study Commission recommended that the legislation relating to the proposed Postal Corporation should include a prohibition on the right to strike.

Senator JAVITS. I don't think you want to get into that one, because that is always coupled with the fact that the Government is the other negotiating party, and if you want the Government to fix your fair wages, in order to give you prohibition against strikes, that is a different matter.

Mr. SHUMAN. We have limitations on the right to strike in other industries. Railroads have limitations on the right to strike under the Railway Labor Act.

Senator JAVITS. That is only a cooling-off period, not a prohibition. You want prohibition.

Mr. SHUMAN. No; we want limitation on the right to strike in certain critical periods.

Senator JAVITS. At a given time. That is different from the Railway Labor Act or the airlines. But I would strongly commend to you, and I think your position would be materially improved, if the machinery of the "no strike" clause were employed with enforcement by the courts.

I am very unsympathetic to a statute prohibiting strikes at a given time which happens to suit you. And I might point out to you, coming from where I do, which you well know, that the people who make dresses and suits think that their season is just as important as yours. And indeed it is, because there is nothing as obsolescent as last year's dress, which could be left on the racks if there is—and there often is—a strike at precisely that time.

Thank you very much.

Senator WILLIAMS. I appreciate very much Senator Javits' establishing the broad area of agreement that we have reached in this part of industry, agricultural industry, where it is demonstrated that orderly procedure in dealing with labor-management affairs should be arrived at through some kind of Federal guideline of law.

That, I gather, is the basic matrix, the point of agreement.

Mr. TRIGGS. There is an area of agreement, but let us not overemphasize it. Our area of agreement does not go so far as to support the concept of S. 8 at all.

Senator WILLIAMS. I did not say "S. 8." A labor-management law dealing with agriculture.

Mr. TRIGGS. I think we presented a good bill for your consideration.

Senator WILLIAMS. We do have that basic agreement. The time has

come for legislation in this area of labor-management relations in agriculture. That is the beginning.

Mr. SHUMAN. We agree on that.

Senator MONDALE. Mr. Shuman, in international trade, we have long understood that while we agree on principles of free trade, on occasion we are presented with trading devices that are different from that, amounting to dumping of subsidy products.

Thus, the rules recognize the need for countries to defend themselves against such practices if they are to sustain any kind of bountiful economy for their own people. That is the recognized responsible ruling in international trade of commodities.

Would you agree that there needs to be a parallel rule when it comes to the dumping of mankind at depressed levels on the labor market? Would you agree that those who live in this country and are trying to make a living here are entitled to similar protection—from laborers who live at standards a quarter or a third or 20 percent of ours from being introduced for the purpose of depressing wages or for the purpose of breaking strikes?

Do you want to see a similar rule applied to protect them?

Mr. SHUMAN. Your question is quite general, and theoretical. It is theoretical in the sense that it sets up a premise that there is a dumping of mankind. I am not going to accept that premise as sound.

Senator MONDALE. Farmworkers are making about 20, or 30, or 40 cents an hour along the Rio Grande River, because Mexican labor is coming across the border every morning. Would you not call that dumping?

Mr. SHUMAN. There is another form of that kind of dumping. When we shut the braceros out of California, this dumped thousands of strawberry growers out of business. Much of the strawberry business has been and is being transferred south of the Rio Grande. There is considerable question as to whether that action, in shutting braceros out, really helped prevent the dumping of mankind, if you want to use that phrase.

Senator MONDALE. Would you agree in general principle that a human being in the United States ought to be able to plead for protection against the dumping of mankind that creates a surplus labor market and depresses wages and breaks strikes, in the same way the commercial interest expect to have protection in outside dumping, or is there some difference in interest in moral standards?

Mr. SHUMAN. It is not a case of moral standards at all. It is a case of economic conditions, and when you presume to prevent the lawful use of foreign labor in the American market you have also eliminated many small strawberry growers in California and in other States. Now, what is the choice? I do not think that this is a moral argument at all. It is an economic argument.

Senator MONDALE. There is a strike going on now in California, with table grape growers. On several occasions, they pointed out in yesterday's hearing, they have tried to strike. The workers have come out of the field and within a day they have been replaced by workers from Mexico who have been solicited on the border and brought up here. These workers from Mexico are used to working at 20 and 30 cents an hour in Mexico. They are desperate to take care of

their families, agree to be "scabs" and strikebreakers in this country, and will come up and break a strike in and around Delano and other places for the table grape growers.

These are not small farmers. These are huge corporate farmers.

Mr. SHUMAN. I beg your pardon. The large percentage of them are small operators.

Senator MONDALE. How big is Guimarra?

Mr. SHUMAN. The one large table grape grower in the valley, and he is only one. There are no others anyways near as large.

Senator MONDALE. How big is he?

Mr. SHUMAN. I have no idea.

Senator MONDALE. That is the farmer I have in mind.

Mr. SHUMAN. There is one of those.

Senator MONDALE. And about 400 or 500 workers that are unable to get a decent wage or any kind of job security or any protection that is normally expected in any other area of the economy. Doesn't that bother you at all, Mr. Shuman?

Mr. SHUMAN. The information you have is at variance with the facts we have determined and the facts we have are that these table grape workers, the vineyard workers, are the highest paid agricultural workers in the United States.

Their average wage is far above the minimum wage of either California or the United States.

Senator MONDALE. What do they make from Guimarra?

Mr. TRIGGS. The wage pattern for 1968 in the table grape industry in California, was $1.50 an hour, plus a payment of 15 to 25 cents a box. This piece rate varies, depending on the vineyard. At this wage rate, a worker who is not earning $2.25 to $2.50 an hour is simply not working very hard. He can earn that much.

Senator MONDALE. People who struck are not earning anything, because within a day they were replaced by Mexican labor. Doesn't that bother you, the fact that they have no right to strike, no job security, no field toilets, none of the protections that organized labor has in every other industry? Doesn't that bother you at all?

Mr. SHUMAN. The right to strike carries with it the risk of someone else taking the job.

Senator MONDALE. But not in the same circumstances. This is the only labor in the country that risks the importation of vast amounts of surplus labor from another country in a depressed medieval economy. This is the only place. If this were true in any other industry there would not be a union in the country. Does that bother you?

Mr. SHUMAN. There is no importation of labor from Mexico.

Senator MONDALE. That is plain wrong, Mr. Shuman.

Mr. SHUMAN. There is no importation. There are some coming over on a day basis.

Senator MONDALE. Do you want your statement to stand that way?

Mr. TRIGGS. Let me——

Senator MONDALE. I am asking Mr. Shuman.

Mr. SHUMAN. I am not too familiar with the Mexican situation and would like Mr. Triggs to review the situation.

Mr. TRIGGS. There are several different classes of Mexican workers. First, there is the green-card worker. He is a worker who has been law-

fully admitted to the United States and many of the grape workers are green-card workers. They are permanent residents in the United States; they live here. Their homes and families are here. Many of them have become citizens and then they cease to be green-card workers, to use the slang expression.

Many of them have not acquired citizenship, but their children are citizens because they were born here. That is one category of green-card worker.

Then we have the green-card worker who has been lawfully admitted to the United States, who has returned to Mexico and lives in Mexico. I think this is the category that you are speaking of.

Senator MONDALE. That and many other categories, including the thousands and thousands of persons who come under phony baptismal certificates, who are commuting by the thousands daily, contrary to the principle of the issuance of a green card. Mexicans that are recruited during strikes, at the border, by radio or by agent, and transported by the thousands to break these strikes—and working in depressed working conditions, that is what I have in mind. Does this bother the Farm Bureau?

Mr. TRIGGS. We have no specific policy in that particular area, but these are illegal entrants, they have no right to come to the United States. Any farmer or any other employer who is involved in recruitment, importation of harboring of illegal aliens is in violation of law.

Senator MONDALE. Now, would you condemn a farmer, then, who did so?

Mr. TRIGGS. We do not believe that there should be illegal importation.

Mr. SHUMAN. We would not defend any illegal action.

Senator MONDALE. Are you aware that last year 10 percent of Guimarra's labor force were illegal?

Mr. SHUMAN. We have no information on Guimarra's labor force. We do know that, in the overall statistics, the grapeworkers have a relatively small percentage of persons other than permanent residents of the area.

Senator MONDALE. Would you join with us in supporting a principle that there ought to be adequate protection at the border to prevent the introduction of illegal workers into the American labor market? Would you agree with that?

Mr. SHUMAN. We have no position on it. We have not opposed it and we presume the law has been enforced and we are for enforcing the law.

Senator MONDALE. You assume the law has been enforced?

Mr. SHUMAN. Yes, sir.

Senator MONDALE. Based on what?

Mr. SHUMAN. On the fact that there are not the huge numbers coming over that there were before, when the law was in effect that permitted it.

Mr. TRIGGS. The Senator touched on a very difficult point. There are immigrants, Mexicans, who come over with forged documents. This is a very difficult problem of enforcement, and we would not object to any action to enforce this area.

Senator MONDALE. There is the problem.

Mr. TRIGGS. But let me make a precautionary statement. An employer—and this is not just farmers—an employer cannot necessarily distinguish between a Mexican worker who is here lawfully and one who is not. For one reason, because they have the same documentation. One may be forged and the other may be genuine.

Senator MONDALE. We asked one of the farmers or growers, to which we already made reference, what he did about that, and he said he never asked. Don't you think since it is against the law to use people who illegally pass the border and I think the evidence is abundant that thousands and thousands are in fact doing so—that the growers ought to exercise some responsibility not to use such labor?

Mr. TRIGGS. There is also prohibition of harboring illegal aliens.

Senator MONDALE. Answer that question.

Mr. TRIGGS. I think there is a degree of responsibility.

Senator MONDALE. What degree?

Mr. TRIGGS. That the grower should inquire. He cannot afford, in his own interest, to become known as a harborer of illegal aliens, because when he does, and becomes known as that, the Immigration Service is at his farm periodically.

Senator MONDALE. Do you worry about his public reputation, or his willingness to obey the law? Which bothers you?

Mr. TRIGGS. He should obey the law. We are not here to support violations of the law.

Senator MONDALE. Would you condemn those who do use foreign alien commuter labor?

Mr. TRIGGS. Knowingly. Knowing that they are illegal aliens.

Mr. SHUMAN. We think that is a very small part of the problem.

Senator MONDALE. Mr. Shuman, it is central to the whole issue, and I think that any fair and reasonable facts will prove that.

Mr. SHUMAN. I must disagree in that the central issue is not that at all. The central issue is compulsory unionism and the attempt to force the growers to deduct the union dues whether or not the workers want to. That is the central issue in the grape boycott, and that is exactly what it is, and nothing else.

Senator WILLIAMS. Senator Saxbe.

Senator SAXBE. Mr. Shuman, the problems we have had in Ohio have not been with the agricultural worker but with the processing plant. And strikes at harvesttime have been in areas where the farmer is capable of getting his tomatoes picked, but there is no place to take them, and not adequate protection to reimburse him, except for planting costs, which cannot keep him in business.

Now, is there anything that you propose to tie in to protect against this kind of strike?

Mr. SHUMAN. No, not in our proposed legislation. We felt that our first responsibility is to the farmer and we were trying to confine this legislative approach simply to farm operations and how labor relations affected the farm operations.

So, we have not tried to deal with that problem. It is, of course, a recognized problem, and it does affect farmers.

Senator SAXBE. In our State, as you probably know, where most of the farmworkers—and most of our farms are small family farms, there are very few labor problems and the average small man has

10 or 20 acres of tomatoes. Therefore, he comes hard up against the fact that the company that processes cannot reach an agreement with that worker in that plant, who is not a migrant, usually. He is usually a local, but a part-time, worker.

I think we have to work along this same line in trying to set orderly bargaining sessions so that the farmer is not going to be cut.

Mr. SHUMAN. We have not attempted to deal with it in this legislation. If legislation dealing with that problem were presented, we would certainly give it consideration.

Senator WILLIAMS. Senator Cranston.

Senator CRANSTON. In regard to the case you gave, that the grapeworkers earn $1.50 an hour; over how long a period can they earn that?

Mr. SHUMAN. Some of the grapeworkers work most of the year. Others, only part of the year. As you probably know, most of the Labor Department statistics are based on average annual earnings, and we have some of those earnings here.

Senator CRANSTON. I would be interested in the figures you have.

Mr. TRIGGS. If I can find it quickly here.

Senator CRANSTON. Could you tell us how the figures were put together?

Mr. TRIGGS. This is a recent statistical report on the U.S. Department of Agriculture. Farm wage rates as of April 1, 1969, in California average—for those employed on an hourly basis, without board or room provided—$1.79 an hour. That does not give any recognition at all to the fact that some of these workers were also employed on a piece-rate basis, and the evidence is that piece-rate workers earn almost 54 percent more than hourly workers.

They are not all employed on a piece rate basis, but the fact that the piece-rate workers are not included in all the statistics understates the real earning capacity of workers.

Senator CRANSTON. What figures do you have indicating annual earnings?

Mr. TRIGGS. We do not have any figures indicating annual earnings. Annual earnings would be a most misleading figure in agriculture, due to the fact that—as set forth in our supplementary statement—67 percent of all the workers in agriculture work only from 1 to 74 days a year. These are primarily high school and college students, housewives out to earn a little extra money, farm families during inactive periods on their own farm, retired people, people who are unemployed for one reason or another, and other local people who do put in a few weeks at harvesttime.

So, to try to put together these workers, two-thirds of whom work on a very temporary basis with those who work essentially full time, or near full time, is misleading. To compute an annual average under such circumstances is a very misleading statistic.

Senator CRANSTON. Are there not some people whose principal source of revenue in the course of any year is agricultural wages?

Mr. SHUMAN. Approximately two-thirds of the workers in agriculture have income from other sources that is far more important to them than the farm income.

Senator CRANSTON. But that would leave you one-third whose prin-

cipal source of revenue is from farm labor, and perhaps relief for the balance of the year.

Mr. SHUMAN. Yes, sir.

Mr. TRIGGS. Unfortunately, statistics on earnings for that class of workers is not accumulated, not available. That is the full-time worker.

Senator CRANSTON. Have you made any effort to calculate what the actual earnings are on farmworkers?

Mr. TRIGGS. We have not, but it would be easy to do. You would have to make an assumption. How many days of work do they have in a year's time, multiplied by the State average wage.

Mr. SHUMAN. It varies considerably with the kind of responsibilities and the kind of work. On dairy farms it is not unusual to find full-time workers who receive $7,000 to $8,000 per year. On some other kinds of operation, where there is an entirely different kind of responsibility of workers, this could be considerably less.

Senator CRANSTON. I would like to say that I am very pleased, as I am sure many others would be, that you have indicated a feeling that there is a need for legislation in this area of farmworker and farm-management relationships. I have not had time to study the proposed bill in any detail, but I would like to ask about one aspect of it.

On page 9 of the bill, where you refer to the "right to strike": in cotton production, would a strike during the period of thinning or chopping be outlawed under the terms of your proposed act?

Mr. SHUMAN. Not as I understand cotton thinning and chopping, because this is generally considered to be an operation that, if not performed in a certain way, can be performed in other ways. Just an opinion, but it is my opinion that this would not be covered.

Senator CRANSTON. Would a strike which halted the flow of irrigation be outlawed under the act?

Mr. SHUMAN. I think this again would depend upon the effect upon the spoilage and deterioration of the crop. If it destroyed the crop, yes, sir.

Senator CRANSTON. Thank you very much. I have no further questions.

Senator WILLIAMS. Senator Schweiker.

Senator SCHWEIKER. No questions.

Mr. TRIGGS. Mr. Chairman, I have some information in response to Senator Cranston's previous question. This is a publication by William Kurt, who as you probably know was, for many years under Governor Brown, deputy chief of the Department of Agriculture in California.

He estimated in a recent publication that workers in the table-grape industry in the Delano area make on an average around $5,000 a year. That is for 10 months' work.

Senator MONDALE. I had occasion in the last few months to visit workers and growers in southern California and in southern Texas and in southern Florida. After having read "The Grapes of Wrath," I am surprised how little the problem has changed in the past 30 years. Starvation; kids are starving.

Families are crowded in overcrowded, puny, squalid, unsanitary, unsafe housing.

Systems of education hardly worthy of the name which almost guarantee that the children of the deprived will follow the same tragic route.

Incomes of those families who travel this country trying to make a living—perhaps the hardest working people in our Nation—are $2,000 or $2,400, at best, a year, for families of eight or 10.

I think it is fair to say there is a lot of tragedy in this country, but none of it remotely approaches that of the migratory farmworker. This is not just a problem of a part of the American economy. It is a profound, compelling moral and national disgrace, and that is what we are dealing with here.

Doesn't that situation cause you to want to be of help? Doesn't that cause you to want to help this country give these fine people a chance for a decent, secure life, so that they can feed and educate their children, so that they can own a home, so that they can have health care, and so that they can have the same things that all the rest of us have taken for granted?

I don't sense this urgency in your testimony. Would you comment on that?

Mr. SHUMAN. Yes, sir; I certainly would. I appreciate the opportunity to do so.

First, the depth of compassion of farmers themselves is just as deep as of any other people in the United States. We are just as much concerned about malnutrition and perhaps more so, because our business is producing food to correct malnutrition, and we want to sell as much as we can. So, economically, we are interested.

We are interested as concerned citizens, in correcting malnutrition, poverty and poor health care, and everything else. The problem is how you correct the situation. Some people believe the way you correct it is by passing laws to require that certain things be done and to place restrictions on the employment of these people, so that they are, in fact, legislated out of their jobs.

We take the attitude that malnutrition, the poverty, the ignorance, the lack of health care that is common among migrant families, is not caused by the migrant work; but rather that these families, by virtue of the fact that they have not had the training, the education, the inspiration and all the other things that go with it, by virtue of the fact that they flock to this kind of work; that you cannot correct it by abolishing migrant work or by undue restrictions on the opportunities for these folks to get jobs in the migrant stream.

We are supporting legislation which would give special emphasis and special programs for the retraining and improving the opportunities for low-income families in agriculture, and we, of course, support similar kinds of legislation in all segments of our economy.

We believe that the sum of the attempts by the Federal Government have been tremendously miscast, but we believe, too, that we should continue to seek means to eliminate ignorance, poverty, starvation, if you want to call it that—malnutrition is perhaps better—but it cannot be done through labor legislation. That is not the way to do it.

Legislating these folks out of a job is not the way to improve their condition. That is our main concern.

Senator MONDALE. Every other segment of the economy in which the worker has been denied job security, decent wages, health and welfare benefits, and the other things that make a minimum decent life necessary, have been areas in which finally we have agreed to a system of

organized labor which has vested in the worker something to say about his own life, some power, some share in the decisions of that industry, so that he might have a decent life as well.

I do not wish to press this point any more because it is apparent that we disagree and we are not going to agree, but I do not see in your answer a single thing that is new, a single thing that you could not have said in 1935 just as you have said today, a single thing that holds one shred of hope for an improved life for any of those people. I think that this Nation, if it intends to be considered a decent nation, has the disrupted and destroyed lives of thousands and millions of Americans, particularly the migratory farmworkers, on its conscience, and I would have hoped that the American Farm Bureau would have come in here helping us assume some of the responsibility for removing this disgrace from our land, and would have been a little more candid in such areas as the importation of massive amounts of foreign labor.

I did not quite understand your answer at the time. I did not know why you gave it. Now I see it is the official position of the American Farm Bureau Association to support the importation of supplemental farmworkers who are necessary to avoid crop losses. That answers my question.

Mr. SHUMAN. Let me comment on that. We are in support of importation under the rules and regulations. I do not think anybody can challenge the importation of Puerto Rican workers—which are under rules and under agreements that are in accord with all of the standards, labor standards that we want in this country, and also that the importation be very carefully supervised so we do not bring them in where there is an adequate labor force available.

I have not heard any criticism of the importation that has been legally approved.

Senator MONDALE. You would support an adequate system to insure against illegal entry.

Mr. SHUMAN. Yes, sir.

Mr. TRIGGS. Senator, I think you misunderstood the significance of the policy statement you read.

Senator MONDALE. I do not think I have.

Mr. TRIGGS. That policy statement is designed to support the continuation of the authority in the immigration statute that is there now, to permit the importation of farmworkers in those circumstances where necessary to prevent crop loss. And they have been imported every year, up to and including 1968, by authorization of Secretary Wirtz.

Senator MONDALE. What do you mean by disrupting of farm production? Does that include strikes?

Mr. TRIGGS. It does not include strikes.

Senator MONDALE. You would not want them used in conditions of strikes?

Mr. TRIGGS. Foreign workers from Canada and the British West Indies have been used for harvest of Florida sugarcane, and in the northeast area for the harvest of apples.

Senator MONDALE. Would the Farm Bureau agree that foreign workers should not be used to break a strike? Would you agree to that?

Mr. SHUMAN. We are not going to agree to that. We believe strikes

at harvesttime should be prohibited. We want to prevent them in any way we can. A strike at harvesttime is against the public interest.

Senator MONDALE. Would any industry in this country be unionized if at any time during a strike foreign labor could be brought in to break the strike? Do you know of any industry where this could be?

Mr. SHUMAN. I do not think this would be of any great consequence if the laboring people in the United States wanted to organize the same way we did, on a voluntary basis. It is not a prohibition against organization at all.

Senator MONDALE. It is not a legal prohibition but it is a factual prohibition. You cannot organize if you can bring thousands of workers in at any given moment, as farmers and growers do, and break a strike.

Mr. SHUMAN. I would disagree; foreign workers are a minor part of the total farm labor force in U.S. agriculture.

Senator MONDALE. You just tell me how you can organize a farm or grower in southern California as the union has tried, when you pull 300 or 400 of your members out of the field and the next morning the field is full of Mexican farmworkers that were picked up at the border. Tell me how you could organize that farm?

Mr. SHUMAN. We have organized farmers over the last 50 years on a voluntary basis under conditions where the importation of farm commodities was quite free.

Senator MONDALE. I am talking about organizing human beings.

Mr. SHUMAN. We organized human beings, too. It is possible to organize without compulsion, because the people, the workers, are intelligent enough to appreciate the organization. I will grant that you cannot force 100-percent unionization without compulsion or you cannot get it as rapidly as some people would like.

Senator MONDALE. Perhaps you could return to my question. How do you organize when that factual situation occurs? Stick to the question.

Mr. SHUMAN. The way we organize is by developing understanding of the need for organization.

Senator MONDALE. I am not asking you how to organize the farm. You are not responsive to the question. You know you are not responsive. You know as long as that condition is there, there will never be unions there, and you know it.

Mr. SHUMAN. I do not agree.

Senator MONDALE. That is why you are not responsive.

Mr. SHUMAN. I do not agree.

Senator MONDALE. Then answer my question.

Mr. SHUMAN. I will answer it this way.

Senator MONDALE. You are not even in the same ballpark.

Mr. SHUMAN. Just a moment. I will answer the question that labor organization is possible on the voluntary basis. They have not tried it. It is possible.

Mr. TRIGGS. I think our bill——

Senator MONDALE. For about 5 minutes I have been trying to get an answer on that question. Do you want to try again?

Mr. SHUMAN. I have already answered.

Senator MONDALE. You have not even been relevant. I asked you what you would do in farm aid where you have 300 members of a

farm union; they called a strike; the workers left the field and the next day it is filled with foreign Mexican labor. How do you organize such a thing? Tell me.

Mr. SHUMAN. You organize the new workers, I suppose.

Senator MONDALE. If they join and pull a strike, and the next day 300 new farmworkers are in there, how do you organize them?

Mr. SHUMAN. We have had the same kind of conditions. We have organized farmers who produce for the Campbell Soup Co. or some other processor, and they transfer their purchases of the commodity to other farmers. We organize them. Sure, it takes a while, but it is possible.

Senator MONDALE. Mr. Shuman, I don't think you have been responsive at all, and you know it. Let me ask you this.

Mr. SHUMAN. I have not intended to be irresponsive.

Senator MONDALE. Unresponsive, I said.

Would you agree with us that at the very least company unions and growers involved in phony company-dominated unions should be prohibited and made illegal in this law?

Mr. SHUMAN. We have not taken any position in this legislation. We have not made any provision on company unions. I do not think there are such in agriculture.

Senator MONDALE. Have you ever heard of Mr. Mendoza?

Mr. SHUMAN. I have heard of Mr. Mendoza. I have met him.

Senator MONDALE. Have you heard of two members of his alleged union that filed documents with the Labor-Management Relations Office the other day indicating that there is support and money from the growers. Are you familiar with that?

Mr. SHUMAN. No, I know nothing about that. Mr. Mendoza has never represented himself to me at any time as representing any organization. In fact, he stated that he was not a part of any organization.

Senator MONDALE. You are not familiar with that statement by some of his members of his union?

Mr. SHUMAN. No.

Senator MONDALE. Do you think that the rule that applies generally in the labor-management relations, that whether there should be a union, what union it should be if there is one, should be a matter solely left to the discretion of the employees themselves and that it should be illegal for management to become involved in seeking to establish kept unions, company unions—should be the rule as well in this area?

Mr. SHUMAN. Yes, sir, included in our proposed bill is this prohibition:

> For any employer or labor organization to restrict or coerce any employee in the exercise of right to vote in representation or decertification elections, provided this provision shall not be construed to prevent free expression of any views, arguments, opinions or statement of material fact relating to the issue or the dissemination thereof provided in section 7.

In other words, it should be unlawful to do that.

Senator MONDALE. I think that is helpful. I don't think it says quite what I am talking about.

Would you condemn the involvement by growers in seeking to es-

tablish kept company unions and trying to interfere with the free determination by the employees of whether they should have the union?

Mr. SHUMAN. Yes, sir, certainly.

Senator MONDALE. You would agree you would condemn any operation that was contrary to that principle?

Mr. SHUMAN. That is right.

Senator MONDALE. Thank you very much.

Senator CRANSTON. In regard to the allegations that you tend to minimize and others tend to maximize illegal entry and use of alien workers in this country, we are at a time in American history when there is a great lack of observance of the law. Would you favor heavier penalties against people who are found to be using illegal workers?

Mr. SHUMAN. We have no position on that and I have no information as to whether the violations alleged here are so extensive as to warrant increased penalties. Certainly we would be glad to take a look and see what we can find out, but to the best of our information that is not flouted.

Senator CRANSTON. If it were established there was a widespread abuse here, would you favor heavier penalty?

Mr. SHUMAN. If the law needs to be changed to improve enforcement, yes, sir.

Senator CRANSTON. You expressed concern earlier about conditions of malnutrition and poverty and lack of decent housing and education. You did not say what would be the solution.

Mr. SHUMAN. I made reference to the fact that in our proposed agricultural farm program legislation, we have included a section devoted to the retraining and assistance provisions for low-income families in agriculture. We believe that there should be provisions for assistance through governmental channels.

We favor generally the administration of these programs, educational and retraining, at the local level. We are not opposed to Federal assistance at least for a period of time. We believe that the problem of poverty and malnutrition, poor health conditions and all the other things, is related to several things.

One is education, another is itself related very definitely to continuing information programs which are not always available in some communities. It is related, of course, to economic opportunity; the opportunity for businesses to develop is apparently somewhat less in one area than another. And it is related, of course, to the misallocation of natural resources. We believe government farm programs have contributed to the misallocation of capital and natural resources as well.

Restrictive labor legislation interferes with allocation of resources in response to market needs, and the more legislation you pile up, regulating what people can do, beyond what is necessary to protect the rights of other people—the more of this kind of restrictive legislation that you have, the more you interfere with the allocation or the flow of resources to areas of greatest need.

We believe in the market system, in other words, and the interferences with the market system have in general reduced the opportunities for people to expand their income.

Mr. TRIGGS. I think there is a comment that needs to be made in response to Senator Cranston's question and also in response to Senator Mondale's question.

There is a lot of poverty in some rural areas. Much of this poverty consists of people who once worked for farmers. People probably still call them farmworkers because if they do get any work at all, it is employment on farms. But the basic problem of these people is that they are unemployed and underemployed and have no marketable skills enabling them to fit into other sectors of the economy.

The extent to which disemployment in agriculture has contributed to this factor is summarized in section (A) of our supplementary statement dealing with the impact of enactment of S. 8 on farmworkers that I would hope that all members of the committe would read, because I think this is the kernel of the problem. If you enact legislation to authorize a strike at harvest time you take an action that strikes fear into the hearts of farmers, and properly so, and they are going to react in the most natural way in the world.

They are going to mechanize. They are going to force mechanization. And they are going to do so because of the enactment of the legislation. This would make the problem of unemployment and underemployment in many rural areas far worse than it is today.

It should not be supposed that farmers cannot do that. Farmers have reduced farm employment approximately one-third in the past 10 years because, whatever the virtues may be of many actions which have been taken, the economics of employing farm workers is getting real bad, and there is need to resort to other measures.

Senator CRANSTON. Thank you.

Senator WILLIAMS. You presented a lot of new testimony here and proposed statutory material. One of the approaches for you would be to define those areas where there might be some area of common ground and also those areas where it would be impossible to find any common ground.

I would like for staff counsel to inquire if he has any question.

Mr. BLACKWELL. Mr. Shuman and Mr. Triggs, I call attention to your prohibition of the harvest strikes, which is one of the principal provisions in your suggested bill. Your definition is at page 9 of your supplementary material. Then, in your rationale for this provision in your bill, on page 5, the basis for bringing this provision into effect; I refer you to your third paragraph, the last line, which uses the terminology "even though"—speaking of the difficulties confronting the farmer—"where the demands are arbitrary, excessive or otherwise unreasonable."

Now those words appear to be the key language in your "no strike" provision. They are not expressly written into your statutory suggested language. I gather that you would agree that this language should be associated with your "no strike" language in your proposed statute; that these are the criteria which you are advancing in your "no strike" provision.

Mr. SHUMAN. Not necessarily, because we point out that one of the reasons for providing for the restriction on the right to strike, at these critical times, is because these demands might be "arbitrary, excessive, or otherwise unreasonable."

We believe the right to strike should not be granted in these conditions, whether the demands are reasonable or not. There are other times when they can negotiate rather than at harvest time.

Mr. BLACKWELL. I misunderstood your earlier position, so it is worth while to clarify this. So your position is you want a "no strike" provision even in the case of a reasonable negotiating request from the workers or their representative?

Mr. SHUMAN. We think that this right to strike ought not to be granted under any conditions at these critical times, that the reasonable requests can be negotiated in advance of the harvest time.

Mr. BLACKWELL. What happens, though—let us take a hypothetical reasonable case. Day's wages, $7 a day. And the workers want $7.15 a day, which by your standard, I believe you would agree, is a reasonable request. The grower declines to accede to that request. Does your "no strike" provision come into effect on behalf of the grower, who is refusing a 15 cents a day request in wage increase?

Mr. SHUMAN. Yes, sir; our "no strike" provision would be related to the time and the effect upon the harvest. Now, the time to negotiate and the time to strike—there are other times to strike and there are other times to negotiate. At the time of harvest the grower is defenseless.

Therefore, we would prohibit to strike at harvest time and other critical times.

Mr. BLACKWELL. Let us take this situation. You have implemented your "no strike" provision and, therefore, effectively foreclosed the 15 cents a day increase request. This same negotiation occurs in the following year. It was reasonable a year before by your standards. It would certainly be reasonable the second year. It has not been agreed upon. There has been negotiation. Do you bring into effect your "no strike" provision in the second year?

Mr. SHUMAN. Yes, sir; it would be the same because it is related to the time of harvest. Actually, if this is a reasonable request and it is denied by the grower, he will lose his workers. These are critical periods of time. We are not asking for this prohibition in a time that is not critical. A harvest period is a critical period of time in two respects: the availability of workers and the need of the producer to get his crops harvested.

Mr. BLACKWELL. You made clear, technically, how your provision would work. Just one final question on that. Your language, of course, sets forth, and you have made even clearer in your testimony that this is a broad prohibition, indeed.

What bargaining leverage does your provision, your "no strike" provision, leave for the workers?

Mr. SHUMAN. Most of the year would be subject to periods of negotiation. In many kinds of agricultural production, labor need is over a considerable period of time. I suspect three-fourths of the periods of agricultural production are not critical. Two-thirds to three-fourths probably are not covered here.

There are plenty of opportunities for workers and farmers to negotiate and to bargain, but the greatest bargaining power that the workers have is that if the grower does not accept reasonable proposals made by the organization, they have the right to seek other employment and they do.

Mr. BLACKWELL. And then what happens to those jobs, if they leave?

Mr. SHUMAN. The grower if he cannot find workers, has to increase the wage that he pays. So, the strike may be outlawed but that does not prevent the negotiation from continuing.

Mr. BLACKWELL. Then, are you saying that the workers' bargaining power is to walk away from the job en masse, and be away from it long enough that the grower realizes he has to increase wages. Is that what you are saying?

Mr. SHUMAN. That is a major part of the workers' bargaining power under such circumstances.

Mr. BLACKWELL. Is that meaningful bargaining?

Mr. SHUMAN. Certainly it is meaningful.

Mr. TRIGGS. That happens now, Mr. Blackwell.

Mr. BLACKWELL. Would you want to bargain with your farm products in that way, that you have to take them off the market for a whole year before the person you are dealing with perceives that there is a change?

Mr. TRIGGS. I would point out to you that the farm wage rates in the United States have been increasing at 6 to 10 percent per year—in our supplementary statement you will find this information from official sources—without any legislation. In other words, there is a competitive factor at work here.

Mr. BLACKWELL. How much would you estimate wage rates would have increased if there had been organized bargaining among the farmworkers?

Mr. TRIGGS. I could not estimate that.

Mr. SHUMAN. I am not qualified to estimate. My opinion is it would not have increased any more rapidly, perhaps less so. The greatest bargaining power the worker has in our industry is the competition from other kinds of work and from other growers. If some grower pays an unduly low wage, he loses his workers.

Mr. BLACKWELL. So now you are saying that the farmworker, in effect, has no bargaining power at all.

Mr. SHUMAN. Just the opposite. He has a great deal of bargaining power; there are ample jobs open in most areas and particularly so at harvesttime.

Senator WILLIAMS. Under the approach that you suggest, first, we know men are not compelled to work, organized. They can walk off the job if they do not like what is going on and what they are receiving for their work on the farm. They do not have a union, but they are just not going to work at those wages.

Now, Senator Mondale has completely and ably described it. They walk off. In the situations he said, there is a strike. But if there were not a strike, under your proposal, but they just were not going to work under those conditions. Other workers would be brought in from some quarter, wherever. How would you folks feel if these people were out on public Highway 78 with placards describing why they are not working. How would that fit into your scheme of things?

Mr. SHUMAN. We have seen this done quite often. There is nothing here that attempts to legislate against or proposes any legislation against the expression of opinion in any way that is legal in this country. And we have seen a lot of that. Some of it perhaps is valid and some probably not.

But we are not trying to restrict the right of people who wish to express an opinion or who wish to say that they are not going to work on a certain ranch or at a certain wage or certain kinds of work.

We do not attempt to suggest legislation on that.

Mr. TRIGGS. I think the question assumes that nothing is offered by our proposal to workers. I think there is quite a bit offered. It protects their right to join the union and not be discriminated against because they join a union. It would authorize an election procedure and would authorize collective bargaining. I think out of this could be created a meaningful relationship between farmers and farmworkers that would be mutually advantageous, and this is an important concession.

Senator CRANSTON. You indicated that the bargaining position of the farmworkers comes primarily from its ability to walk away from the farm to some other job. Earlier there was some indication one of the alternatives is simply to go on relief. We do have a situation now where there is considerable unemployment in the United States.

We now have anti-inflation policies that predictably will increase unemployment. I would like to ask you to spell out just what sort of job a Spanish-speaking, undernourished farmworker without job training can expect to find if he cannot work on a farm.

Mr. SHUMAN. We have not seen anything except a labor shortage in agriculture and it seems, at least in the foreseeable future of the next few years, it would seem that this is inevitable, that we are to be short of labor in American agriculture. That is partly because of the increased capacity of American workers to take other jobs. Jobs on farms are competitive with other kinds of occupations so that there are very few people locked in.

There are some, by nature of the fact that their education and training are somewhat locked into agriculture. But there is a surplus of jobs—there are more jobs than there are workers today.

Senator CRANSTON. What sort of jobs would you feel the sort of worker I described could find?

Mr. SHUMAN. The greatest competition for unskilled workers in agriculture is from farm operators. There is tremendous competition between them for workers. There is no shortage of jobs.

Mr. TRIGGS. There is a distinction that has to be made here as to time and place. Although there may be unemployment among farmworkers for extensive periods in many places, at the harvest period just about anybody can get a job that wants to get a job.

Because the labor force demand at harvest time is doubled or tripled or quadrupled, farmers just employ virtually anyone at that time and in that place. So that they do have a bargaining power. They can always go to work for a neighbor.

Senator WILLIAMS. I take it your position today is that you presented suggestions for a bill entitled "Agricultural Labor Relations Act." You prefer this approach that you presented this morning to the situation as it is now?

Mr. SHUMAN. Yes, sir.

Mr. MITTELMAN. We have another bill before us this morning, S. 1808 which deals with child labor. You have addressed all your comments so far to S. 8. Do I take it that you have no objection to the child labor bill?

Mr. SHUMAN. At the time we started to prepare this draft legislation we did not know that these hearings were going to cover the proposed child labor legislation. Our view is that there are already a number of laws and regulations both at the State and Federal level on this subject. We do not think any further legislation is needed. The objective of legislation in this area should be to protect young people without denying them the opportunity for healthful and gainful employment. That would be our position.

Senator MONDALE. The Farm Bureau resolution says this:

> The opportunity of youth to obtain employment in agriculture should be preserved. We favor enactment of State legislation governing employment of minors, conditions in this area are best left to the State. In most instances, employment of minors in agriculture is socially and economically desirable. Work experience is an essential part of the education process, developing self-reliance and self-respect. Emotional opposition of many people to the employment of minors has led to lack of opportunity—

and so forth.

Now, I was at the Texas-Mexico border the other day, during school session, and I saw any number of 14- to 15-year-old kids at the border seeking work. I talked to teachers who said that whole families would leave and go up the migrant stream and they would take children 3, 4, and 5 years of age that would work right along with school-age children in the fields. This is a generally known fact throughout agriculture and contributes to the desperate plight of the migrants.

Would you regard that as socially and economically desirable?

Mr. SHUMAN. No. We do not. We think, in fact, the other way around. We have supported legislation to require school attendance. We are not for encouraging nonattendance in school. We are not for encouraging the use of children in work that is harmful in any way, physically or socially or any other way to them.

We do not believe that work per se is harmful. We believe that some kinds of work can be done by young workers whereas other types of work should be restricted to older persons.

We believe State laws have been improved and strengthened and that they are adequate in most of the States today. Our organization has supported State legislation.

Senator MONDALE. You believe State laws are adequate?

Mr. SHUMAN. Yes, sir.

Mr. MITTELMAN. Relative to your testimony on the strikes at harvesttime, as I understand it, you would essentially leave the problem to determination by the market of supply and demand where a dispute occurs at or near harvesttime, and if employees are dissatisfied with the wages or conditions offered by a farmer they are free to quit and look for other work.

Does your bill do anything to prohibit all the farmers in a given area from getting together and determining what wage they will pay to workers in that area?

Mr. SHUMAN. No, we believe if there is a right for workers to get together and negotiate there should be the right to employers to get together and discuss terms and band together. For if organization is good on one side of the bargaining table, it is good on the other.

Our bill does provide for more than just the right to quit a job in order to force or to bring about improved wages. It provides for

negotiation at any time. There is no prohibition against a union continuing negotiations during the period of the harvest. It also protects the worker in that it does not—as contrasted to NLRA—prohibit changes in wages at any time. In other words, we are not arguing that increases in wages cannot be negotiated at any time.

Mr. MITTELMAN. I did not mean to imply that your bill did that. What I am directing my question at is the proposition that the remedy for a dissatisfied farmworker is to quit his job and seek employment elsewhere at better wages so that in this way the market would adjust wages and working conditions to reflect what farmworkers are in fact willing to work for. It seems to me if you inject into this process an agreement among all the farmers in a given area that they will not pay more than a given wage rate, that you seriously distort the operation of a free market which is what, I think it is fair to say, your theory of how your bill would work is predicated on.

Mr. SHUMAN. The force of the market is just as real on the farmer at harvesttime. If farmers get together and agree to hold the line at a certain wage, the pressures that cause some of them to break away and pay more are just as great as the pressure would be operating on the workers.

Mr. TRIGGS. I have seen this happen.

Mr. SHUMAN. We have seen it happen in agriculture where the employers got together and said they were going to hold a wage to a certain level. This does not work for them any better than on the other side of the fence.

Mr. MITTELMAN. But the farmworker is not going to quit unless he can get a job paying better wages elsewhere and if he cannot get a job paying better wages elsewhere because of the fact that all the farmers in the area have agreed not to pay more——

Mr. SHUMAN. On the contrary, these crops do not wait and the pressure is more on the grower than anyone else, to get that crop harvested. It would be impossible to maintain, at least under the kinds of job surplus usual at harvesttime—it would be impossible to conceive of conditions where you could maintain an artificial low wage and not have someone break through. It would be economically suicide if he did not, because crops can spoil.

Mr. MITTELMAN. Turning to another area, I believe your bill would bring into the act only those farms that employed an annual average of eight hired hands. Do you have any information on what percent of the farms in America would meet that criterion?

Mr. SHUMAN. I don't have that information.

Mr. TRIGGS. It is a comparatively small percentage of all the farms. Approximately one-half of the workers in the United States are employed on farms under the hired-hand arrangement; one, two, or three workers employed virtually the year around. And I do not suppose anybody feels any need to protect that arrangement with collective-bargaining legislation.

Mr. MITTELMAN. Would you say that the jurisdictional standard incorporated in your bill would be more or less inclusive than the standard incorporated in the Fair Labor Standard Act now, which I believe is $250,000 gross, and 500 man-hours in any one calendar quarter during the previous year.

Mr. TRIGGS. The test of coverage under the Fair Labor Standards Act is 500 man-days in the high quarter of the preceding year. There is no dollar test of coverage. Our proposal would provide an exemption which would be a little larger, quite a bit larger, I would expect.

Mr. MITTELMAN. That would mean in essence, would it not—I think the figures are correct—that your proposal would include less than 1 percent of all the farmers in the country under the act. Is that correct?

Mr. TRIGGS. It might be true because a great majority of farmers do not hire any workers at all. I don't know about the 1 percent. That sounds small but I would not argue the point. Most of the workers in the United States on farms are employed on a relatively small number of farms, primarily farms producing fruits and vegetables. This is fundamentally a problem of the fruit and vegetable industry.

Mr. MITTELMAN. Do you have any estimate of how much of the farm work force would be employed on those farms which would meet the jurisdictional standards of your bill?

Mr. TRIGGS. We asked the Department of Agriculture if they could give an estimate on this, and they figured somewhere around 500,000 workers. This admittedly is just a guess but it is a relatively informed guess.

How does this compare with the total labor force? The total farm labor force is kind of an abstraction. It is hard to put your finger on it but in 1968 the annual average farm labor employment in the United States was 1,200,000.

Mr. MITTELMAN. That figure has been decreasing yearly, has it not?

Mr. TRIGGS. Yes, it has been decreasing dramatically.

Mr. MITTELMAN. Do you have any projections as to what we might expect in the next decade as to number?

Mr. TRIGGS. No, because we do not know whether Senator Williams is going to get his bill enacted or not. If S. 8 were to be enacted there would be a major acceleration of disemployment in agriculture. We feel under our proposal there would be a continuation of the trend but not an acceleration of it.

Mr. MITTELMAN. I gather that that statement was predicated on the assumption that most farmers would be moved to mechanize at a faster rate because of the possibility of organization of the workers. Is that what you have in mind?

Mr. TRIGGS. That is very correct.

Mr. SHUMAN. I would like to comment further that any legislation which forces compulsory unionism in agriculture will speed up, not only the mechanization and the disemployment of workers in agriculture but it will speed up the movement toward large-scale farm operations because the family farm has difficulty in raising the tremendous capital need to purchase these very expensive machines that are brought in when labor costs get excessive.

Senator MONDALE. Don't you think it might be the other way around. If the large corporate farmers like the Guimarra's and La Casita were denied exploited labor, the family farmer who lives off his labor and his own family might do better? Doesn't that explain why the National Farmers Union is for S. 8, because they feel the corporate farmers are backing a major menace?

Mr. SHUMAN. I have no knowledge as to why the Farmers Union is for S. 8. I do know that mechanization would be stimulated by compulsory unionism activity even though mechanization is extremely costly. Especially in the case of those crops that now remain unmechanized.

A tomato harvester and some of the other new harvest machines cost $20,000, $30,000, or $40,000. A family farmer cannot raise this kind of money. We have seen it in California, where they mechanized tomato harvest. The small farmers were pushed out of the tomato business.

Only the big operators are able to cope with unionization on a compulsory basis.

Mr. MONDALE. Isn't it fair to say that most family farmers are not in fact employing any labor? They themselves work on the farm.

Mr. SHUMAN. That is not true in the fruit and vegetable industry.

Mr. MONDALE. As a fact, it is the big corporation that has to go out and hire labor, and if he can hire labor at exploitive wages, as he is today, his chances of growing and becoming bigger and having an unfair competitive advantage against the family farmer is greater; wouldn't you say that?

Mr. SHUMAN. It is true that large operations in some kinds of farming require employed labor such as ranching or huge feedlots, whereas the small operation in these cases would not. But this is not generally true in the fruit and vegetable business where the small family operation requires perhaps a higher percentage of employed harvesttime labor than the big operator, who can and has mechanized more. I am reasonably certain that the vast majority of the migrant workers in the fruit and vegetable industry are working for comparatively small operators.

It is not the big corporate operation who employ most of these folks in the migrant stream.

Mr. MONDALE. What does Guimarra use?

Mr. SHUMAN. Guimarra is one outfit. He is big and he undoubtedly uses these types of people.

Mr. MONDALE. How about La Casita, do they use migratory workers?

Mr. SHUMAN. I don't know about La Casita, and I don't know what workers Giumarra uses, but I know for one Guimarra in California there are hundreds and thousands of small grape growers who are family operations, ma and pa operations, who do use workers to harvest grapes.

Mr. MITTELMAN. I would like to pursue the question I asked earlier. Assuming that this legislation were not passed, do you have any estimates of the relative number of farmworkers that will continue to be working in the country in the next 10 years? Do you anticipate a continuance of the trend of decreasing numbers of farmworkers?

Mr. SHUMAN. It would be our belief that this trend toward reduced numbers of hired handworkers and hired farmworkers would continue. We have no basis for thinking that it would, that the trend would increase. It might even slow down, as there comes a time when we get to the irreducible type of thing, where it would tend to slow off.

But, there is no reason to believe that we won't continue to mechanize agriculture.

Mr. MITTELMAN. One last question. You have on several occasions used the term compulsory unionization. I take it what you are referring to is the union shop clause under which an employee may be required to join a union after a certain period of time; it is customarily 30 days but in the construction industry it is 7. Would you like to elaborate on just exactly what you mean?

Mr. SHUMAN. Only to say that compulsory unionism has been advanced materially by the application of the National Labor Relations Act in other industries. We feel the worker in agriculture should be free to make his own decisions with respect to union membership regardless of what the situation may be in industry.

We would oppose any measure which would force us as employers of farmworkers to require that workers join the union.

Mr. MITTELMAN. Why should farmworkers be treated differently in this particular respect than industrial workers?

Mr. SHUMAN. We are of the opinion that compulsory unionism is not in the best interest of either the workers or the general public. We realize it has been advanced in industry under Federal legislation, but we do not believe that this should be extended into agriculture.

Mr. MITTELMAN. No further questions.

Senator WILLIAMS. Mr. Benedict?

Mr. BENEDICT. Mr. Shuman, I am just going to ask you a couple of questions along the lines I asked the representatives of the farm union yesterday.

Going back to your strike or picketing at harvest time, I distinguish two types of activity. One is where the union had been voluntarily recognized or is entitled to recognition as a result of an election—an area where there is a bargaining relationship. The strike is economic and results from disagreement over terms of a collective bargaining agreement. Now, I understand your position to be that you would prefer a complete ban on any strikes or picketing at harvest time. However, as this bill moves along, if that was impossible to obtain, what would be your organization's position on compulsory arbitration of this type of economic dispute at harvest time?

Mr. SHUMAN. We are opposed to compulsory arbitration. We do include in our proposed bill a proviso for an arbitration procedure; it is a voluntary arbitration procedure.

Mr. BENEDICT. I was not referring to your particular bill. I was referring to the form of farm labor legislation which might evolve as a result of these hearings. Either in the committee or in Congress.

Mr. SHUMAN. We are opposed to compulsory arbitration.

Mr. TRIGGS. I think if there is any principle that students of labor law agree with more unanimously, it is that compulsory arbitration will destroy collective bargaining, and we would like to try collective bargaining in agriculture for a while.

Mr. BENEDICT. So you would leave the union free to strike at harvest time rather than accept compulsory arbitration?

Mr. SHUMAN. We must oppose both of these proposals.

Mr. BENEDICT. I premised my question on the proposition it would be impossible to write into this legislation a complete ban.

Mr. SHUMAN. Then we would oppose the legislation.

Mr. BENEDICT. Thank you, Mr. Chairman, that is all.

Senator WILLIAMS. Thank you very much.

Mr. Fred Burrows, executive vice president, International Apple Association.

Mr. Burrows, we welcome you back to our Labor Subcommittee of the Senate. Of course, you know S. 8 and S. 1808 are our titles for hearing. We look forward to your testimony.

Do you have a major piece of proposed legislation for us to digest here?

Mr. BURROWS. No, Mr. Chairman.

Senator WILLIAMS. You may proceed.

STATEMENT OF FRED W. BURROWS, EXECUTIVE VICE PRESIDENT, INTERNATIONAL APPLE ASSOCIATION, INC.

Mr. BURROWS. Mr. Chairman, members of the subcommittee, we very much appreciate the opportunity of presenting the views of the International Apple Association, Inc., on the proposed legislation.

The International Apple Association is a nonprofit membership organization serving the fruit industry, with emphasis on apples and winter pears. Our membership encompasses every segment of the industry, from the producer through the retailer, including packers, shippers, and processors. Our members produce and/or handle in excess of 75 percent of the United States' commercial apple and winter pear crops and represent a fairly substantial tonnage of fresh citrus in Florida.

We are unalterably opposed to S. 8.

At the same time we recognize the right of agricultural workers to bargain collectively. However, we are most firmly convinced that the best interests of the agricultural employee and employer cannot be safeguarded by collective bargaining under the provisions of the NLRA and the rules, regulations, and interpretations of the NLRB.

These two positions are not paradoxical. In our opinion, the plethora of evidence presented during the 1967 hearings clearly established that, (1) there is a difference between agriculture and industry, and (2) that the requirements of agriculture in this field are unique.

As you well realize, S. 8 would extend the provisions of the National Labor Relations Act to include agriculture. It would require a farmer to recognize a union as the bargaining agent for his workers and enter into a collective bargaining contract with the union, enforceable by the National Labor Relations Board and Federal courts.

Further, if S. 8 were enacted, the terms of the farmer employer-union contract could—

1. Establish a union hiring hall by requiring farmers to fill job openings from union referrals;

2. Require union membership as a condition of employment within 7 days of employment;

3. Require a farmer to bargain with a union, which has not been recognized by an election as representing a majority of the farmer's workers; and

4. Specifiy minimum experience qualifications and provide for seniority in employment to govern promotions.

Except for the construction industry—and agriculture, if this bill is enacted— a union hiring hall is not specifically provided for in the NLRA.

Likewise, an employer is not required to bargain with a union unless it has been established, by a bona fide election, that the union represents a majority of his employees, with the two noted exceptions. By the same token, union membership, as a condition of employment, is not required within 7 days, but within 30 days of employment in other industries.

Under this bill a union could sign up just two employees (they could be two temporary migrant harvest workers) and then demand that the farmer bargain with the union. If the farmer refused, the union, with the use of a sound truck and a picket, could claim a labor dispute. Then, in turn, the U.S. Employment Service would refuse to refer farm labor to the struck employer.

Under S. 8 we can easily envision the fruitgrower being constantly and continually faced wth interunion power struggles. He has a continually changing labor force. In the spring, an applegrower may have five men thinning apples for a period of 2 to 3 weeks. A union could come in (or even before the men go to work) and organize and sign up this crew; and then demand the grower bargain.

Three months later he would need a harvesting crew of 20 to 25 men. Part or all of these men may have no desire to be members of the union that organized the thinners—or they may already belong to another union—or maybe some want to belong to the thinners union and some to a new, different organizing group. No matter what the grower's position is, it is wrong, and he faces disaster. Further, either union could claim a labor dispute and, hence, no referrals from USES.

Additionally, a Supreme Court decision of a few years back would permit the union to picket the consumer entrances of retailers using the farmer's products and hand out educational verbiage to consumers, advising them not to buy that particular product.

Further, we think it is logical to assume that consumers confronted with the educational advice not to buy farmer Jones' apples would be mentally impressed not to buy any apples as they shopped in the picketed retail store. Therefore, completely innocent apple growers would suffer.

To date, Congress in its wisdom has excluded agriculture from the National Labor Relations Act. Undoubtedly, this exclusion exists primarily because Congress has recognized the extreme vulnerability of the agricultural producer.

This same extreme vulnerability exists today—and will continue to exist for years to come.

In fact, the agricultural employer is, without a doubt, the most vulnerable employer in the world relative to irreparable damage from compulsory collective bargaining as provided in S. 8.

Factories, assembly lines, offices—yes, even steel furnaces—can be closed down during a strike without suffering disaster—and often without serious economic impact. However, a farmer must harvest his crops when they are ready—a strike at harvest would mean bankruptcy.

The fruitgrower heads the list in vulnerability. An applegrower spends 8 to 10 years bringing his factory—apple trees—into production. During those years he commits a sizable capital investment before he harvests a crop that even comes close to matching current production expenses.

A capital investment that cannot be converted to a different enterprise without incurring very material expenses, a substantial loss of time, and a complete loss of capital investment that he has made in bringing his orchard into bearing during the first 8 to 10 years.

In considering the effects of S. 8 it is vital to understand that an applegrower with only 100 acres of bearing orchards will have sunk a minimum of $30,000 into current production expenses before he starts to harvest the crop.

A strike at harvest could mean a complete loss of the $30,000 and probably bankruptcy. To deliver a usable product to the consumer throughout our 9 to 11 months' storage period, apples must be picked at the optimum stage of maturity. Even a strike of 1 week's duration at harvest would mean disaster.

What about the agricultural workers? Will the bill really help them? Conceivably, it might raise wages in the first few years after enactment. With the serious and growing scarcity of the harvest labor, growers would just about agree to anything if confronted with union demands at harvesttime. The grower would have no bargaining power.

However, for the long pull, the bill, in our opinion, would result in growers substituting capital for labor in the form of increased mechanization. Mechanization is not easy and is expensive, but it will be done if the economic facts justify the capital investment.

Mechanization means loss of jobs—and in our industry loss of jobs for people who cannot afford to be out of work—unless they go on welfare rolls. Mechanization in our industry, including harvesting, will come. However, too rapid, forced mechanization will result in serious harm to agricultural labor and growers alike.

You might ask, "Why not pass on the increased costs to the consumers?" We would hope that same were possible, but it "ain't just so" because of the perishability of horticultural commodities and the competitive system of distribution that exists in the world.

Just a quick reminder on exports, imports and balance of payments, and the effect of S. 8 on same. Fruit crops have an extremely high labor requirement. Any significant increase in unit growing and marketing costs—and labor scarcity—can only result in the production being transferred to other countries with the attendant reduction in U.S. production and a compensating increase in imports of the same commodities into the United States.

In fact, it is already happening. Foreign Agricultural Service, USDA reports that in 1968, for the first time, U.S. imports of horticultural commodities exceeded U.S. exports of such commodities. Imports totaled $442.4 million and exports totaled $438.9 million, and the volume difference is even greater than the dollar difference because of the lower prices of the imports.

Inflation, the new agricultural minimum wage and the scarcity of agricultural labor are all influencing factors. Passage of S. 8 can only speed up the trend.

The export situation with U.S. apples and pears is even more enlightening—or should I say discouraging. In our 1967 statement we called attention to the probable impact of increased costs and expanded world competition on U.S. exports and our balance of payments contribution.

In 1965–66 we exported 6.1 million bushels of apples, which contributed nearly $25 million to our balance of payments. In 1966–67 we dropped to 4.3 million bushels; in 1967–68 to 3.1 million bushels; and for 1968–69 it would appear that U.S. apple exports will not exceed 1.3 million bushels—a drop of nearly 80 percent in 3 years. With the passage of S. 8 we'll be an apple importing nation within 5 years.

Transfer of U.S. production to other countries and loss of export markets can only result in loss of jobs for many workers—workers who often are not readily employable elsewhere. This adverse impact would affect workers all along the line, that is, those concerned with packaging, packages, processing, transportation, handling, et cetera.

We sincerely urge the subcommittee to carefully evaluate the adverse impact on the Nation, the workers, the growers, and the consumers if S. 8 were enacted.

Senator WILLIAMS. Thank you very much, Mr. Burrows.

Senator MONDALE. Just one question, Mr. Burrows.

Taking your point of view, do you see any hope for improvement of the present heartbreaking position of the farm worker in this country?

Mr. BURROWS. In our industry we don't see the same heartbreaking conditions with the farmworker that you do.

Senator MONDALE. What kind of workers do you see, migrant people?

Mr. BURROWS. Migrant and local.

Senator MONDALE. Where do you get migrants?

Mr. BURROWS. Mostly from the 11 Southeastern States—the so-called supply States.

Senator MONDALE. You don't think their conditions are tragic?

Mr. BURROWS. The conditions of employment within our industry are not in the same context you are pointing out.

Senator MONDALE. I am talking about the human beings that work in our fields. Do you think their conditions are tragic?

Mr. BURROWS. No, I don't. Have you been in an apple orchard? Have you seen the housing conditions and the pay that they receive?

Senator MONDALE. I am talking about the life of people that work in your fields. I have seen where they live. I have seen the starvation. I have seen the rotten housing. I have seen the substandard schools. No one can deny the disaster that occurs when people migrate. Families become rootless. I am asking whether you see any hope for improvement in this?

Mr. BURROWS. I think there has been substantial improvement over the past 20 years and it has been increased in the last 5 years and as a Nation, I think we will improve conditions.

Senator MONDALE. As I understand your testimony, if it is improved much more, they will be mechanized out of business.

Mr. BURROWS. If S. 8 goes through.

Senator MONDALE. If you say there will be improvement, do you see improved wages as one element?

Mr. BURROWS. Do I see improved wages as one element? Wages have been improved and will continue to improve.

Senator MONDALE. Do you think if wages are going up, won't that lead to mechnization too?

Mr. BURROWS. If the wages become an economic factor, so mechanization is a better investment than employment of migrant workers or local workers; yes, sir. This is true in industry.

Senator PELL. I apologize for not being here earlier. I must say that when I listened to the representative of the apple association testify it caused me to remember that in my own State the growers face the very real problem of getting people to pick apples. I am told that they cannot find people who will come and pick apples. Recruiting has been unsuccessful, and we have not been able to import workers. Locally we cannot get the labor.

I think there are certain points, certain areas here which are not reflective of the country as a whole and I think in the case of the apple pickers we would like to find some way of securing more labor. It is wasteful to have had many of our orchards lose their crop and for the apples to simply rot.

Senator WILLIAMS. Could I interrupt. I think it has been established with Mr. Burrows assistance here that the enactment of S. 8 would bring a supply of workers, potential or real apple pickers into an organization that would attract them to the Rhode Island apple orchards.

Senator PELL. I would hope that would happen. We are economically suffering each year.

Mr. BURROWS. Senator Pell and Chairman Williams, based on the survey by the Department of Labor in New York State, last year in 1968, the highest average for one day was $4.81 per hour for one picker and the lowest for the same day was $3.11 per hour.

Senator PELL. An hour?

Mr. BURROWS. Right.

Senator PELL. What is wrong with those wages?

Mr. BURROWS. Nothing, sir. And the highest seasonable average was $117 a week. The least was $80.55. Highest seasonal average for 28 weeks was $2700 and for 16 weeks was $2500.

Senator PELL. Then why would S. 8 in any way hamper these conditions because these wages are far beyond those of minimum wage.

Mr. BURROWS. That is right, but by the same token we think we are paying reasonable wages, Senator, and if you have an irresponsible union that could come in with S. 8 and organize just two men on that farm, they could demand that the employer bargain, and then if the employer did not bargain, it would be a "labor dispute." He would be "struck." And as you already recognize and have emphasized, we have a shortage of harvest labor.

Then USES could not refer workers to that farm on the basis of two men striking.

Senator PELL. Am I correct, as of now in my own State, Rhode Island, that the majority of our apples are picked by Canadians because we cannot find local people to pick them. Is that an overstatement?

Mr. BURROWS. That is a little overstated. In fact USES has not allowed New England people enough advance certification time to get the Canadians down. By the time USES says yes, go ahead, the Canadians have found work elsewhere.

Senator PELL. Or the apples have rotted?

Mr. BURROWS. In some cases they have. Certainly they have not improved in quality.

Senator MONDALE. You talk about irresponsible unions. Who do you have in mind?

Mr. BURROWS. I don't have anybody in mind, sir.

Senator MONDALE. Why do you use that term then?

Mr. BURROWS. Because we have seen evidence in the past, not only in history, but throughout industry, as far as that goes, where unions have not been responsible.

Senator MONDALE. What is your evidence? That is my point. On what do you base that?

Mr. BURROWS. I don't have it on hand now but, I think we can find some.

Senator MONDALE. Then do you think you should use that phrase, if you do not have anything in mind?

Mr. BURROWS. I said, "if" there was an irresponsible union. This is possible. People are people.

Senator MONDALE. These are people who according to our figures make something like $2,000 or $2,500 a year with large families. To be sure, the grower has an interest in producing his crop. But what about the interest of the farmworker who has only a few weeks out of the year when he can make that $3.50 or $4 an hour at hard piece rates, assuming he is a strong man who can keep that up?

Doesn't he have an interest as well in working?

Mr. BURROWS. Does who have an interest?

Senator MONDALE. The person who works.

Mr. BURROWS. He has. Everybody has to watch out for themselves.

Senator MONDALE. So when you talk about irresponsible unions, isn't it the case that, if anything, the impoverished worker is going to be more reluctant to strike than in almost any other segment of American industry where we have had unions all these years?

Mr. BURROWS. First of all, you are assuming that he is only going to work 4 or 5 weeks a year.

Senator MONDALE. What I said was the migrant who makes over $2,500 a year, even with his family working, is a very fortunate man, and the rest live like they do in tragic surroundings.

That is the reason the migrant uses his children in the field, even knowing it is against the law.

Mr. BURROWS. I think you will find in our industry, most people won't allow the children in the field.

Senator MONDALE. It may be, but a lot of the workers want to use them nevertheless because they are so financially desperate. With this kind of crushing economic burden, is it likely that a farmworker is going to want to strike, willy-nilly, and deny himself the opportunity to earn money during a critical harvesting time?

Mr. BURROWS. You are saying because he is so broke, he is like the cow in Florida—20 years ago—if he misses a bit he would starve to death. Is that what you are saying?

Senator MONDALE. I don't believe I put it like that.

Mr. BURROWS. You are saying he is so broke he won't strike willy-nilly.

Senator MONDALE. Would you agree with that?

Mr. BURROWS. He should not.

Senator MONDALE. So when you talk about irresponsible, isn't that a conclusion based upon the failure to comprehend the economic predicament of the worker?

Mr. BURROWS. We would agree with that. I might add one other thing, Senator. Earlier you indicated that if workers would walk off the farm and strike 1 day, there would be 300 more workers brought in the next day to break the strike. I am speaking of the California situation. According to William Kirk, who is the retired chief deputy director, California Department of Agriculture, in his talk at the New York State Horticultural Society, which was entitled "California Grape Boycott and Its Implication to American Agriculture," pointed out:

> Then the union undertook to call strikes at several ranches. They called strikes but apparently only a few workers responded. The union said their members struck but were replaced by workers brought in from the outside. The workers and growers say this is not so, that the workers would not support a certain union operator.

Senator MONDALE. Now they have had several elections in representation in the wine-grape pickers, and I think I am correct in saying that in every one of them, the union has won the elections.

Mr. BURROWS. In an election representing 50 percent of all the farmer's workers?

Senator MONDALE. The union won every election and were recognized voluntarily by the wine grape corporations.

Mr. BURROWS. That was in the wine——

Senator MONDALE. But the same thing is said in the table grape industry. In other words, we have this pattern of huge corporate growers telling us what the workers want. But every time the workers are granted a chance for an election, low and behold, the workers want a union. And all we are asking for here is not to have growers speculate about what the people in the field want, but to give the workers the opportunity to determine what they want.

Mr. BURROWS. As my statement prefaces, we say that they should have the right to bargain collectively.

Senator MONDALE. That is what S. 8 is about.

Mr. BURROWS. But we think S. 8 with all its implications of NLRB and interpretations, and ability of one man or two men to be signed by a union on a small farm of 100 acres and to strike at harvest time and therefore stop all referral of workers to that farm, is just unreasonable. I think you would agree too.

Senator WILLIAMS. Your situation is a little unreasonable too.

Mr. BURROWS. No, it is not. It is conceivable. It happened in western New York to some extent in the past 2 years.

Senator WILLIAMS. Do we have anything further of Mr. Burrows? Thank you very much.

Now we have Mr. Richard Thornton, executive vice president of National Council of Agricultural Employers.

Mr. Thornton.

STATEMENT OF RICHARD V. THORNTON, EXECUTIVE VICE PRESIDENT, NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS

Mr. THORNTON. My name is Richard Thornton. I am executive vice president of the National Council of Agricultural Employers. The council is presenting this statement in behalf of agricultural employers in 42 States, accounting for hundreds of growers, and the great majority of farmworkers engaged in the production of perishables—fruit, vegetable, and fiber.

The council wishes to express its unqualified opposition to Senate bill 8 which would amend the National Labor Relations Act to make its provisions applicable to agriculture.

Through the years, numerous amendments have been proposed to remove farming from NLRA exemptions. Agriculture does not adapt itself to the National Labor Relations Act; this was recognized in 1935 and has continued to be so recognized throughout the ensuing 34 years.

This organization is not opposed to workers belonging to unions, or to any other organization they choose. The council is unalterably opposed to any regulation, or law, which compels employment by a farmer of workers who are required to join a union as a condition of employment. It is also opposed to any regulation or law which permits a field or orchard work force striking at harvest time and capable of destroying a crop.

This point has been made repeatedly before congressional committees and in communications of every type. The relationship of a labor union and a grower of food products cannot be likened to what is always described by S. 8 proponents as successful practices between unions and industry.

The harvest of crops cannot be postponed. If harvest strikes are permitted, the union can present an ultimatum and the farmer has no alternative other than losing his crop to accept that ultimatum.

It is significant that the farmworkers themselves have shown no interest of consequence in belonging to labor unions. Organization results by farm unions speak for themselves.

Another point which has been made before various congressional committees over the years—and to this moment the agricultural employer has not had much response from the proponents of Senate bill 8—is the lethal effects of such legislation on the American farmer.

Food is a vital necessity of life. We can exist without transportation, without trash collection, without automobiles in the event of a strike in these industries. Without these we are inconvenienced, and our economy is impaired. But food is our existence. To give any one group of persons or organizations control over the flow of this basic ingredient of life would be unthinkable.

To give control to any persons or groups, complete control over the existence of an independent businessman, that is the farmer, is unjust. Absolute power cannot and should not be given to either side of a controversy.

The crux of the problem posed by S. 8 is simply this: a type of farmworker known as a migrant has come increasingly to the attention of the American people because of his low standard of living caused largely by the nature of his itinerant way of life. These workers follow the crops, visit many communities, have no guarantee of long-

term employment and, like their employers, are at the mercy of uncertainties of natural elements and factors inherent in the growing of fruits and vegetables.

It is in the inevitable comparison with industry that we find S. 8's inability to solve the social problems of the farmworkers. Membership in a labor union will not alter the variables and uncertainties of fruit and vegetable growing. It will not change the worker's way of life. It will not increase the number of available workers. We are most sympathetic with the desire of the migrant agricultural worker to better himself, but fail to understand how the possession of a union card is going to change or improve the basic and inherent nature of agricultural production.

Our organization continues to be deeply disturbed over the enthusiasm with which powerful church organizations support legislation such as S. 8. We join with the National Council of Churches in advocating programs that will improve the housing, the recreational and educational opportunities, and health benefits for migrants. We are disturbed at their subborn refusal to acknowledge the deadly power which would be placed in the hands of labor unions through a bill that permits one partly to a contract to say to the other: Either do what we say or your crop will not be harvested. A week's wages for one man should not be balanced against the year's work of another man without checks and balances on both sides. In the event of strike, the worker may lose 1 or 2 weeks' pay. The grower loses a year's production and income.

Desire for union membership must come from the worker. Compulsory unionism growing out of the actions of a very small minority of the total work force would compel the large majority to join a union against their wishes. This is not equitable or just.

In concluson, this bill, S. 8, is not a solution to anything under the general heading of farm labor problems. Scores of people have studied the so-called migrant worker problem in recent years.

It is so complex that even the most erudite students do little more than conclude that the migrant is a sadly disadvantaged person, that he usually is a migrant because he wants to be one, that by the very nature of agriculture he stands a very poor chance of raising himself above the poverty income level.

The good workers, who are sought for desperately by all farm employers, make good money. Many of the younger ones are leaving the migrant stream to learn a trade or find employment in industry. Mechanization steadily is lessening the demand for farmworkers. Basic to the complexities of the farm labor problem is that the worker is an independent nomad, resisting control and restriction. A crop lasts 3 weeks here, 2 months over there, 3 weeks some place else. He is on the move, the employer changes sometimes by the week. Taxes, social benefits, or a membership in a union—these are elusive elements in farm employment.

Some additional comments. Yesterday I listened to the testimony here and I think there are several mispresentations which I would like to correct. They involve California, one of the States represented by the National Council of Agricultural Employers.

The first of these misinterpretations might be that there are a continuing flow of new greencarders coming into this country. This is

not true. In 1964 and 1965, the State Department and Department of Labor decided to phase out the green cards and since 1965 only about 10 to 15 green cards for agriculture have been issued. None have been in the agricultural field labor work force.

They have all been on special occasions, such as a horsetrainer coming in from another country or something like that.

The second, enforcement of immigration laws in California and the enforcement of Industrial Welfare Commission orders and enforcement of health and sanitation laws. I get the impression from the testimony yesterday it had been a complete breakdown in California of these laws. This is not true. The Border Patrol has been most effective in California this past year. They have a station in Bakersfield, a normal complement of nine men there. In July of 1968 they increased this to 23 men. And others were detailed as they were needed.

The Industrial Welfare Committee set a wage of $1.65 for women and minor workers in the field and this has been enforced. It has raised wages because you cannot have a man over 18 working beside a minor or a woman in the field making less money. The Department of Labor has men in the field. California Department of Employment has men in the field. These men check the growers. The Department of Immigration and Border Patrol is most effective. Some of the growers think entirely too effective.

There was also some comment that there was some racial discrimination against brown-skinned people. Obviously the employer does not care whether or not the worker is brown, green, or white or what. He wants to get the job done.

However there have been ethnic groups which band together for their own purposes and they themselves enforce some segregation. For instance, there are Filipinos for crews who wish to live together and want a Filipino cook. American crews like to live together and have an American cook. In many cases you have three different crews of people working, one Spanish, one Filipino, and one American.

Another point is that it appeared that there were very bad relations between the employer and the workers. This is not true. There are about 352,000 workers in California, and there are some bad employers, we admit that. No group is absolutely pure. However there are many many good relations between employers and employees. Many of the workers come back year after year to the same camps working for the same employer, and they will come back because they want to.

Many times as they come back in the beginning of the harvest year, they will negotiate a new wage rate, and there has not been too much difficulty negotiating these rates.

The last point made was that there are many, many strikes in California and this is also not correct. There were very few picket lines this last year around California. There has been little or no activity in the past year or two by the union in this area. In the previous strikes, maybe one to 10 people would leave the field. The rest of the people would keep working and a strike would be called there.

In the past couple of years, it has been peaceful in California and there has been no labor disturbances. The workers want to go to work and they have continued to go to work.

That concludes it.

Senator WILLIAMS. You made a rather idyllic picture of work on the farms of California. I don't know when you were last there. It has been a couple of years since I have been there. But it sure did not jibe with what I saw in the farms of California.

Mr. THORNTON. I left California about the first of March. I have been there for the past 15 years previous to that. As I say, there are bad spots in almost any industry, but by and large——

Senator WILLIAMS. Let us take a rudiment; have you ever been on a farm in California with vast acreage and no sanitation facilities in the field?

Mr. THORNTON. Yes, I have, Senator.

Senator WILLIAMS. I have too. It is not limited to California either.

Mr. THORNTON. I agree.

Senator WILLIAMS. That is just one of the rudimentary things. Have you ever seen kids working at a very tender age and even during school hours?

Mr. THORNTON. Yes, I have, Senator.

Senator WILLIAMS. That is another thing. As far as wages are concerned.

Mr. THORNTON. May I comment on that?

Senator WILLIAMS. All right.

Mr. THORNTON. One of the major problems many of the growers in California have had is keeping the children out of the orchards and the fields. The workers in the summertime come up there and have their small children with them. They have a choice of leaving them in the camp or motel where they are staying or taking them into the field and leaving them in the car. We have had many cases where growers have been cited by officials of the Department of Labor, where the children have been in there. They have been 5 or 6 years old, sitting under a tree. They are not supposed to be in the field or orchard. The growers have paid these fines. I know of no way in which we can keep these schoolchildren from being in the field.

To my knowledge I don't know of any grower who is stupid enough to permit small children to work in his field.

Senator WILLIAMS. Do you know of any grower that on his own has created a day-care facility for those kids that he does not want on his farm?

Mr. THORNTON. Yes, I do.

Senator WILLIAMS. Average, or exceptional, or how many and how does it rate?

Mr. THORNTON. I can name places where there are at least six or eight of them in California.

Senator WILLIAMS. Six or eight?

Mr. THORNTON. Day-care centers.

Senator WILLIAMS. Grower created?

Mr. THORNTON. Yes.

Senator WILLIAMS. And you support Federal programs in support of day care?

Mr. THORNTON. Very much so.

Senator WILLIAMS. And sanitation in the field?

Mr. THORNTON. Sanitation in fields, as you know, is a major problem, when you have a large field.

Senator WILLIAMS. Yes, I know. I have seen it and you know it, and it is a problem.

Mr. THORNTON. And you know the growers have spent many, many thousands of dollars on sanitation equipment. It is the question of getting the right equipment at the right place and at the right time and having enough.

Senator WILLIAMS. You know the right time. You fellows all know the right time—it is harvest time.

Mr. THORNTON. I mean the proper place in the field is what I was referring to.

Senator WILLIAMS. Now that is really not an exotic science.

Mr. THORNTON. No, it is not. But it is a problem in logistics.

Senator WILLIAMS. I guess we will go on to the other matters.

Senator Pell?

Senator PELL. No questions.

Mr. MITTELMAN. In the course of your testimony you seem to intimate that S. 8 all by itself would result in complete organization of agricultural industry and lead to various undesirable effects. Isn't it true, as a practical matter, that most of the things which you fear could just as easily occur now without any legislation. For instance, the closed shop which is illegal under the Taft-Hartley Act, but is legal under common law of many States. For example, New York.

Secondary boycotts are not illegal in many States. They are under Taft-Hartley. But S. 8 would actually furnish growers protection that they do not have now if they were confronted with an organizing campaign.

Mr. THORNTON. It would on these two points, but we feel that the other effects, adverse effects, far outweigh the benefits of these two protective items.

Mr. MITTELMAN. Do you have a position on the bill to allow farmers themselves to collectively bargain?

Mr. THORNTON. No, we do not.

Mr. MITTELMAN. Do you have any comment you would like to make on that bill?

Mr. THORNTON. The organization I represent has no official position. My personal opinion is that I think this is something they must do in order to survive and compete.

Mr. MITTELMAN. Would you elaborate on why you favor organization for the farmers but not the farmworkers?

Mr. THORNTON. I did not say that we were against the farmworkers union. I said this organization does not oppose farmworkers joining a union. We are not opposed.

Mr. MITTELMAN. But as a practical matter, there is no law on the books to prevent a man from being fired because he belongs to a farm union.

Mr. THORNTON. That is correct.

Mr. MITTELMAN. That is the kind of thing S. 8 is designed to protect against. Instead of an overall position, could you be more specific in the kind of things you object to. Apparently you do not object to a law that would forbid a farmer from refusing to hire a man because he was a member of the union or fire a man because he was a member of the union.

Mr. THORNTON. We object to Senate bill 8 because of the restrictions it imposes upon a farmer, restrictions that were designed for an industrial complex rather than an agricultural complex.

Mr. MITTELMAN. Could you be more specific in talking about the kind of restrictions that you are concerned with. I mentioned one of them, that you cannot fire a man because he belongs to a union. That is one of the restrictions under the National Labor Relations Act. There are many others. Do you object to that?

Mr. THORNTON. No, because I think this organization feels that if at any time the workers have legitimately belonged to a union, the employer has agreed to bargain with that representative, he should bargain in good faith. He should be required to bargain in good faith.

Mr. MITTELMAN. But there is nothing in present law that requires that?

Mr. THORNTON. That is true.

The main objection we have to S. 8 is the fact it can destroy a man's crop at harvestime.

Mr. MITTELMAN. But a union is free now to strike at harvesttime.

Mr. THORNTON. And the farmer can take steps to get his people in.

Mr. MITTELMAN. Isn't it true that he could take most of those steps under the National Labor Relations Act? He can hire permanent replacements under the National Labor Relations Act just as he can now. Isn't that correct?

Mr. THORNTON. That is correct. I do not think this is the time to go into details, but the principal objection that all of us have, all the people I represent, is the complete control that the union has at harvesttime. If there were some checks and balances on either side, we would have to take a look at what they were and see how they end up.

Mr. MITTELMAN. Thank you.

Senator WILLIAMS. Thank you very much.

We will recess now until 2 o'clock this afternoon.

(Whereupon at 12:25 p.m., the hearing recessed until 2 p.m., the same day.)

AFTERNOON SESSION

Senator CRANSTON (presiding). Is Mr. Johnson present?

If so, we can begin.

STATEMENT OF REUBEN L. JOHNSON, DIRECTOR OF LEGISLATIVE SERVICES, NATIONAL FARMERS UNION

Mr. JOHNSON. Mr. Chairman, for the record, I am Reuben L. Johnson, director of legislative services, National Farmers Union, 1012 14th Street NW., Washington, D.C.

Farmers Union supports the bill, S. 8, before the subcommittee which extends the protection of the Wagner Act to farmworkers. As you know, we appeared in support of this bill in hearings before the subcommittee last year.

Our support of S. 8 relates more or less directly to the effort that Farmers Union is making to win congressional approval of S. 812 and H.R. 6774, the National Agricultural Bargaining Act. Delegates

to our recent convention at Little Rock, Ark., drafted a policy statement in regard to this legislation as follows:

Farmers cannot presently bargain with handlers from a position of equality or strength. Antitrust statutes do not clearly empower farmers to act collectively to control and manage marketings to the extent necessary to make bargaining truly effective in improving prices and income.

Other examples of the deficiencies of our present body of law are as follows:

1. There is no legal mechanism for bringing processors to the bargaining table, nor to require them to bargain in good faith.

2. The provisions of law which prohibit processors from discriminating against farmer bargaining associations are weak.

3. The sanctions which a bargaining group—whether farm or processor—can use in committing its membership to bargaining decisions are not clear.

4. Authority is lacking to enforce the minimum trading prices which might be negotiated by farmers through bargaining.

We believe, therefore, that agriculture needs a comprehensive law, comparable to the Wagner Act for labor, to enable farmers to manage the production and marketing of their products.

We believe that National Agricultural Bargaining Act now before the Congress provides a legal basis for direct bargaining. It is essential legislation if farmers are to bargain from a position of strength.

The legislation calls for a labor-type exemption from the Clayton and Sherman Acts for farmers.

Producers would decide when prices are too low and bargaining action is called for.

Producers would decide who would represent them on their bargaining committees. Through these bargaining committees family farmers will have a voice in determining minimum prices and other terms of sale. A National Agricultural Relations Board would be empowered to appoint a processor bargaining committee if processors fail to do so.

Since management of supply is essential to successful bargaining the legislation would afford producers the opportunity to develop and to operate programs of supply management—subject to vote of approval in referendum.

Once agreement is reached in bargaining, it would be effective throughout the entire market.

In addition to direct bargaining with buyers, market order authority would be extended to producers of all commodities.

Such legislation and amendments should clearly reaffirm that the basic purpose of the producer marketing committees and marketing order is to obtain parity prices and income for producers; should provide that a Federal marketing order for any commodity may be operated on a nationwide scale if a majority of producers approve; that the use of producer allotments and quotas be authorized subject to approval of producers.

Now, Mr. Chairman, the weak bargaining position of farm operators has been spelled out and enunciated by pointing to some of the deficiencies, in terms of having some balance with processors. Our position may be related somewhat to the position of the workers that we employ. The fact of the matter is that the whole sector of agriculture, the operator families, the owners of farms, the workers, are all in depressed condition. In this highly complex society of ours, we have simply ignored the rules by which other sectors of our economy play. It is about time that both farm operators and farmworkers be brought into the 20th century, in terms of getting some type of equity with those with which we have to deal.

Fully consistent with and complementary to the policy I have enumerated in regard to the National Agricultural Bargaining Act is the statement adopted by delegates to our recent convention at Little Rock, Ark., which was to endorse—if not dotting the i's and crossing the t's—S. 8, at least to endorse the sense of the bill.

Pertinent parts of the delegates' policy statement follow:

Legislation should be enacted to protect the rights of all of those who work for employers to organize, bargain collectively, and protect their organization. We oppose the so-called right-to-work laws because they destroy rather than protect these rights.

The national policy to eliminate illegal immigration should be more vigorously enforced and our Nation should expand and modernize legal immigration quotas.

Mr. Chairman, may I just stop a minute to say that this business of bringing in workers to the United States, temporarily, in many instances splitting families, to fill labor needs, certainly doesn't reflect the image of the United States very well back in the country of origin of these workers. If we need people to come into this country, if there is a place for them in our economy, to do productive work, we ought to expand our immigration quotas, and bring them in as full-fledged citizens of our Nation, and not on some kind of a second-table basis.

Continuing with the delegates' statement:

Legislative provisions should be strengthened regarding wage rates, health, safety, and housing conditions for domestic migratory farm labor, and for education of the children of migrant families. Unemployment compensation laws should be improved.

We urge governmental recruitment and on-the-job training programs to aid the farmer to get good farm help.

We urge the support of all farm people—

And, Mr. Chairman, this next came as a special order of business before the delegate body—

we urge the support of all farm people to refrain from purchasing California fresh table grapes and support the inclusion of farm workers under the National Labor Relations Act.

Mr. Chairman, I think what is generally overlooked is that the people that we are talking about are farm people for the most part. They are part of our community. The workers that come up the east coast. out of the South, that were referred to here this morning don't come out of the cities of the South; they all come out of rural areas, and they are seeking farm jobs because that is all that they have ever been trained to do.

So we are not talking about the people outside of agriculture when we talk about farmworkers. We are talking about people who in somewhat more fortunate circumstances may have been operators of farms themselves. Because they were denied opportunity to get an education, denied opportunity to get credit, denied other opportunities for furthering themselves, they are just simply forced into looking for agricultural work.

I recall a few years ago when we were in a big squabble with some of the same groups that are fussing today about putting farmworkers under the National Labor Relations Act. The issue then was putting farmworkers on a minimum wage. I recall during that period that we pointed out repeatedly that putting farmworkers on a minimum wage, many instances, was to help the families on the farm. Many of the children of farm families, are a part of that labor force that is under discussion in the context of this legislation.

Mr. Chairman, we believe that it is inevitable that we move up agriculture, across the board, both operators and workers, with more au-

thority to handle their own problems. We don't see any problem in working out the procedures. We have some excellent precedents, under the Wagner Act itself, in regard to the way it applies to other sectors of our labor force. We have confidence in the leadership of this committee, in drafting legislation that will help us through the dilemma. Hopefully, we will move also to enactment of the National Agricultural Bargaining Act, which Senator Mondale has introduced, with others, to bring agriculture into the 20th century, in terms of getting up to date in this complex society.

Thank you very much.

Senator CRANSTON. Previous witnesses today, representing farmer organizations, have told us that unionization and legislation that might lead to increased labor costs, wages, and otherwise, would seriously injure farmers. Your testimony deals largely with the need for farmers to organize, to bargain together more effectively for better market prices for the products that they produce.

Do you believe that with this bargaining cooperation farmers would be able to pay their workers decent wages? In other words, do you feel that it is possible for farmers to pay good wages, and to pass on the higher labor costs to processors and other middlemen, who make so much of the profit presently on agricultural products?

Mr. JOHNSON. Mr. Chairman, I look at the problem, as I have already indicated, as being a single problem.

Senator CRANSTON. Being a what problem?

Mr. JOHNSON. A single problem. I mean, farmworkers are not going to make gains in wage rates unless the employers are able to pay those gains, through better wages. Through the years it can demonstrate that there is a direct relationship between the welfare of farm operators and the welfare of farmworkers. When we got the minimum wage for farmworkers, it increased food costs somewhat, but we have been able, through Government programs, thus far, to comply with the law. Incidentally, managing supply under these programs which is a form of rationing labor. Federal farm programs help us ration labor and control supply.

Many of those who oppose coverage of farmworkers under the NLRA and any improvement of their rights to bargain, consistently, but unfortunately, oppose the Federal farm programs, through which farmers have been able to get a little additional income. They oppose—and I can't document this, and I won't try to, in terms of individual organization's views—but I know that some of the groups not only oppose the coverage of farmworkers under the National Labor Relations Act, they also oppose any Federal legislation, and machinery to give farmers a better opportunity to bargain with processors. So in a sense here, I guess we are all being consistent.

As this committee looks at this legislation, we want you to look broadly at the problems that operators have, too. We are going to testify tomorrow, for some additional appropriations for farm programs, in the Subcommittee on Appropriations, before Senator Holland. If the time permitted, I would present here for the record information to show just how bad we are off in agriculture. But this will be covered in the record of Senator Holland's subcommittee.

It disappoints me that some of those people who want to hold down the farmworker, and not let him get a better chance to get organized,

also are attempting to prevent what we think is good, constructive legislation, including adequate funding properly of farm programs we now have, to enable farm operators to get in a better position to pay their workers.

Senator CRANSTON. There was also testimony this morning that effective farm organization would lead to mechanization that would mean prohibitive costs for small farmers. Would you comment on that?

Mr. JOHNSON. Well, Mr. Chairman, we have been moving toward mechanization in agriculture ever since farmers have been making enough money to afford to buy the technology that research has developed. And we are going to continue to mechanize, in a number of areas. But I do not see at this stage, in terms of agricultural technology, any significant change that would occur from giving farmworkers the right to organize.

Senator CRANSTON. Would you, also, then, believe that there would not be any appreciable effect upon employment on farms, out of any mechanization that would be speeded by more effective farm organization?

Mr. JOHNSON. Well, sir, I will just give you one example here. I don't think they have a machine yet that will pick grapes. And there are a number of other jobs in that category that we have not mechanized. I am not going to say that we won't, because we have done some rather remarkable things, in the development of harvest equipment, but I do not see at this particular point that this becomes a very valid argument against giving farmworkers the right to organize and to bargain collectively.

Senator CRANSTON. You made no comment on S. 1808. Does the National Farmers Union have any position on child labor in agriculture?

Mr. JOHNSON. Mr. Chairman, I have read that bill, and if I understand it, we have no objection whatsoever to it. In other words, we support it.

Senator CRANSTON. Are there any questions by the staff?

Mr. MITTELMAN. I just have one question. I would like to get into the record a little more about your organization. I wonder if you could describe your membership?

Mr. JOHNSON. Well, we are a comparatively small organization, as numbers go, I suppose. We have a quarter of a million families. We hope to peak out somewhere near a quarter of a million families each year. Theoretically, on January 1, we don't have any members, but during the year we try to go out and get them. You can make your own estimate as to how many individuals that includes.

Contrary to what a lot of people have written in economics textbooks about the Farmers Union, we are not an organization of small farmers. Our members are 98 plus percent operating family-type units, I mean by that that these families make their living farming, and it just may well be that this has led to a little organization like the Farmers Union having as much influence as it has with the Congress.

When we speak, we believe that we are telling the Congressman from a rural district the same thing that his constituency is telling him.

Our members are in the so-called breadbasket of the country. If you made a mark from the Rocky Mountain area into the Ohio area, you

strike about half of them, and if you made another mark down from the Dakotas into Texas, through Oklahoma and the great wheat-producing area of the country, you would hit about another half of them.

Our members through the years have been aggresive in seeking those aims which you could call people-oriented. We supported such wild ideas as medicare, and social security coverage for farmers and others—things which we worked for many years before finally succeeding. Here we are back again, trying to project the leadership of our organization into the future, and came up with a good answer to the problem before the subcommittee.

Senator CRANSTON. Any further questions?

Thank you very much.

Mr. JOHNSON. Thank you, Mr. Chairman.

Senator CRANSTON. The next scheduled witness is Mr. Reed Larson, executive vice president of the National Right to Work Committee.

STATEMENT OF REED LARSON, EXECUTIVE VICE PRESIDENT, NATIONAL RIGHT TO WORK COMMITTEE

Mr. LARSON. Good afternoon, Mr. Chairman.

I have submitted copies of my statement, I believe you have the copy there, and I will proceed to read it, if that suits the Chair.

We appreciate the opportunity to appear before you today and to express our views.

I am Reed Larson, the executive vice president of the Right to Work Committee. We are a single purpose citizens organization dedicated solely to the protection of the right of the individual worker to join or not to join a union.

Our members and supporters represent a cross section of persons from all walks of life, including professional people, rank and file wage earners—both union and nonunion—businessmen, and others. Like most Americans, and certainly like every member of the committee, we are anxious to see that every workingman has the greatest possible opportunity to utilize his talents to the maximum extent of his ability. The concern expressed by members of the committee for the plight of migrant workers is, indeed, an integral part of a broader fight for freedom and opportunity for all Americans. Our organization is concerned with a particular facet of this struggle for equal opportunity—and we believe one of the most important facets.

Experience has shown repeatedly that, while the right to organize and bargain collectively can be an important tool for the workingman in achieving justice the widespread practice of compulsory unionism has increasingly perverted this tool into an instrument of political and economic repression.

We believe that passage of S. 8, as presently drafted, would be a step in the wrong direction—a step toward restricting rather than enhancing the opportunities available to farmworkers throughout America.

We neither advocate nor oppose the extension of representation elections and mandatory collective bargaining to farmworkers. However, we do strongly believe that adoption of the provisions of this bill which provide for compulsory unionism will work against the public interest and the interests of working people everywhere.

I think all of us would agree that one of the factors which has led to the introduction of this legislation and has helped to focus attention on this question is the widely publicized effort by the AFL–CIO's United Farmworkers Organizing Committee to curtail the sale of California grapes by our Nation's food stores. The stated purpose of the boycott promoters is to pressure grape growers into holding employee elections to determine whether or not employees wish to be represented by unions. The facts indicate this may not be their real objective. As we have stated publicly many times, the real boycott objective is "to compel employers to compel their employees to join a union in order to work."

However, if we accept at face value the stated objectives of Mr. Cesar Chavez, his superiors in the AFL–CIO, and the many concerned citizens who have become involved in this controversy, there is very little room for disagreement. A bill can be drafted to carry out those objectives which would meet almost no opposition, in our opinion. We certainly do not object to giving farmworkers an opportunity to vote on union representation. From what I have heard, most of the growers do not object, and they are agreeable to such a provision—and surely the overwhelming majority of Members of Congress will agree. So, there is no problem unless the real objective of the AFL–CIO and their Mr. Chavez is something other than that which they publicly say it is. We say they want compulsory unionism. AFL–CIO officials say they don't. As recently as February 8, in a signed Washington Post news service story, Mr. Chavez denounced our organization by saying:

> . . . the Right to Workers smear the boycott by saying that the issue is "compulsory unionism" and that the boycott is to try to force unionism on workers who really don't want it . . . the only demand is that the companies agree to sit down and discuss way and means of recognizing the union and then make plans to enter into negotiations. . . .

Our proposal to this committee provides a simple test of the truthfulness of those who are promoting the grape boycott—who say that their objective is representation elections for farmworkers. We are asking simply that you remove from this bill all provisions which will subject farmworkers to compulsory unionism, thereby leaving them with the full protection of the National Labor Relations Act in selecting their desired bargaining agent.

As Senator Williams said when he introduced the bill, "The bill provides an orderly process for the conduct of elections by the NLRB to permit employees freely to choose whether they wish to be represented by a union. Should a majority wish union representation, the employer and the majority representative are thereafter both obligated to bargain collectively and discuss grievances." We see nothing objectionable in that statement, and ask only that the hidden menace of compulsory unionism be clearly prohibited—that employees be protected from being forced to pay money to a union which they feel is doing them no good.

An event which occurred just 8 days ago, on April 9, casts further doubt on the credibility of Mr. Chavez and the organization which he represents, the AFL–CIO. In an abrupt reversal of his alleged objective Mr. Chavez admitted to a Delano press conference exactly what

we have contended for many months—that his real objective is not representation electons, but compulsory unionism. Mr. Chavez denounced the plan to put farmworkers under the National Labor Relations Act and freely admitted that his real objective is a closed shop for farmworkers. In so doing, he implies that he now doubts whether he could win the support of workers if a representation election were held. By this performance, I believe it is clear that Mr. Chavez and his sponsors, the AFL–CIO, can no longer be taken seriously by those who earnestly seek a way to improve the fortunes of farmworkers. Furthermore, Mr. Chavez has left high and dry thousands of his well-intentioned supporters who had followed him in the earnest belief that his real aim was that of securing representation elections for farmworkers.

The respected San Francisco Examiner in an April 11 editorial effectively expresses the outrage and disappointment which must be felt by those who had mistakenly looked to Mr. Chavez and the AFL–CIO for leadership in seeking solutions to the problems of farm laborers. That editorial was entitled "The New Chavez, A Labor Boss," and I quote:

The many politicians, clergymen and others who have sanctified Cesar Chavez as a Moses leading farm workers out of bondage should have red faces today. Suddenly their Moses has taken on the visage of a hard-boiled labor boss.

For a year the pleaders of the Chavez cause have been criss-crossing the nation, promoting his grape boycott as a holy crusade and demanding, over and over and over again, that the National Labor Relations Act be extended to cover farm workers.

They said that Chavez and his AFL–CIO United Farm Workers Organizing Committee could force recognition upon benighted farm employers if only they were given the same NLRA protection to organize and bargain collectively that all other kinds of workers enjoy.

But yesterday Chavez, speaking at his Delano headquarters, exploded all that. He denounced the NLRA because, if brought under it, he would also become subject to the Taft-Hartley and Landrum-Griffin Acts. His grape boycott then would become unlawful as a secondary boycott. And he could not force a closed shop.

He said farm workers deserve special treatment from Congress. That is to say, he is not content to operate under the legal rights accorded all other American workers. He wants more.

He wants not only the privileges and protections of the NLRA but also the right to force farm employers, through the boycott, into recognizing his union as bargaining agent.

That means he wants farm workers handed over to him without the formality of an impartial NLRA election in which the workers could vote for his union, another union or no union. And he wants the closed shop, under which employers would be forced to help him keep his membership.

The only conclusion we can draw from this is that Cesar Chavez doesn't think he would win the farm workers to his side in an NLRA election, despite the many restrictions such an election places on employers.

Let Us Remind readers that The Examiner has supported in the past—and still supports—the right of farm workers to organize and bargain collectively under the NLRA. But we believe also that no worker should be compelled to join a union against his will.

The new Chavez is talking the language of forced, compulsory unionism. That is why the man so lavishly praised as a labor idealist has emerged, we repeat, as a hard-boiled labor boss.

End of quote from the San Francisco Examiner.

One very important point has been missed by the Examiner, however. The bill being considered today, unless the compulsory unionism

provisions are removed, would establish the very conditions which are denounced so vigorously in this editorial.

We ask, therefore, that the provisions of S. 8 which establish prehire agreements, the 7-day union shop, and the hiring halls, be deleted from the proposed bill. This bill as now drafted would permit union officials to extract dues from hundreds of thousands of unwilling farmworkers without a vote by even a single worker. It would allow union officials to obtain compulsory union shop agreements with employers even before anyone goes to work. Under that agreement, all workers would be obtained through a union hiring hall and all would be compelled to join a union within 7 days or would lose their jobs. These provisions are not only unfair, undemocratic, and discriminatory; they also are unnecessary to establish, as Senator Williams says, "an orderly process for the conduct of elections by the NLRB to permit employees to freely choose whether they wish to be represented by a union."

In its place, we recommend that this committee insert language which will protect every farmworker from being compelled to pay money to a union in order to get or keep a job.

In his introduction of S. 8 on January 15 the Honorable Senator Harrison Williams of New Jersey said:

> Farm workers today, believing that collective bargaining is an essential self-help device for improving their economic and social status, are striving vigorously for elections and other means to obtain union recognition.

But the National Right To Work Committee submit that these words have no meaning in terms of providing effective legislation to protect and help the migrant farmworker in this country unless words are included in the legislation making compulsory union membership illegal, words guaranteeing the individual farmworker the right to work whether or not he decides to join or pay money to a labor union.

The California farmworker has indicated he understands this point. After 3 years of intense organizing efforts, the expenditure of many million of dollars by the AFL–CIO, in fact, the United Farm Workers Organizing Committee recently said that they now have 500 full-time paid men and women criss-crossing the country in promoting collective-bargaining rights and free elections and most recently a nationwide product boycott—despite all of this less than 2 percent of California's farmworkers have joined Cesar Chavez' United Farm Workers Organizing Committee.

In conclusion, I appeal to the members of the committee to use your wisdom and enormous influence on behalf of the interests of the individual farmworker, providing him with legislation which will protect him from unfair treatment both at the hands of professional union organizers and at the hands of employers.

I thank you.

Senator CRANSTON. If the situation that you advocate prevailed, and then on a farm there was an election, and a majority voted to have a union, and proceeded to have one, for bargaining with the employer, and other farmworkers did not join the union, and did not pay its dues, did not do other things that its members did, do you feel that the nonmembers should receive the wages and all other benefits won by the union, without having to do anything that its members do to support it?

Mr. LARSON. I think that under the present law, as supported by leaders of organized labor, they are permitted to bargain for all employees, including those which don't join the union, and they ask that those employees accept the union—they demand that the union's representation be imposed on those employees, so I think that the individual should not be compelled to pay money to a union, if he thinks that union isn't doing him any good.

Senator CRANSTON. But you feel that he should receive whatever benefits the union wins for its members?

Mr. LARSON. If he thinks that the union is doing him good, he has a moral obligation to support it, as any of us would, in that situation. But in many situations, the worker is actually held back and penalized by union representation, either because of incompetence, corruption, or perhaps "sweetheart" agreements between employers and unions, and many workers will find that they are suffering from the fact that they are forced to accept union representation. I think they shouldn't be forced to pay for it. I think each individual worker should decide for himself whether or not the union is worth joining.

Senator CRANSTON. Thank you very much, sir.

Any questions, Mr. Mittelman?

Mr. MITTELMAN. Without getting into the merits or demerits of Cesar Chavez, but confining our discussion to legislation that is actually pending before us, isn't it a fact, Mr. Larson, that in many States, the closed shop now is legal?

Mr. LARSON. In many States the closed shop is legal?

Mr. MITTELMAN. Is that not correct?

Mr. LARSON. Under the National Labor Relations Act——

Mr. MITTELMAN. I am talking about—let me confine my question to farmworkers, who are traditionally—who are excluded now from the National Labor Relations Act, and who are also excluded from most State labor relations acts, so that the common law applies. Isn't it a fact that in many, many States—not all, but in many States—a closed-shop agreement is legal?

Mr. LARSON. I am quite confident what you say is true. I couldn't answer with precision, but the circumstances you describe make sense.

Mr. MITTELMAN. Is it correct to say that the United Farm Workers Organizing Committee could today, with perfect legality, negotiate a closed-shop agreement in California?

Mr. LARSON. California, I do know positively, has a law that protects the right of workers to join a union. Nobody can be fired for joining a union in California.

Mr. MITTELMAN. That is not the question I asked.

Mr. LARSON. But I say that to preface my answer, but I do not know whether, on the other hand, it limits the imposition of compulsory unionism to the so-called union shop, or to the closed shop, but it is entirely possible that a closed shop could be legal, in some States.

Mr. MITTELMAN. Well, I know as a fact that in New York, where I am from originally, the closed shop, as a matter of State law, is legal, so that you are starting with a condition, at least in some States, where without the National Labor Relations Act, there is much more of a possibility of compulsory unionism, in the form of a closed shop,

than you would have under S. 8, and the National Labor Relations Act, which permits only a union shop, either on a 7- or a 30-day basis, depending upon whether or not section 8(f) is included or applicable.

It is also a fact, or isn't it also true that S. 8, in its form now before this committee, would not interfere in any way with the right of States to pass right-to-work laws, and that in the—I believe—23 States which do have right-to-work laws there would be no form of union shop, 7-day, or 30-day union shop, available or permitted in the case of farmworkers, if S. 8 were to become law?

Mr. LARSON. That is correct; that is correct. In fact, Senator Williams pointed that out in his introduction to the bill. But this would, in our opinion, greatly increase the problem of compulsory unionism in those States that do not have right-to-work laws.

Mr. MITTELMAN. But it would, as a practical matter, going back to what I tried to bring out earlier, that right now, without S. 8, without the National Labor Relations Act being applicable, in many States without right-to-work laws, the union could in fact go in right now and get a closed shop, whereas under S. 8, they could only get a union shop, and a closed shop, I assume, is much more—you look with much more disfavor on a closed shop than you would on a union shop. I am assuming that. You correct me if I am wrong.

Mr. LARSON. Well, I really think that there is relatively little difference in the wrong that is performed by either one. If you have a closed shop, a union shop, or the so-called agency shop, in effect there is little difference among the three, but it is our opinion that passage of this legislation would greatly enhance the weapons available with which union officials could impose a closed shop even, or, rather, 7-day union shops, even in those States which, like New York, now permit it under State law.

Mr. MITTELMAN. Well, you just referred to the 7-day union shop, and the so-called 8(f) proviso which is presently applicable to the construction industry. Isn't it a fact that that is a matter that is completely voluntary, that an employer can't be forced to sign such an agreement? The union is not allowed to picket to obtain that 8(f) agreement, it can picket to obtain a 30-day union shop agreement but in order—before it can do that it must establish that it in fact represents the majority of the workers. An 8(f) agreement, which is a prehire agreement, which permits a 7-day union shop clause, as far as I know—I have done some research into the question—an employer can't be forced through picketing to sign such an agreement. Does that accord with your understanding of the law?

Mr. LARSON. I could not answer precisely on that point, whether he could or whether he couldn't. I think that is not really relevant to the basic question, though, in our opinion. An employer may want to sign a 7-day union shop, with prehire agreement. He may find that it is in his interest, and the union official and the employer may both decide that it is in their interest to sign a compulsory union shop agreement, and under this bill they could do this without the consent of even a single worker, and we think that is very wrong. While it has the sanction of law, it is a form of "sweetheart" agreement, in our opinion.

And it actually ignores the interest of the worker. Such an agreement is signed in the interest of the employer and the union agent.

Mr. MITTELMAN. I have no further questions.

Senator CRANSTON. Thank you very much.

Mr. LARSON. Thank you.

Senator CRANSTON. The next scheduled witness is Mr. Bernard J. Imming, secretary, United Fresh Fruit & Vegetable Association.

STATEMENT OF BERNARD J. IMMING, SECRETARY, UNITED FRESH FRUIT & VEGETABLE ASSOCIATION

Mr. IMMING. Thank you, Mr. Chairman.

We welcome this opportunity to present the views of the United Fresh Fruit & Vegetable Association on the proposal which would extend the National Labor Relations Act to agriculture.

The United Fresh Fruit & Vegetable Association is a national organization which represents all factors in production and marketing of fresh fruits and vegetables, with headquarters in Washington, D.C. Our membership is comprised of more than 2,500 firms involved in the production and distribution of fresh fruits and vegetables, all of which are vitally concerned with the proposal before this subcommittee.

We are opposed to the enactment of the proposed bill, S. 8. We do not believe that anything has occurred which would change the unique nature of agriculture as was recognized when agriculture was exempted at the time of the enactment of the National Labor Relations Act. Furthermore, the history of the act indicates quite clearly that it has become so industrially oriented that its application to agriculture and particularly to fresh fruit and vegetable production would result in utter chaos and loss of goods and benefits for employees, employers, and, most of all, the Nation's consumers.

On the other hand, this association would endorse legislation which would provide for collective bargaining for agricultural workers and employers with appropriate safeguards for all parties concerned. Our association has never denied the right of workers to bargain collectively, but it has opposed and continues to oppose the legislation now before this subcommittee which would remove the present exemption of farm employees from coverage under the National Labor Relations Act, and at the same time authorize prehire contracts between farmers and unions and make it possible for unions to gain representation rights without elections.

In order to lay our association's position on the record quite clearly, permit me to quote the resolution on agricultural labor which was unanimously adopted by our members at their 65th annual convention in New Orleans, February 12, 1969, where more than 2,400 persons were registered. The resolution follows:

> Because of the perishability of fresh fruits and vegetables and the vulnerability of farmers to work interruptions during critical periods of production and harvest, and because of the long standing recognition of Congress that agricultural labor should not be included in an industrially-oriented labor management statute, we vigorously oppose inclusion of agricultural laborers under the National Labor Relations Act with administrative responsibilities vested in the National Labor Relations Board.
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> However, this opposition should not be construed to mean that we do not recognize the agricultural workers' right to freedom of choice of representation, so long as it is also recognized that the peculiar nature of agriculture demands certain safeguards for agricultural employers and the public as well.

Therefore, we strongly favor an approach which would:

Provide for a declaration of public policy that an adequate supply of food is imperative to public health and welfare, and that the production and distribution of foods should not be interrupted by strikes and boycotts at harvest time and during critical periods of production;

Establish rules and procedures completely independent of the National Labor Relations Act to provide exclusive jurisdiction with respect to agricultural labor regulations;

Provide for reasonable exemptions of small farm operators;

Provide that a labor disputs may only exist between employers and employees relating to work involved;

Provide adequate safeguards to insure the freedom of choice of workers to join or not to join a union; and

Provide for a secret ballot in the event an election is called and for such other protection that will insure producers' access to markets and to the available labor supply.

On March 20, 1969, in its weekly newsletter to its members, the United Fresh Fruit & Vegetable Association stated its position further:

The United has endorsed proposed legislation which would provide for collective bargaining for agricultural workers and employers, with appropriate safeguards for all parties concerned. The action is in concert with the resolution adopted by United members at the association's annual meeting in New Orleans last month.

The proposal would include reasonable exclusions for small farmers, and would be entirely new and separate, not in the form of an amendment to the Labor Management Relations Act. United's opposition to S. 8, the bill which would put farmworkers under the National Labor Relations Act, continues without change.

United's endorsement of proposed legislation includes favoring appropriate safeguards for workers as well as employers, such an prohibiting any discrimination against a worker because he is or he is not a member of a union, or interference with the right of a worker to vote for a union. At the same time, United would require recognition by the employer of a union which is favored by a majority of bona fide workers in an election.

Among others, provisions which United favors would prohibit any strike which would result in the loss of agricultural produce, as well as prohibition of secondary boycotts and product boycotts.

We think there is no question that in the fruit and vegetable industry where so much farm labor is employed, agricultural producers are far more vulnerable employers than in other industries. It has been said many times by others before this subcommittee and in times past that industrial or commercial concerns may suffer a reduction in profits as the result of a strike, but it is rare for such organizations to suffer a disaster. It is simply not possible to close down a farm in the way that an industrial plant or distributing center is closed down. The production processes in most cases are relentless and inflexible.

In the case of the producer of fresh fruits and vegetables, a successful strike at the time a perishable crop is ready for harvest would have a shattering twofold effect (1) no income for the year; and (2) a direct loss of substantial amounts of money which have been invested in bringing the crop to harvest time. The fresh fruit and vegetable producer would be at the mercy of any union which would obtain control of the farm labor supply, because he is under such overwhelming economic pressure to get his crops harvested.

It is my intention today to limit this statement to a few general comments on the special nature of agriculture and further emphasize the detailed presentations of other organizations which oppose S. 8. At the same time, we wish to reiterate our belief in collective-bargaining

procedures for agricultural employers and employees. This may well be brought about by the enactment of other legislation which would incorporate the principles I have outlined above, and which are quite similar to those endorsed by the American Farm Bureau Federation and other organizations.

In other years we have stated that to attempt to extend the National Labor Relations Act to agriculture would be a grave injustice to agricultural producers. Not only would they be in the most vulnerable bargaining position imaginable, but we feel enactment of legislation like S. 8 surely would accelerate an already established trend to move agricultural production outside of the United States and consequently to expand even more rapidly the imports of fresh fruits and vegetables from foreign countries into the United States. As members of this subcommittee know, the records of the Foreign Agriculture Service of the U.S. Department of Agriculture for the past decade clearly document the trend. Finally, we believe that special requirements of agriculture are such that it would be almost impossible to apply the administrative procedures necessary under the National Labor Relations Act.

The fact is that agricultural employers, including the producers of fresh fruits and vegetables, require and deserve special and separate legislation in establishing effective collective bargaining procedures.

We firmly believe that there is more than adequate justification for our opposition to the enactment of S. 8, just as we are convinced that the development and enactment of legislation which suitably recognizes the unique needs and nature of agricultural employers and employees and their relationship is desirable.

We recognize that this subcommittee is also concerned with a bill which would amend the Fair Labor Standards Act of 1938 with regard to its child labor provisions. While we do not wish to turn the focus of our testimony away from S. 8 and therefore will not comment otherwise, we do believe the States have done a good job in this field and we believe that because we are convinced they will continue to do so, there is no need for Federal legislation in this area.

Thank you for allowing us this opportunity to present our views.

Senator CRANSTON. Thank you.

You indicate that you favor collective bargaining for agricultural workers. Yet your primary intent, of course, is to prevent them from striking at harvesttime or other critical times. If they are deprived of that weapon, withholding their labor, what weapon do they have to use in collective bargaining? What tools do they have?

Mr. IMMING. Mr. Chairman, we believe that it would be possible to work out a real equality in bargaining power here. As I stated, the situation of agriculture, especially in the fresh fruit and vegetable industry, which involves its vulnerability at harvesttime is unique. We have that in mind when we ask for a prohibition of a strike at harvesttime.

Senator CRANSTON. What tool would they have?

Mr. IMMING. Indeed, they have plenty of tools. As was stated in earlier testimony today there is, in fact, a substantial competition for labor supply that is brought into this country. The agricultural employer is subject to many economic pressures at times other than har-

vest or similar critical periods. It would be possible to work out equality in bargaining in the development of the legislation which we would endorse.

Senator CRANSTON. In regard to S. 1808 you said you believe the States are doing a good job in the field of child labor. Are you referring to enforcement of State laws by the States?

Mr. IMMING. Yes.

Senator CRANSTON. Or regulations by the States, or both?

Mr. IMMING. Yes; we are.

Senator CRANSTON. To both?

Mr. IMMING. Yes.

Senator CRANSTON. Do you know whether any States have laws or regulations that are more lenient than those that are suggested in S. 1808?

Mr. IMMING. I can't answer that, I am sorry. I don't know.

Senator CRANSTON. Do you think that more lenient laws can be justified?

Mr. IMMING. That more lenient laws are justified?

Senator CRANSTON. Yes. Do we not need laws that go at least as far as S. 1808?

Mr. IMMING. Mr. Chairman, I think in this case, well, our position is based on the fact that we think if it is possible for situations to be handled by State legislation rather than Federal legislation it should be done.

Senator CRANSTON. Do you believe child labor is being dealt with adequately by present regulations and laws of the States?

Mr. IMMING. I would think so. There may be exceptions to this as there are in so many things, but I would think so. Our association has no official position on this. So I am speaking now on the basis of an opinion but we believe that there should be employment opportunities for young folks with the proper safeguards and under the proper conditions.

Senator CRANSTON. Do you know how many States do have proper safeguard laws or regulations?

Mr. IMMING. No; I do not.

Senator CRANSTON. Thank you very much.

Do you have any questions?

Mr. MITTELMAN. With reference to the strike at harvest time, a question was asked of earlier witnesses, does your organization have any position on compulsory arbitration as a means of settling disputes which might occur at times when a strike was prohibited?

Mr. IMMING. I did not understand your question, I am sorry.

Mr. MITTELMAN. Do you have any position on whether compulsory arbitration should be incorporated in the bill we are considering as a means of settling disputes that might arise at harvest time when the union would be prohibited under your recommendation from engaging in a strike?

Mr. IMMING. In principle we are opposed to compulsory arbitration.

Senator CRANSTON. Thank you very much.

Mr. IMMING. Thank you.

Senator CRANSTON. The next scheduled witness is Mr. Charles M. Creuziger, on behalf of the Vegetable Growers Association of America.

STATEMENT OF CHARLES M. CREUZIGER, PRESIDENT, VEGETABLE GROWERS ASSOCIATION OF AMERICA

Mr. CREUZIGER. Mr. Chairman, and gentlemen of the subcommittee, my name is Charles M. Creuziger. I am a vegetable grower from Sturtevant, Wis. I own and operate, in partnership with my sons, a 650-acre vegetable farm, growing potatoes, cabbage, onion sets, and soybeans.

As an employer of local farmworkers and domestic migrants I am personally interested in the legislation pending before this committee.

In addition to operating my own vegetable farm, I am privileged to be the president of the Vegetable Growers Association of America. It is in this capacity that this statement is being made personally before your committee.

The Vegetable Growers Association of America is the only national association of vegetable growers with over 40 associations representing membership in 32 States. The membership of our association is composed of medium-sized, family-operated vegetable farms, including the small market gardeners that surround the large eastern municipalities and the larger commercial family-operated vegetable farms of the Southeast and Midwest.

I am grateful for this opportunity to present our association's views on the legislation now pending before this committee.

Our association is opposed to this bill, in which it is sought to amend the National Labor Relations Act. Under the act, section 7, employees have a right to self-organization to form, join, or assist in a labor organization, et cetera. This bill gives special consideration to agricultural labor.

Under section 9 of the National Labor Relations Act, we find the following provisions:

(*a*) Provides for representatives and elections for the purpose of collective bargaining by the majority of the employees in a unit appropriate for such purposes and such a group shall be the exclusive bargaining agent.

(*b*) Provides for the determination of the bargaining unit by the Board.

(*c*) Provides for the earnings or representation questions affecting commerce; rules and regulations, also for who may file a petition and for the conduct of the elections, for the application of election rules, provides for a 1-year rule on elections on eligibility of strikers to vote and run off elections, and provides for the unit determination.

(*d*) Provides for a situation for enforcement or review.

(*e*) Provides for the election to rescind union security agreement.

(*f*) Provides for filing by the union of its bylaws.

(*g*) Provides for annual reports for union; contents.

(*h*) Provides for affidavits showing union officers free from Communist Party affiliation or belief.

The question which arises in my mind is why is it sought to shortcut this procedure and make it possible for a union of agricultural workers to be recongnized by the employer without following the rules which are applicable to other groups?

It would appear to me this legislation is designed to force agricultural laborers into a union organization without requiring the union

to meet certain specifications presently provided for by law. The present bill provides in line 6:

> * * * or as agricultural employees with a labor organization of which such employees are members (not established, maintained, or assisted by any action defined in section 8(a) of this Act as an unfair labor practice) because (1) the majority status of such labor organization has not been established under the provisions of section 9 of this Act prior to the making of such agreement, or (2) such agreement requires as a condition of employment, membership in such labor organization after the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later, or (3) such agreement requires the employer to notify such labor organization of opportunities for employment with such employer, or gives such labor organization an opportunity to refer qualified applicants for such employment, or (4) such agreement specifies minimum training or experience qualifications, for employment or provides for priority in opportunities for employment based upon length of service which such employer, in the industry or in the particular geographical area: *Provided*, That nothing in this subsection shall set aside the final proviso to section 8(a)(3) of this Act: *Provided further*, That any agreement which would be invalid, but for clause (1) of this subsection, shall not be a bar to a petition filed pursuant to section 9(c) or 9(e).

I should like to ask the question whether or not it is proper to disregard the law which relates to other employers and apply a special provision to agriculture. I should also like to ask the question whether it wouldn't be better if legislation is considered necessary in the field of agriculture relating to labor to make special provision for the same to be under the Agricultural Department rather than the National Labor Relations Board. Do you feel that the academicians are capable of evaluating the situation relating to agriculture? Isn't this a special field? Wouldn't it be a travesty if men with no experience in agriculture should begin to apply the same type of rules which are applied in industry, and suppose these rules did not work because they were not applicable?

Some time ago a poll of the Nation's farmers indicated that more than half desire the Government out of agriculture entirely. Now if this is the case, it might be well for Congress to look into the matter and let agriculture operate on its own without having monopolistic labor leaders determine the economic relationship of the individual farmer and his regular employee, employees, or migrants.

As I pointed out when I made my opening statement, the great bulk of vegetable growers are individual farmers operating family farms. In this inflationary economy of ours their income has not kept pace with the inflation. This is also true with reference to those who are required to hire some help.

Did it ever occur to you gentlemen that if the farmers decided they were not going to grow crops and decided they did not want any Government help, which means Government supervision, what might happen to the country? Isn't it important that these questions be given consideration before imposing monopolistic labor upon the farmer?

From my observation in the area from which I come there is no such thing as "free collective bargaining." As I view it, with the pressures that are imposed by power-seeking labor leaders, labor has assumed a monopolistic bargaining position; and there is little, if anything, that can be done about it if a small manufacturer or even a large manufacturer endeavors to meet his obligation to his stockholders and endeavors to operate the business at a profit. Now if this is true in in-

dustry, it is more so in agriculture because agriculture cannot under any circumstances be interpreted economically in the light of industry.

Under the legislation under consideration in (1) the majority status of the labor organization contending it has the right to represent the employees of the employer farmer need not be established under section 9 prior to the making of an agreement.

It also provides that such an agreement requires as a condition of employment, membership in such labor organization after the seventh day following the beginning of such employment or the effective date of the agreement, whichever is later.

In other words, the imposition of the union shop becomes mandatory immediately upon a contract being entered into, and the individual employee is required to join within 7 days of his employment or the effective date of the agreement, whichever is later.

How will this affect a situation such as we have in Wisconsin where the union-shop question must be put to a separate election, and then it is only advisory? As I interpret this provision of this legislation, union membership becomes mandatory immediately upon an agreement being entered into.

As a consequence, we would find the same situation relative to agriculture which we find in industry generally, as I alluded to a moment ago. There isn't any question in my mind there would be imposed upon the larger employer of temporary labor, conditions which would require him to accede to the demands of labor because a crop must be harvested within a very limited period of time; and if it is not, it becomes a complete loss. Therefore, with this type of legislation enacted by the Congress, we would have a situation in which the union would be able to impose unlimited conditions upon the employer, and there would be nothing he could do about it. He would not be in a position in which the building construction industry finds itself because it, in billing its customer, adds to the cost of the labor per hour a certain percentage for overhead, insurance, profit, et cetera, which cannot be added to the price of the produce grown by the farmer.

Under (3), line 16 of the act, we find this language: "such agreement requires the employer to notify such labor organization of opportunities for employment with such employer, or gives such labor organization an opportunity to refer qualified applicants for such employment." The greatest danger in this type of legislation is it may be instituted primarily at the time of the harvesting of the crop. This is most unreasonable because there is no such thing as "free collective bargaining" if one of the parties has an upper hand and can dictate conditions—in this case it would be the labor union. This has been demonstrated, as I pointed out before, over and over again.

Further, the National Labor Relations Board has become more and more labor oriented even though unions have become stronger and stronger and can impose their will upon a large portion of those with whom they deal. This was never contemplated under the law, and I see no reason why the Congress should place a premium upon the actual and practical approach which labor unions take.

As an indication of the National Labor Relations Board being labor oriented, let me point out to you the *Excelsior* case in which the Board requires the employer to give to the union the names and addresses of

the employees 10 days before the vote determining whether or not the employees desire the particular union. If this isn't a relationship which places the Board as being labor oriented, then I do not appreciate the situation. Academically, this may sound unorthodox; but from a practical standpoint and from those with whom I have spoken and those who have had experience in industry, it is as described. It is impossible in agriculture where there would be a multiemployer agreement for the farmer to hold his produce which he has produced for the season. He must sell it upon the open market as soon as it matures; and, therefore, any legislation which is designed to give unions an opportunity to impose their will upon the farmer is inequitable and unjust.

Congress is responsible for the type of labor legislation which is on the books; and it, together with the courts, has permitted an injudicious body such as the National Labor Relations Board to impose upon industry and business and now seeks to impose upon agriculture control and direction all in the name of free collective bargaining. If ever there was a phrase which represented a complete misnomer, this is the phrase. Perhaps when unions were first organized upon a horizontal basis, there was some foundation for this statement; but today the National Labor Relations Board has proved itself the most injudicious agency and has in effect established a kangaroo court designed to give the overstuffed power-seeking labor leaders control without responsibility. To permit labor leaders to assume control without responsibility is the height of frivolity.

Prof. Sylvester Petro of New York University, who was a union man in the early 1930's, in an article which appeared in a national magazine, had this to say about the National Labor Relations Board. He points out in this article the idea which has been sold to the American public that the Government can better administer to the needs of the people, real and fancied, than it can by protecting the freedom and the free-enterprise system through vigorous enforcement of equal rule of law for everyone. Quoting, he states:

> However, deficiencies in welfare state theory and action are no where so blatant as they are in labor relations.
>
> Here we see sharply all the distortions, the mistakes, the evil consequences of that theory at work. We see not only special privileges and immunities granted to unions at the expense of the rights of employers and employees. We see also the abandonment of the most vital provisions of the United States Constitution. Perhaps most significantly, we see how abandoning the separation of powers theory which animates the Constitution reduces the Government of the United from an effective representative government to a contradictory chaos.

If we in agriculture become subject to the National Labor Relations Board under the legislation which is now before this committee, we shall find ourselves subordinated to a group of sociologists whose sole objective in life seems to be to tear down this representative republic which has afforded its people the finest living conditions and, up until the advent of bureaucrats running wild, a degree of freedom and liberty which made possible the advent of the finest agricultural production in the world. Are you willing to let a group of union power seekers prevail upon Congress to institute a law in which the National Labor Relations Board is going to act as the prosecutor, the judge, and the policymaker for all of agriculture, which will reflect itself immeasurably upon our ability to operate our farms and to derive more than a bare existence from its operations? Shall agriculture be regimented?

It is an old adage which assumes greater significance today than it has heretofore by virtue of the group whose burning desire is to formulate a strong central government. The adage is "If history teaches us anything, it teaches us nothing." Strong central governments cannot live except through the acqusition of more power. Today in America we have seen and are seeing a determined program to lodge in the central Government more and more power.

We in agriculture ask that you take a second look at this type of legislation which seeks to impose upon us a philosophy which will place us under the rule of labor which up to the present time has not indicated a desire to make more efficient the free market economy but rather to impose its own limited knowledge upon those who have spent a lifetime in agriculture.

Thank you, gentlemen, for affording us the opportunity to appear before you.

Senator CRANSTON. Thank you for your testimony. You did not testify on S. 1808. Do you have an opinion in regard to the child labor legislation?

Mr. CREUZIGER. Mr. Chairman, yes. I have been opposed to child labor. You are referring to the bill to extend child labor provisions to certain children employed in agriculture and for other purposes?

We support this bill. I think it is well written, Mr. Chairman. However, I believe there should be an amendment to prohibit a child who is under the age of 14 years to work on or operate power driven machinery. I think it is very dangerous.

Senator CRANSTON. Thank you very much.

Mr. CREUZIGER. You are welcome.

Senator CRANSTON. We have one final witness, I believe, whom we did not manage to hear yesterday, Mr. Baldemar Velasquez, President of the Farm Labor Organizing Committee.

STATEMENT OF BALDEMAR VELASQUEZ, PRESIDENT, FARM LABOR ORGANIZING COMMITTEE IN OHIO

Mr. VELASQUEZ. My name is Baldemar Velasquez, president of the Farm Labor Organizing Committee in Ohio.

Senator CRANSTON. Your written statement can be incorporated in the record.

If you wish to proceed on your own, fine.

(The prepared statement of Mr. Velasquez follows:)

PREPARED STATEMENT OF BALDEMAR VELASQUEZ, PRESIDENT, FARM LABOR ORGANIZING COMMITTEE IN OHIO

Mr. Chairman, my name is Baldemar Velasquez, Route 1, Box 92, Pandora, Putnam County, Ohio. I am president of the Farm Labor Organizing Committee, a union of about 2,300 members, all farm workers, half of whom are living in Florida and Texas in the winter months. I have been a migrant worker until a year ago when I started to organize the union.

The main crops in Ohio are tomatoes and sugar beets and many of the workers come up under a flimsy contract for sugar beets so that the company can boast that they have a contract with the workers, the contract reading like they have some form of insurance policies and other benefits. But the real fact is that there is no insurance policy. One of our members, whose name is Jose Carr, who worked at a Buckeye Sugar Company, tried to make use of that insurance policy and when

he went to the foreman to get the benefit, he was told to go to the local migrant clinic funded by the Office of Economic Opportunity. The clinic was open only on Tuesday and Friday and his sick child was dying on a Saturday. Jose Carr joined our union, like many other workers, because of such injustices and as soon as the company found out, they were all fired.

The real reason that the company gave them a contract at all is so that it would look good in the newspaper. But the real reason they have farm workers there is not for sugar beets, but rather for the tomato harvest and many of the people who come to Ohio come for the tomatoes not sugar beets but the company usually says they bring them up for sugar beets and many of them want to stay for the tomato harvest. So when the contract runs out for sugar beets they have no contract at all but tomatoes is the money crop so the workers say there. Putnam County has over 3,000 to 4,000 workers every year. It is the biggest county for migrant workers in Ohio and it is the worst place in the world for migrants to go to work.

Up until a year ago, there was no enforcement of any of the health regulations. Our union members took a survey and inspected twenty-three camps under the Ohio State Housing Regulations, which are very substandard compared to the federal regulations. In fact, they were drawn up in 1932 or somewhere around there. Under those regulations, inspecting these twenty-three camps we found 257 violations. Those violations were, to give some examples, on toilet facilities there are a whole lot of toilets just sitting on top of the ground, they don't have any holes. Camps were located too close to pigpens and barns. In fact, barns are favorite places that growers usually like to put migrants.

Many of the tomato growers aren't very big, many planting about 50 to 60 acres of tomatoes. But the reason they plant tomatoes is because it is a good money crop and it keeps their head in a nice profit margin regardless of what they get from their other crops.

It is not right for them to exploit migrant workers just because they have financial difficulties, if they do at all, many of them like to say they do. For the grower in Ohio, it takes about 13 tons of tomatoes an acre to clear expenses. The average in the last three years has been about nineteen tons. In Lucas County last year we went on strike on twenty-two ranches for three days and won contracts on all of them. The workers worked with enthusiasm the rest of last year's season knowing that they could determine their own future and regardless of the strike those ranches averaged around *thirty tons* an acre.

We feel that the only way we are ever going to get out of this kind of mess is for us to get organized and see what we can do together because we have learned that we cannot depend upon local welfare agencies and poverty programs to do it for us because it has been our experience in the past that the only thing those programs have ever done is help us adjust to our poverty.

Through a union we can combat all of these ills. We can bargain for better wages, for better housing, giving us an economic base on which we can stand and then maybe we won't have to migrate back and forth. Maybe then we can just settle down and educate our children as they should be educated and give our families a chance to grow in one place.

Mr. VELASQUEZ. We have a completely different situation in Ohio where there are major forces at work in Ohio in three ways, more conspicuously than in California or anywhere else, because in Ohio we have the grower who contracts with the big company, the processor, then there is the farmworker, the three of them.

In many cases the company is taking advantage of both of them all the time. Many years ago the company used to recruit all the workers in Texas and bring them all up. Now the farmer, through the employment service, does that. Now, it seems like the growers do not want to put up with the new housing regulations that are already passed. If you recruit through the employment service you have to live up to the regulations in Ohio. They are telling the migrant workers not to come up through the employment service any more so they don't have to live up to those housing standards. The growers claim that unionism in Ohio for migrant workers is going to run them out of business be-

cause they are not going to afford to pay better prices and all that. I remind you that a lot of the small farmers in Ohio are already getting run out of the business, not because of the farmworkers but because they are getting low prices for other crops. In many cases they tell us that if we take their only money crop away from them, their tomatoes, that many of them are going to sink under. Regardless of what their financial situation is there that is no excuse to exploit farmworkers because they want to keep their heads above water. They say they lack money to keep above water. They like to say it but we don't think so.

Let me give you some facts about Lucas County last year where we had a strike. To show we are not out just for strikes or anything like that and to run anybody out of business, the first thing we did when we had 500 workers assembled in Lucas County from 22 ranches we invited the farmers to come sit with us to see how we could both approach the company, Stokely Van Camp, to negotiate good contracts for both of us. What happened? There was another force at work here in Lucas County last year. That was the Farm Bureau under the Agricultural Marketing Association. They organized the growers and they told them not to come to our meeting because it was us who was going to eventually run them out of business. Nobody came and our farmworkers felt real bad so they wanted to strike that night. I said, no, let us wait and give them another chance. We set another meeting. I called them on the telephone, the 10 biggest farms in Lucas County. They said, sure, we will come on that.

Again, they consulted with their Farm Bureau in Lucas County and they told them not to come again.

So the only alternative was to strike those farmers out there and in 3 days we won 22 new contracts.

Hopefully—this spring we have approached Stokely to negotiate with them and they have agreed to talk with us.

You see, these farmers are being sacrificial lambs for the sake of the Marketing Association of Ohio. If they had come to us in the first place, there wouldn't have been a strike.

Last year, even with the strike in Lucas County the growers in that area averaged around 30 tons an acre for tomatoes. A tomato farmer needs about 13 tons of tomatoes an acre to clear all their expenses, fertilizer and everything else. The average in the last 3 years—I am using figures that were given to me in negotiations with the marketing association—in the last 3 years they have had an average of around 19 tons an acre of tomatoes. Last year even with the strike our union members, after we won the contract, worked with a lot of good feeling and everything because they felt now they could determine how they are going to live and work next year. They averaged around 30 tons an acre in Lucas County. I don't know what the rest of Ohio was like but in Lucas County that is what it was.

In many cases, too, a lot of the farmers and companies have been using the Office of Economic Opportunity programs for their benefit. Let me give you an example.

Buckeye Sugar in Ottawa, Onio, say that they bring their workers for sugar beets with a good contract. They say we have an insurance policy for them, we have other things for them. Let us give you an example about this insurance policy and these benefits. We had a farm-

worker named Jose Carr. He came and his little child got sick on the Buckeye Sugar camp. You know, in sugar beets they don't pay them their wages every week. They were paying him $20 a week to live on. At the end of the year they will add up all this pay and how much he owes the company and deduct that from his pay for the whole year. But they give him $20 a week to live on. His child got sick. He approached the foreman to ask him, "I need an insurance policy for my kid, he is sick, he is dying." He said, "OK, go to this health clinic we have." That health clinic is funded by OEO. It is only open on Tuesday and Fridays. His child was dying on Saturday. It was not open. It was not open on Sunday or Monday. It was not open until Tuesday. By that time the kid would be dead. We helped him out. We helped take his child to the hospital. He joined our union and he started to organize the ranches in the Buckeye Sugar camps. As soon as they found out what he was doing he got fired. This has happened many times to our workers. But the reason they got this contract and everything like that is for publicity and good things like that but the real reason they have workers there is because of the tomatoes. The workers are going to stay there for tomatoes. They don't come up for sugar beets. They come up for tomatoes.

Buckeye, itself, plants tomatoes enough to have enough work for all the workers they bring up for sugar beets. In the housing that they have and everything up to a year ago there was nobody enforcing any of the housing legislation that existed. Let me give you an example of what we did last year.

Last year we took some of our people and we inspected 23 camps, random sample camps. On these 23 ranches we used Ohio State sanitary codes. As you know, these are far substandard to the Federal codes that are in effect now. We used the State regulations and we inspected these 23 camps and we found 257 violations in just these 23 camps. To give you some examples, like the toilets, they didn't have holes in the ground, they were just sitting on top of the ground. Very poorly drained camp areas. We had people living in corn cribs and also camps located real close to railroad tracks and things like that. We feel that we can no longer depend upon the good will of farmers and good will of the companies, the good will of everybody, to help us get out of this mess that we are in. You know what they tried to do? They tried to use OEO to keep us where we are. For example, education for migrant children. What do they do? Instead of trying to settle them down and make them quit being migrants they set up a migrant school in Ohio and they set up a migrant school in Texas, instead of tackling the problem of migrancy they try to maintain that system of peonage and try to do what they can with them in that system.

So we feel that we can no longer depend on anybody. But if we were organized, we could bargain for better wages, better living conditions. This would give us an economic base on which we could stand because we have another problem that is coming in Ohio and that is machines. In 6 or 7 years it will put a lot of migrant workers out of work in Ohio. What is going to happen to these people? Many of them are going to go to other places but many of them are going to settle in Ohio and Ohio is not prepared right now, it is not prepared to receive another flow of people from the country. It is very hard for anybody to find housing.

Let me tell you what is happening already in Ohio. You go to Findlay, you go to Leipsic, Ohio, to Toledo, Perrysburg, you go to Lorain, you go to Cleveland, and you will see migrant slums already starting. They are already there. Because when a migrant worker is forced out of work he wants to quit being a migrant. He is uneducated, he has a language barrier, he has a cultural barrier. Where do you think he is going to go? He will go where there are other people like him. He will go where the housing is cheap. He will go where the food he busy is cheap. He will go to the slums unless you get organized now, so that they can decide for themselves they can build another alternative than that which is facing them, like we are doing now.

Our scope is far beyond unionism. We are setting up all sorts of cooperative programs. In that way it will help their economic base. Like I said, the union is going to provide an economic base on which they can stand when machines finally come. Then and only then when we are stable and not migrating back and forth can we educate our children the way they should be educated in one place and not go back and forth all over the country.

There is no future in big time unionism for migrant workers in Ohio but we are going to give them the union because as long as they are going to be working in migrant camps they should get paid a respectable wage, they should be living under human conditions. We are not looking for big unionism; we are just looking to build a better future for ourselves through an organization. You can call it a union, you can call it whatever you want. But we feel that is going to be the only answer because we can no longer depend on OEO or the public welfare system or anything like that to help us out of our poverty because it has been our experience in the past, we know it already, that all these programs have ever done is help us adjust to our poverty.

We don't want that. Look at what these programs are doing. They are driving our young kids toward manual labor, training them to do all this kind of stuff in factories and things like that. We want to educate our children so that they can grow up to be professional people and not just teach them to be an appendage to a machine, a second rate person. We can only do this if we have this economic power to stand on. This will, in turn, give us the political power that we need and it will wipe out the social problems that we have because that is where the problems come from, from economic, political inequalities. So this is our hope.

Senator CRANSTON. Thank you very, very much.

Senator Saxbe, of Ohio.

Senator SAXBE. I want to compliment this young man for being such a good witness. I think you have pointed up many of the issues that others have tried with less success.

Tell me this. As the jobs do dry up because of mechanization, where do you think most of the migrants would want to settle in Ohio, or at the other end of the line in Texas?

Mr. VELASQUEZ. You know, I can only speak for myself and the friends that I know and that I have that are migrants. Many of them like the North because there is more opportunity than there is in Texas, mainly because down there, as you have heard other testimony here, there is an overabundance of labor in the valley, of Mexican nationals

that come over and work every day, and things like that. We don't have that back in Ohio.

Senator SAXBE. I happen to know that in this area between Canton and Lima, Toledo, there is a tremendous demand for industrial labor right now. Now have many of these people attempted to take industrial jobs?

Mr. VELASQUEZ. Some. But, you know, there are other problems, little problems that you don't see. For example, cultural and language problems. Two very big reasons why, when a migrant takes a job in the factory, he can't keep it. You can't say, "I will put this migrant worker in the factory." The first thing that happens to him you will put him in a position where he will be completely alienated from the community. If you go to live in China among the Chinese you will be alienated. You will want to go back where the people are like you. So the language and cultural make a lot of difference.

Another thing, too, is that all his family and relatives are in Texas. Many times some guy says he hopes this migrant will get a job in the factory. What does he do? He quit right away and went back to Texas. Why? Because you know for the migrant his family is very closeknit and his immediate family is much larger than yours. Yours is only you, your children and wife. For the migrant family it is grandfather, everybody, it is three generations. So when one little cousin gets sick in Texas he wants to go back right away and help him out. That is the closeness of the family. You probably wouldn't do that. You would probably keep the job in the factory.

Senator SAXBE. How are we going to rehabilitate this man with these social problems. This man is a good worker, they are all recognized as good workers. If we can solve the economic problem how can we settle this social problem?

Mr. VELASQUEZ. If you want a long answer, I have an answer for it.

Senator SAXBE. I only ask because I am interested in trying to adjust to this. Why is the migrant a migrant? The answer has been to a great degree because he can move with the climate and in Ohio I know particular areas where they have been found to be excellent workers and want them to take year round jobs but they don't want to. Now, permanence is the only solution to your educational problem.

Mr. VELASQUEZ. Right. I agree with that.

Senator SAXBE. How are we going to solve this?

Mr. VELASQUEZ. You pointed out the question of why these people are migrants. It isn't a question of why they are doing this today or this yesterday. The reason migrants are migrants is a historical problem, really. I spent the month of January researching in Texas in a little village called Grangeno in Texas. Why do the people migrate? I found out the reason they migrate. The reason they got in this in the first place is because their fathers were driven off their lands in the early 1900's by the Texas Rangers. The very basic roots which anybody needs to plant their feet on and grow is land. Once that was taken away from them, they had nothing to do but go where there was work on the land. When they had none in Texas the only thing they could do was work with farmers who did have land. About 15 years ago some guy from Ohio got the big idea of going, instead of getting immigrants, I think the Labor Department was running out of other

minority groups from Europe or something, so they went to south Texas and recruited Mexican-Americans that were migrating to California and other places, to come to Ohio. That is why the people are migrants, they were forced into it. In order to get them to settle down, they will have to give them a sense of community.

Senator SAXBE. Let me put it a little differently. Right after World War II we had tremendous numbers of displaced persons in Europe. These people couldn't speak any English. Through church groups and through recruiters we moved thousands, many more than the migrant Mexican-Americans into Ohio, to be farmworkers. And farmers would agree to give them a year employment contract. These people were very careful to keep that year's employment contract. But immediately when that year was up, bang, they have to go to the city, they have gotten an industrial job, they have just kept going on up. Now the ideal way to break away from this separation of land and the individual it seems to me is for this man, this migrant to go through this transition. This is what I would like to see happen.

Mr. VELASQUEZ. This is the object of our community organization programs.

Senator SAXBE. And to follow this displaced person, which he is, into the regular channels of American citizenship. What is the hang-up?

Mr. VELASQUEZ. Here is what is really happening. Like I said, if you want to take a migrant worker completely out of the migrant stream and put him in the mainstream of society, there will be too many problems involved. What usually happens to migrants that have settled in Ohio now is that he is not able to reach the right kinds of opportunities because of all these cultural, language and other types of barriers he does have. What we are doing through our community organization programs, through our cooperatives, they are learning together how this democracy, how this system really works in Ohio. They are experiencing together by creating, well, you can call it brown capitalism, whatever you want to call it, but we are doing it through cooperatives, through cooperative housing projects and things like that.

Can I give you an example of what we hope to put into effect next year?

We are not taking the traditional way that the Federal Government has been using to provide housing for poor people. We are not using that because there are three very basic wrongs with the program about helping migrant workers, or any other people.

The first thing is that the Government usually provides so much money to build so many houses for poor people. Once that money is gone you don't have any more houses to build any more. They are still dependent on the Government.

The second thing of all, they are not giving that migrant the short educational process he needs in order to accept the new standard of living and know how to live that way. What usually happens when the Government builds a housing project? You move poor people into it, it turns into a slum the same as they came out of because their attitudes are accustomed to a culture of poverty. The last thing that is wrong with it, if one farmworker or somebody does happen to move up through the ladder under these programs or anything like that, he is

going to turn back and say, "I did it in this way, everybody else can." You know, what the programs have been doing is creating Uncle Toms, you know? Here is the way we want to do, integrate him good and gradually and really make it an educational program for him. If you want to start a housing project, we are not going to do it like OEO. The first thing we are going to do is set up a housing factory that is owned by the workers themselves, to train them how to do it and then when a migrant wants to build his own house he can contract with an outside contractor to make an agreement with that contractor to permit the guy to build his own house. A man who builds something with his own hands will respect it a lot more than something that is just handed him because he does not have to compromise his dignity and self-respect for it. That way it is licking two problems at the same time. The housing project will be self-sufficient. It is not dependent on funds to keep it going. The houses the migrants put up themselves, putting up $20 or $30 a month to pay for it, that money can be put back to keep running the housing project.

Second of all, he will set up his own sanitary system, his own garbage disposal in his own house. He is going to understand it because he is doing it himself. He will respect this more than something that is handed to him. He is going to accept the new standard of living because he knows exactly what it is and exactly what he has to do. He knows a piece of paper goes into this trash can, the trash can goes here because he is responsible to do it himself.

Third of all, they will have learned what they can do together, poor people, you know. If he wants to move out of that house later and move into the city after he learns about the opportunities that exist in the dominant community, then he is going to learn it, he is going to learn it through the group. He is going to look back and say, "I did it myself, I did it together with all these people." He is not going to be a rightwing Fascist and all that thing. He will turn back and help his own people.

Senator SAXBE. I think you ought to go to work for the Government. That makes more sense than most of the things we hear about.

Mr. VELASQUEZ. The point is, like I said, we want them to become independent from the welfare programs, from the Government programs that you people send out there to help us solve our problems. It usually turns out that you bring in a lot of people telling us how to do something. You ought to get your programs involved in what we are doing right now; not us involved in what you are doing.

Senator SAXBE. During the time they had the strike at the Campbell plant was there any provision for the fieldworkers that normally would have worked in making that harvest?

Mr. VELASQUEZ. That is a very good point. In fact, I don't know if you recall but we had a demonstration in Napoleon sort of dramatizing what was really happening to the farmworkers during that strike. I informed the other Senator here that the cannery workers at Campbell Soup had a national strike, you know.

The first thing the company did when the canneries went on strike, they wrote all the growers that they had contracted and told them, "Don't worry about your crop, I will pay you for your losses anyway. You can let them rot and I will pay you something for that." All the migrants that are coming from Michigan and Texas to pick the

tomatoes, they came there and were told, "You are not going to pick my tomatoes." In other words, the companies were subsidizing the growers because there was a strike at Campbells. What happened to the migrant workers? We had a lot more at stake than the grower. He came all the way from Texas and Michigan. He was dependent on the tomato crop to get himself back to Texas. He didn't get a single penny out of that.

Senator SAXBE. Did they not pay the grower just enough to pay him off? They certainly did not pay him his profit. He got enough to pay on his mortgage and to pay for his planting and fertilizer.

Mr. VELASQUEZ. Many growers told me that, you know. But, you know——

Senator SAXBE. They paid them a flat acreage fee.

Mr. VELASQUEZ. Do you know, even if the company would not have given those growers a penny that they still wouldn't have starved? But what about the farmworker? They weren't given a single penny and they were already starving. To them it was a question of life, a question of whether they were going to have enough money to get back to Texas in order to live in poverty. To the growers, even if they lose two tomato crops in a year, they are not going to starve.

Senator SAXBE. The same, though, when you had a contract with the union. Suppose there is a crop failure—which happens, early frost or a late frost, and you have a crop failure—do you think you are ever going to remove the gamble from farming? I think this is something that goes along with farming.

Mr. VELASQUEZ. I am interested in farmworkers and the people in my union. If the tomatoes are going to freeze early in the spring, it makes no difference to us, because our people are still in Texas. If our people are in Ohio, and then the tomatoes froze, then it would make a difference to me. It is unlikely that tomatoes are going to freeze in August.

Senator SAXBE. But it has happened.

Mr. VELASQUEZ. In August and September?

Senator SAXBE. Yes; the 20th of August.

Mr. VELASQUEZ. Then we are going to have to get a stronger contract in Lucas County next time.

Senator SAXBE. I was disturbed because certainly the grower, if he is paid a profit for tomatoes not harvested, certainly has an obligation—or somebody has, either the grower or the canner—to see that the fieldworker is not the victim of the whole thing. It seems as though up there last year the fieldworkers at Campbells were the ones that suffered the impact of the strike.

Mr. VELASQUEZ. That is certainly true. I will give one more fact here, and that is that this year many of the tomato growers have taken a decrease. Last year they got paid $36 a ton for the tomatoes. This year many of them are only getting paid $34.50. The reason for that decrease to the grower, another reason why they are eventually going to get forced out of business and, as you can see what is happening here, it is not our union that made that decrease in tomatoes for them. You know why besides there being a bumper crop last year in tomatoes? Because he has to compete with the mechanized tomatoes in California, the big corporate farmers in California. Then you know they come over here and they say:

If you don't grow for $34.50 this year the growers in California will grow for less.

I find out in California that is the same thing they are telling the growers in California:

If you don't grow for $34.50, those stupid little growers in Ohio will grow for less.

Furthermore, in those tomatoes, for Ohio eventually the guys that are going to be able to afford mechanization are the companies. The farmer who grows 50 or 60 acres of tomatoes is not going to buy a big machine to harvest just 50 or 60 acres every year. The company will eventually buy him out, like in California. They know what growers were doing. They are sympathizing with the big growers in California. These guys are sympathizing with the same people who are running them out of business in Ohio. It is because the corporate farmers in California know they got a decrease in tomatoes in Ohio.

Senator SAXBE. After all, aren't we interested in doing away with migrant labor?

Mr. VELASQUEZ. Doing away with migrant labor or just doing away with the problems?

Senator SAXBE. I don't think you are going to solve the problems by depending on itinerant labor to harvest your crop, and the hardship that goes with it, the displacement, the lack of education, the instability of this, all the health problems that go with it. Should not our aim be, in the long run, that we should do away with migrant labor because it visits on these people a misery that they should not have to suffer?

Mr. VELASQUEZ. I tend to agree with you along those lines, but I would say that as long as there are going to be migrant workers in Ohio—now I am only speaking for Ohio; the problem may be different in California; they may need a union forever there—but, as far as Ohio is concerned, as long as they are going to be working in the field, they are going to have to have a union, because of these health problems, these wage problems, lack of political and economic power. Nobody is going to give political and economic power to those people; no politician is going to pass a law to give it to them; no big processor, no company man is going to give it to them; nobody is going to solve their problems. The only way they will do it is like all other Americans have done throughout the history of this country: organize and represent themselves. That is the only way.

Senator SAXBE. But you don't object to the idea that mechanization should eventually solve these problems. You don't feel that you should organize for the purpose of opposing mechanization?

Mr. VELASQUEZ. No. We are just organizing to meet the problems that mechanization will put on us. We know that machines are coming whether we like it or not, whether we organize or not. It is not a question of agreeing with mechanization or not. We know it is a reality, it is there; we are coping with the situation the best we can, not the best way that somebody else tries to decide for us how to cope with the problem.

Senator CRANSTON. Thank you very much. That concludes the testimony for today. The subcommittee will adjourn to a date to be announced. Thank you all very much.

(Whereupon, the subcommittee recessed, subject to call of the Chair.)

AGRICULTURAL LABOR LEGISLATION

TUESDAY, MAY 6, 1969

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE COMMITTEE
ON LABOR AND PUBLIC WELFARE
Washington, D.C.

The subcommittee met at 9:30 a.m., pursuant to notice, in room 4232, New Senate Office Building, Senator Harrison A. Williams, Jr. (chairman of the subcommittee) presiding.

Present: Senators Williams, presiding, Kennedy, Eagleton, Javits, Prouty, Saxbe, and Schweiker.

Also present: Senator Murphy.

Committee staff member present: Frederick R. Blackwell, counsel to the subcommittee; Robert E. Nagle, associate counsel; Eugene Mittelman, minority counsel; and Peter C. Benedict, minority labor counsel.

Senator WILLIAMS. We are continuing our hearings on the agricultural collective bargaining bill, S. 8, and the bill dealing with agricultural child labor, S. 1808. Our witness this morning is the Secretary of Labor George P. Shultz. He is accompanied by Mr. Usery, Assistant Secretary of Labor.

I understand, Mr. Secretary, that while the two bills are before us your purpose this morning is to deal with S. 8, agricultural collective bargaining. We have your statement and we look forward to your presentation.

STATEMENT OF HON. GEORGE P. SHULTZ, SECRETARY OF LABOR; ACCOMPANIED BY HON. W. J. USERY, ASSISTANT SECRETARY OF LABOR

Secretary SHULTZ. Thank you, Mr. Chairman. This is my first appearance before this subcommittee. As a person who has followed developments in labor legislation over the years, I take the occasion to pay tribute to your work and to express the hope that I may be helpful to you in the tasks ahead.

You have asked for my testimony on two bills now before you, S. 8 and S. 1808. I turn first to S. 8, "To amend the National Labor Relations Act, as amended, so as to make its provisions applicable to the agricultural industry."

I am here to support the right of farmworkers to full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

I believe that a boycott directed against an employer's merchandise, designed to force that employer to sign a union contract, is antithetical to this purpose. It has no necessary relationship to what the worker wants and may have consequences far beyond those directly concerned.

It is not a satisfactory way to settle labor conflicts, especially those involving issues of representation.

Opposition to this method, however, is an empty statement unless it is accompanied by support for an alternative that does seek an orderly answer to the question of what the worker wants—and an answer that recognizes the unique characteristics of work in agriculture.

At the same time, no alternative is acceptable unless it includes a satisfactory method for dealing with the possibility of strikes during the harvest season, with their potential for great damage to the farmer.

In my judgment, the provisions of S. 8 do not adequately recognize the unique characteristics of agriculture as they may be exhibited during the determination of representation issues. Nor does it deal with the problem of strikes at the harvest season.

Indeed by amending 8(f) of the NLRA, which permits prehire contracts in the construction industry, so as to apply that section to agricultural employers, S. 8 ignores the fundamental labor relations problem in the agricultural area.

That problem is the lack of an orderly procedure whereby representation questions can be determined. Construction workers as distinguished from agricultural workers are largely organized and the craft representation lines are widely recognized.

Agricultural workers, on the other hand, are largely unorganized and therefore employers should not be permitted to enter into collective-bargaining agreements unless an election first indicates majority representation by the contracting union.

Therefore, I do not support S. 8.

There is no real question, on the other hand, about the desirability of a Federal labor policy for the Nation's farmworkers. Equal treatment under our labor laws will not in itself eliminate problems encountered by farmworkers and employers, but the potential benefits of Federal legislation to both—and to the public more generally—should no longer be withheld.

At the same time, special characteristics of employment in agriculture suggest the need to allow development of the details of policy in terms of the agricultural setting.

I recommend, therefore, that the right of farmworkers to organize and the right of farmers to be protected against secondary boycotts should be guaranteed by associating them with the National Labor Relations Act, but with special provisions as outlined on the following pages.

In view of the unique characteristics of agriculture I recommend that administrative machinery be established to conduct elections, make bargaining unit determinations, and to handle cases involving unfair labor practices.

This could be done by a three-member Farm Labor Relations Board (FLRB), comprised of members acquainted with the farm industry, and appointed by the President. Each board member should have his

own legal assistants and there should be a staff of agricultural trial examiners.

The intent of these provisions is to insure that this new board will not be bound by 34 years of industrial precedent established under the NLRB. The farm board is established as a separate entity for this purpose.

There should be a general counsel for agriculture, appointed by the President, who should have responsibility for agricultural labor matters and for administering the agricultural field staff.

The field staff should consist of regional directors and regional attorneys for agriculture. This machinery would provide the specialized talent needed to administer a new farm labor policy.

Coverage should be defined, as under the Fair Labor Standards Act, to include only the larger farms, that is, farms employing more than 500 man-days of labor during the peak quarter of the previous calendar year.

The FLSA coverage standard presently includes approximately 2 percent of the farms with employees and 45 percent of the employees. Provisions should be made that, if a farm comes under the statute (using the FLSA definition), all of its employees are covered. The law should not exclude seasonal workers from coverage.

The collective-bargaining representative should be determined exclusively by an election process.

It is recognized that wide variations in the types of farms and conditions of employment require flexibility in defining the bargaining unit. Such flexibility is extremely difficult to attain under statutory definitions.

It follows therefore that when representation questions, including the scope of the bargaining unit, are raised they should be determined by the Farm Labor Relations Board.

The threat of harvest strikes is the major concern of farm operators and their organizations. Conversely, labor organizations view the right to strike as an essential ingredient of collective bargaining in agriculture as in other industries.

The machinery described above provides for the orderly settlement of representation problems. Bringing agriculture under that act will eliminate the need for farm labor to resort to representational strikes or boycotts, the traditional seedbeds of strife.

Nevertheless, this does not eliminate collective-bargaining strikes. I believe that the right to strike is basic to collective bargaining and that an outright ban on strikes in agriculture, as in other settings, should not be imposed.

Extra efforts on the part of the Government, through preventive and intensive mediation, education, technical assistance, and the provision of needed data, can help to minimize the strike problem without in any way jeopardizing the growth of responsible bargaining.

Procedures should be devised so that surprise actions are avoided, and a period of time for negotiations or other steps to head off direct action is guaranteed. But further procedures are necessary if the farmer is to be protected against strikes during critical seasons, especially as at harvest times.

The problem of designing procedures to afford such protection while preserving the spirit of free collective bargaining is a difficult one. I

do not pretend to have the answer but I offer the following steps as a suggestion and as a means of opening up discussion of this issue in a constructive spirit.

Supplemental mediation and recommendation procedures could be available to minimize the impact of strikes and lockouts during a harvest period. The law could specifically require 10-days' notice of intent to strike or lockout. This would supplement the 60–30-day notice requirements of intent to modify an agreement now in the NLRA.

At this point, the party threatened with a strike or lockout could prevent a disruption of work if that party is willing to accept the binding recommendations of a neutral.

This could be done by giving either party the right to invoke a 30-day process of mediation and factfinding with recommendations, a choice to be exercised before the expiration of the 10-day period of notice. The timing of the 30-day factfinding period, within reasonable limits, should be controlled by the moving party so as to prevent a disruption during the harvest or other critical period.

The recommendations should be available to the parties by the end of the 25th day. This would be binding on the moving party, but only if accepted by the other party before the expiration of the 30-day period.

The factfinder should be chosen by the parties from a list of five names selected by the Secretary of Agriculture. If the parties are unable to reach a settlement by the end of the 30-day period, they should be free to exercise their rights to strike or lockout.

There are doubtless other suggestions that the committee will want to consider. This is one which I hope will be useful to you as you struggle with this difficult problem.

Your request for testimony on S. 1808 reached me only in the middle of last week. This is an important matter and I am not now prepared to give a considered judgment on it.

With your permission, I would like to file my views on S. 1808 with you within 2 weeks. I would, of course, be available for oral testimony thereafter, should you wish to hear further from me about that bill.

Thank you.

Senator WILLIAMS. Thank you, Mr. Secretary. In respect to your last request, I am sure the subcommittee will be agreeable to that approach, 2 weeks, and after that we will determine whether we will hear oral testimony.

Senator PROUTY. Mr. Chairman, may I interrupt? I have just been notified that my presence is required at the Commerce Committee which is having an executive session. I think I am needed to make a quorum. I am sorry that I can't remain for the balance of the testimony, but I will read the entire record.

Senator WILLIAMS. I have just completed my initial reading of your statement, which I believe did not come in until last night. The one member who normally does file protest with the committee on statements not presented 72 hours before the hearing has just left.

Secretary SHULTZ. Maybe that is a form of protest that we are accustomed to these days in America.

Senator WILLIAMS. There is a great deal here to think about, I appreciate. This is a departure from the status quo. Your proposal does not follow the legislative path which has been advocated by at least one prior Secretary of Labor, or one at least.

Was your proposal developed just within the Labor Department or is it a joint departmental recommendation?

Secretary SHULTZ. We have worked on this problem within the administration. The Secretary of Agriculture and I have been especially working on it. The Secretary of Agriculture can speak for himself, but it is my understanding that he is in general accord with the statement that I have made here.

Senator WILLIAMS. I see. A new board would be created under your proposal, is that right?

Secretary SHULTZ. Yes, sir.

Senator WILLIAMS. The name of the board is——

Secretary SHULTZ. Farm Labor Relations Board.

Senator WILLIAMS. Is that an independent board within the Government? Does it find its home within the Department? How does it work?

Secretary SHULTZ. It would be an independent board. It would in effect be interpreting the act as it applies to agriculture in the same sense that the National Labor Relations Board interprets the act as it applies to other industry.

Senator WILLIAMS. This is an entirely new board.

Secretary SHULTZ. Yes, sir.

Senator WILLIAMS. It springs like a new babe without the impediments of history in other areas of labor; is that right?

Secretary SHULTZ. Well, our thinking went along these lines, that there are unique characteristics about the agricultural setting. These have sort of set it apart in a way from other kinds of industry.

I do not mean that it is totally dissimilar, but it's dissimilarity is suggested by the fact that Congress has long been reluctant to include agriculture in this particular legislation among others.

It is always difficult to foresee exactly what the problems are going to be until you get into them. Since agriculture does appear to have certain different characteristics, we should let the evolution of case law develop in terms of that setting and whatever special qualities it had, rather than making it conform to all the determinations that have been made in the industrial setting.

The best way we thought of doing that would be to set up a farm labor relations board as a completely separate entity and tell it to take a fresh look and to follow the law as they think it might apply in that setting.

Senator WILLIAMS. Now the next question I have does not deal with substance but more with procedure. It would be the Farm Labor Relations Board under your proposal.

Secretary SHULTZ. Yes, sir.

Senator WILLIAMS. Now that Board would be housed in Washington, I would imagine.

Secretary SHULTZ. Well, it would have its regional arrangements, and it would have its headquarters I suppose in Washington.

Senator WILLIAMS. Of course the Board would have its fingers of responsibility exercised by regional personnel throughout the country.

Secretary SHULTZ. Obviously, it would have to since it deals with the problems of agriculture, it would have to have its people present in the agricultural setting. It would have to make investigations of unfair labor practices. It would have to determine what is right insofar as bargaining units are concerned. It would have to conduct elections and so on.

All have to start on the spot. At the same time, in terms of broad policy, the Board would operate as a three-man board. It would have its own general counsel and be parallel in that sense to the operation of the NLRB, but distinct and separated from it.

Senator WILLIAMS. You would have to have across the country people whose responsibility would be that of dealing with the representation process or elections, No. 1.

Would the same people deal with unfair labor practices or would this be a different specialty within the regional office?

Secretary SHULTZ. I think usually those are specialties probably, that is the way it would work out in this case.

Senator WILLIAMS. You would have the same proper handling representation questions and unfair labor practices?

Secretary SHULTZ. Well, not necessarily the same people.

Senator WILLIAMS. Then would unfair labor practices be a separate specialty?

Secretary SHULTZ. It is a different subject in a sense.

Senator WILLIAMS. I gather there would be a high degree of mediation overlay on the whole agricultural scene as it respects the labor-management equation, is that right? Mediation seems to be quite prominent in your statement.

Secretary SHULTZ. We think in a sense there are two special types of things to think about here. We say that we are going to try to apply this concept to agriculture. One is its special character insofar as unfair practices, unit determinations, and so on are concerned.

The other is the difficulties that can occur if you have a strike at certain critical times on a farm.

So, it seems to us as you examine the problem that it is well—although we want to have strong mediation in all areas of labor relations—it is well, particularly when we make a start in agriculture, to put a lot of emphasis on that and a lot of emphasis on the need, and try to be conscious of it ahead of time, on the need to gear yourself to handle these problems.

As you know, agriculture is not an area where there is any great pattern of labor relations, so people would have a lot of learning to do and we would hope that that could come into play to the extent workers decide they want unions, in a smooth manner. A strong mediation effort should help do that.

Senator WILLIAMS. Again, as a procedural matter, what sort of personnel chart would the Board have? As I see it, it is rather complex administrative machinery.

Just to start with a question, what do you consider will be the total employment within the Farm Labor Board?

Secretary SHULTZ. I think, as you suggest, that is a little difficult to estimate. What the amount of activity will be is hard to say. We think it is an important area, that there should be this coverage and we should put the machinery into the field to handle the problems and then see what takes place and what the needs are.

I think it is a little hard to forecast in advance how much activity there will be. I should say, sir, that the Farm Labor Relations Board in its activities should be thought of as distinct from mediation activities on collective bargaining matters. That is a different subject really.

Senator WILLIAMS. As you know, there is one thing that is not done here by the Congress. No blank check is given over to a department to build an entirely new apparatus of administrative machinery. There would have to be a figure, even if it were your best guess, we had better have some kind of best guess.

What would be your best guess? How many millions of dollars would be involved here in the administrative work of building a new bureau or board of government?

Secretary SHULTZ. I don't have an estimate to offer you at this time. I guess the process of my thinking on this might be described as follows: We are first trying to put forward the ideas and have consideration of them in terms of the ideas themselves and if they seem to be meritorious then I think we could make estimates of the amount of money involved.

But I think you can see in the nature of the case we are not talking about very large sums.

Senator WILLIAMS. Well, that is the most relative of all relative standards, particularly in Federal Government. What would be your estimate? I gather this statement is your broad brush, the fine lines have not yet been drawn on this proposal. I assume that is true.

Secretary SHULTZ. I think the testimony is fairly specific about some matters. It offers this dispute settlement machinery as a suggestion. It may be that something like that has been suggested before in various meetings on this topic, but I am not familiar with it.

So, we thought we would put forward something as new as that as a suggestion rather than to act as though we are sure this is the answer. That is not specific and we have not tried to pin down an estimate of how much money would be involved to set up this administrative machinery the first year, but we can do that.

Senator WILLIAMS. When can you put the flesh on this skeleton in terms of what you feel will be necessary to carry forward this new approach in labor and management and a projection of what we are talking about in personnel and money?

Secretary SHULTZ. I should think we could put together sort of rough estimates and explain how we arrived at them within a matter of a week or two quite readily.

(The information referred to had not been supplied when this hearing record went to press.)

Senator WILLIAMS. This is for my own information. In developing an entirely new idea like this is there opportunity in the executive branches for interested people or groups of people to come in with ideas?

In other words, do you have a hearing process, formal or informal, or opportunity for discussion prior to your proposal being advanced in a congressional hearing?

Secretary SHULTZ. Yes, sir; we do. Of course, we work most closely with the departments that are most relevant to the matter in hand. Sometimes these are largely within one department but in a great many

cases something involves the things that are of great concern to more than one department.

In this case it seemed logical that the Department of Agriculture and the Department of Labor both would be interested in this subject. So we worked together on it. Of course in the Budget Bureau and in the Executive Office of the President there are people who try to observe the general flow of material of this kind in testimony, so their views are brought to our attention.

Senator WILLIAMS. Senator Eagleton.

Senator EAGLETON. No questions.

Senator WILLIAMS. Senator Saxbe.

Senator SAXBE. Mr. Secretary, I appreciate your views. There are a couple of areas that disturb me about this. Many farm harvest arrangements are rather loose. In the fruit picking business, orange picking and cranberries in New Jersey it is not unusual for a grower to contract with a so-called pickup man. He takes an old schoolbus down to a slum maybe and he parks it there and he picks up a busload of itinerants and he brings them out.

The grower has contracted with this so-called pickup man. Then he pays him and then he daily pays these itinerants that he picks up. He also exploits them maybe by selling them a little wine and maybe selling them a lunch.

In this kind of deal, and this is more common than we realize because strawberries and a great many of these fast harvest areas this has happened.

Now, in this kind of deal the farmer is not prepared to be the employer and if we would establish this either under S. 8 or under your suggested board, whom are they going to deal with there? Are we going to say to the farmer, "All right, you are the ultimate employer," and say to the farmer: "You contract the people"?

First he does not have any idea who that person is going to be who shows up out there. Are we going to say to this pickup man who probably has nothing but a $200 bus that, "You are going to be the contractor on this," or are we going to say: "It is a loose, practical arrangement, we don't want any part of it."

But it is going to be very practical to that cranberry man in New Jersey or that strawberry man in Louisiana.

Secretary SHULTZ. I think your example illustrates one element in the great variety of employment arrangements that there are in agriculture and is the reason why we suggest, (*a*) that there should be this separate treatment by a Farm Labor Relations Board and that (*b*) you have to sort of let a board look at the question of what is a proper bargaining unit, for the holding of an election and let them develop the case law involved in terms of the agricultural setting as they see it and find it.

Now at the same time I think it should be pointed out that the idea of subcontracting is not unique to agriculture, so you have to meet that in other settings. It presumably can be dealt with. There is, of course, a great issue as to how do you handle seasonal workers? Do you consider them a part of the regular bargaining unit or not?

I would imagine that a board is going to have to make distinctions between different kinds of factual situations as it sees them as to whether they would be included or not included.

Senator SAXBE. The reason I raise this at all is because this is one of the areas where you can plan something out on paper and it looks pretty good, but when you get down to some of these jobs, and I think this is the reason that farm labor has not been included before—I mean people give you lots of reasons and say, "Well, we just resist them"—but the practicality of trying to recognize an elusive itinerant whom you pay off every day, and yet tremendous amounts of this work are done in just that way, and they gang them up in the morning, they haul them in and they dump them out at night and maybe the next day it is an entirely new bunch—now we can denounce that. We can say we have to set this up so that there is something guaranteed to these people, but at the same time once you do away with it that man is deprived of his daily work because maybe he is in a business where you work one day out of a week, if the conditions are right to pick, and you want as many people as you can there.

On the other hand, people jump at a chance to get a day's work free of social security, free of withholding, free of everything, they want cash.

So, they do supply a labor need. Now it defies order under the present system. I just hope that we recognize that there has to be some flexibility or we are going to put some people out of business. Maybe they should be out of business.

But I question whether this is the way to do it.

Secretary SHULTZ. Well, I should like to say that there is nothing in this suggestion that is in effect a comment one way or another about the kind of employment arrangements you describe or any other employment arrangements.

This is designed to provide a procedure for deciding on what workers involved in farmwork want insofar as union representation is concerned. The whole reason for approaching this through the arrangement of a board rather than trying to write a detailed statute that tries to think of all these different kinds of situations and saying what ought to be done is because there is almost an infinite variety and you have to let some people whom you feel are familiar with the industry and understand it and understand how it works and who are trying to apply the law to that industry, have them feel their way and develop something that fits.

I think this is behind our thinking in saying well, just don't take all the rules and regulations that have been developed for a manufacturing industry, let us say, or other kinds of industry and then try to transport them all into agriculture, because they don't necessarily fit in this different setting. Let it develop its own rules and regulations.

Senator SAXBE. That is all I have, Mr. Chairman.

Senator WILLIAMS. Senator Schweiker?

Senator SCHWEIKER. Thank you, Mr. Chairman.

Mr. Secretary, I wonder if you would explain your reasoning as to how you arrived at the cutoff of 500 man-days of work in the peak quarter of the previous calendar year, as a standard for which farms are included and which are not. Why did you elect that criterion instead of the farm's gross sales in dollars, or the number of employees? What was your thinking in using that cutoff?

Secretary SHULTZ. As compared with the dollar amount we are talking about legislation to deal with employee problems. The variations in farms as to the number of employees and the amount of value produced are a great deal.

You can have a few employees producing a huge amount on some kinds of farms as I understand it, and the reverse.

So, it seems to us better to go at it in terms of numbers of people rather than numbers of dollars in the first instance.

Now as far as days are concerned versus number of people employed it is a way of kind of getting a measure, particularly in an industry where the number of people on any given day may fluctuate a lot.

Now, I believe this is the definition that has been used in the fair labor standards area, so it provides a reference point that we have had a little experience with.

As you can see it tends to pick out the types of farms that we thought should be covered, that is the sort of incorporated farms, the large farms, so you are covering only 2 percent of the farms with employees, but you are covering 45 percent of the employees.

Senator SCHWEIKER. Suppose you had, for example, a farm family where a farmer had several sons who are working on the farm. Are you counting their labor against the 500 man-days or not?

Secretary SHULTZ. No; they are part of the family. We are talking about people who would be thought of as employees. If they want to set up a formal relationship between father and son and call him an employee, well, he is an employee.

But typically that is not the way it is done.

Senator SCHWEIKER. Mr. Secretary, on the actual mechanism of how this 30-day period works I wonder if you would briefly review that for me again. I did read through your statement, but I still am not sure.

Secretary SHULTZ. First of all, there would be a requirement of a 10-day notice of intent to strike or lock out. That is, if the employer and the labor organization are bargaining and all of the mediation and whatnot that can be given has occurred and nevertheless it comes to the end of the road and it looks like there might be a strike or lockout at the end of that road, we think there should be a 10-day period or notice of intent to strike or lock out.

That would be the first step.

We are not going to have a sort of surprise action here. Suppose the union says it intends to strike at the end of the 10 days. Within that 10-day period then the farmer if he chooses—he does not have to choose this, but if he chooses—he would have the option of deciding, well, I would like to have a 30-day period in which a strike would not be permitted and he would have the ability under this regulation to put those 30 days in time at the place where he wanted the protection, for example, if he wanted the protection from the strike during the period of harvesting.

Senator WILLIAMS. That doesn't follow right after the 10 days.

Secretary SHULTZ. It does not follow after the 10 days; no, sir. If it followed after the 10 days then maneuvering about when expiration dates might be, and so forth—this is very common in bargaining as they maneuver for advantage there—could very well move the 30 days to a period when it didn't coincide with the harvest season.

So, I think there has to be a flexibility to the placement of the 30 days so that it could meet the problem that we have designed it for.

Now, in order to get that 30-day factfinding period the farmer in our example—it could be the other way around—has to agree to be bound by the recommendations made by this neutral if there is not agreement during the 30-day period.

Senator SCHWEIKER. In other words, the one who requests the 30 days has to agree to be bound by it? Is that what you are saying?

Secretary SHULTZ. That is correct, but the recommendations in our proposal would be available by the end of the 25th day. If you were the neutral party, by the end of the 25th day of this period you would have to make your recommendations known.

They would be binding on the moving party, in our example the farmer, but only if they were accepted by the other party before the 30th day.

In other words, at the end of the 30-day period we don't leave the farmer in this example being stuck with some set of recommendations that can in effect be a platform for the union to go on and bargain from and conduct a strike after the 30-day period, always knowing it could fall back on these recommendations.

The union has to choose too, it can take it or leave it within the 5-day period. So, what we have tried to design here, you see, is a method for meeting this problem of the need for continuity of work during critical periods but a method that has choices in it for both parties and is thereby designed to try to get them not to just sort of rely on this kind of method, but to get their bargaining done and settle things for themselves.

So, it does not compel anybody. On the other hand it has choice points in it and leverage points in it, you might say. But at the end of the 30-day process if, let us say the union, for example, has declined to accept the recommendations, then all bets are off and they are back at scratch again.

Senator SCHWEIKER. Where does your definition of harvesttime begin? When does this harvesttime become operative?

At the time the first unit is harvested? How do you define harvesttime by your statement?

Secretary SHULTZ. If you were the farmer it would be up to you to define it by stating where you would like to have this 30-day period start.

Senator SCHWEIKER. That is his option.

Secretary SHULTZ. That is his option. You see, if you took a particular crop and then you tried to study the harvest season for that crop in an area, it would not necessarily coincide with the harvest season on a particular farm, because different farms have different times.

So, the individual farmer presumably would try to suit the placement of this to his needs.

I should emphasize, I don't pretend to be an expert on farming, but it is my understanding that there are other critical periods than the harvest season. You can't represent what you haven't seen. So, we don't limit this to the harvest season, if the collective bargaining happened to be, in effect, terminating at a time, just preparatory to planting, let us say, or something like that.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Senator WILLIAMS. Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman.

I would like to congratulate the Secretary for what is obviously a very carefully thought-out first suggestion. I assume that the Secretary does not consider this legislation, it is merely a suggested approach to what has been an almost impossible problem in my State.

I have had knowledge of it over 35 years. I think the basis of the Secretary's approach which would protect the rights, make available the rights of collective bargaining to the farmworker, at the same time protecting the rights of the farmer, on the other hand and in the third instance guaranteeing the free flow of foodstuffs, from the farms to the consumer which is also important, probably in the broader sense, probably the most important, as a very, very practical approach.

I think the idea of starting new to take in all the experience that we have had, trying to build up legislation that will adjust itself to the different complexities of the farm problems, and I know that there are many, is a sound approach.

A farmer in my State planting tomatoes, for instance, is involved with an investment of about $300 an acre. When he puts that little tomato plant in the ground, he has to have some assurance that he is going to be able to harvest the tomatoes, what his cost will be, what his market will be.

I was amazed some years ago down along the border in Coachella Valley, where they grow melons, to note there are some men from New York on the balcony in the hotel at night, with long penknives in their pockets setting the price of melons. It always worried me.

Here is a farmer who put in his investment, his time, and he has his crop ready and some fellow in New York, who didn't worry about that, comes in as a broker and sets the price for the carloads, that go into the markets in New York and Chicago.

I am greatly concerned about the protection of the farmer. Of course if the farmer does not stay in business the farmworkers suffer.

I have had, over the years, in my experience in the labor movement believed that there is not necessarily such a contest, that the employer and employee are interdependent. We would like to find conditions so that both can exist peacefully and productively and both have a fair share.

I think the Secretary's first suggestion as an approach to this takes in most of the basic problems, the foundations, shall we say, for an experiment or experience that hopefully will bring forth legislation, and once and for all end this problem, which has been so costly not only to the farmworker, but also to the farmer, and most important of all probably to the American housewife, who has to pay for the mistakes of the other two.

I congratulate the Secretary. Thank you very much, Mr. Chairman.

Senator WILLIAMS. I don't believe this is the place, but I was just thinking, that we all know that you come from a background of being very prominent in an industry, that I gather has a high degree of personnel, that could by analogy be considered itinerants in a sense, working for a day on a street scene.

Senator MURPHY. If the Chairman will permit me it is very similar.

I was one of the founders of the Screen Actors Guild. When it started we had some 18,000 members. Actually there was a living wage for about 4,700 to 5,000. But everybody thought if he joined the Guild that was a guarantee of work, which unfortunately it wasn't.

We found days similar to the harvest days, where there would be five or six big sets, where they would need 300 or 400 extras on each set in one day. In those cases we had to find a way to do this practically, which we did. We had different grades of employment within the union. I have had a good deal of experience and a lot of this experience I have had might very well apply to the problems that we are going to face, trying to get this most important problem resolved.

Senator WILLIAMS. So, those who were called extras in that industry would be covered under an agreement that had been worked out in collective bargaining by, what I would call, the hard core of the working group.

Senator MURPHY. Yes, sir. We had the two branch practice. The actors branch included those who speak the lines. An extra is an atmosphere player. We had two separate groups, Actors Guild and Extras Guild. Within the Extras Guild, we had people who work 3 or 4 or 5 days a year, who are not really part of that industry.

So, we had to make special arrangements, to take care of that problem.

So that I am glad to say, there is broad experience that I have had in these matters, that I think maybe will help us in arriving finally at some legislation, that will work fairly and equitably and productively for all concerned.

That is my concern.

Senator WILLIAMS. Speaking for myself I will look forward to the benefit that we can get from your experience. Am I right in my judgment and opinion that it is a highly unionized industry?

Senator MURPHY. Completely.

Senator WILLIAMS. And collective bargaining is a way of life?

Senator MURPHY. Yes. And they have never had a strike. The working conditions and salaries have been pretty good over the years, because they have tried to approach it from the same viewpoint, that I hope we can approach the problem of the farm labor.

As I have said so many times to the chairman, there are certain groups of people who enjoy the problem. I happen to be one who enjoys the solution and let the problems disappear. That is the progression I am going to follow.

In a short time, I will have some legislation which I will send to the chairman and the other members of the committee, suggested legislation to look at and see if we cannot help you.

Quite frankly, I would say if I could be on a committee that came up with some legislation that would at least put down a cellar foundation to cure this great problem I would have considered my whole trip to Washington a success.

Senator WILLIAMS. May I ask one question and maybe this will be open for later discussion.

I think there is another analogy to the strike at harvesttime in the motion picture industry. The scene is on location and it is winter in

New England and workers are dissatisfied, they could strike until spring. Have you had that problem?

Secretary SHULTZ. Fortunately winter in New England lasts a long time.

Senator WILLIAMS. That is a wise observation.

Senator MURPHY. I might point out that is why winter in New England is sometimes constructed on a set in Hollywood just for that reason because the winter scene has to be the same and you may have to go back for retakes. If the snow has melted you are in trouble.

Senator WILLIAMS. That is what we call scab weather.

Senator MURPHY. No; it is really not. Scab is something else, entirely different. I will be glad to explain to the chairman.

We had a case one time in Hollywood where a big star had accepted a script, signed a contract, had okayed all the scenery, the cast, and for some reason or another 1 day before the shooting started just disappeared.

Now the burden was on the Screen Actors Guild at this point to deliver that star. That star was at fault and she had the responsibility of carrying out the contract because there had been hundreds of thousands of dollars invested after she had signed the contract and made all the acceptances.

We worked that one out.

On the other hand, there was another star who one day with a great set of 300 or 400 people and camera crews and everything ready, just didn't show up. That had to be handled.

All union agreements if they are to be effective, if they are to be productive and permanent, operate on a two-way basis. The employer has an obligation to the employee and the representative of the union representing the employee has an obligation which goes along with it.

Unless it is that way, it is in all contracts, unless there is equity, immediately one side or the other starts looking for ways to break the contract.

That is not my purpose. I don't think it is the Secretary's purpose nor the chairman of this committee. We would like to get a contract that will be permanent, be lasting, and of which we can all be proud, and as I say once and for all, bring an end to this chaos which has been haunting us for the last 30 years, to my knowledge.

It may not be perfect, certainly won't be, but as we go along I think each year, each 6 months we can take a look at it, hopefully perfect it and make a real permanent working out of it. Thank you, Mr. Chairman.

Senator WILLIAMS. I certainly appreciate that statement. This has been a departure, gentlemen.

We have some technical questions here now from our staff members. Peter Benedict.

Mr. BENEDICT. I am Peter C. Benedict, minority labor counsel. Mr. Secretary, I would like to pursue this 10-day strike notice, unilateral binding arbitration suggestion, for a moment, if I could.

As I understand it, if I was a grower and this was my busy season, the union gives me 10 days' notice of intent to strike. Within that 10-day period I can elect to ask for arbitration, mediation which would be binding on me.

Secretary SHULTZ. Yes.

Mr. BENEDICT. Is that correct?

Secretary SHULTZ. Mediation, factfinding, and recommendations. If you so elected to have that period, then the recommendations would be binding on you, but only if they are accepted by the other party in an immediate sense.

Mr. BENEDICT. When would that 30-day period commence?

Secretary SHULTZ. It would commence within reasonable limits at the time you selected it to commence.

Mr. BENEDICT. If this were my busy season, could I agree to this procedure and say I want the 30-day period to start in November?

Secretary SHULTZ. It would be up to you to figure out when you wanted the 30-day period.

Mr. BENEDICT. I could select it at any time I want?

Secretary SHULTZ. I would say within reasonable limits, yes. If you wanted to put it a year and a half away, that would seem unreasonable. I don't know why anybody would want to. I think you have to have some kind of rule of reason connected with it.

The idea is to give the farmer, in your example, the grower, the opportunity to take this 30 days and put it at a place where he would feel he just couldn't stand a strike.

Mr. BENEDICT. Wherever he puts that 30 days, the union could not strike again until the 30-day period had expired, is that correct?

Secretary SHULTZ. That is correct.

Mr. BENEDICT. Taking it a step further, say I pick sometime this fall for the 30-day period and we then had mediation and recommendations made which the union rejected. Then we come to next May. I have another busy season, a peak harvest season. At this point do we start over again? Does the union again give me a 10-day strike notice and I again can elect a 30-day period?

Secretary SHULTZ. Yes. Presumably, when people bargain, there may be a strike, but sooner or later they reach an agreement and there is a contract. So that contract has some period of time on it, a year, 2 years, 3 years. It has a duration. So when it expires, that is the time when the parties would again be free to strike or lockout, and then these procedures would take up again.

Mr. BENEDICT. In another sense, it seems to me what you are suggesting is what Congress has done on an ad hoc basis in many of these national emergency situations. Where we will go in and order the strikers back to work. We set up some kind of panel, which within a certain period of time makes recommendations. The parties do not accept these recommendations. However, you have raised the level to start the next round of negotiations by another panel.

Do you follow me?

Secretary SHULTZ. I don't think it is the same kind of situation, because, at least in our proposal here, and as the chairman brought out in his questioning, we advanced this particular part of our testimony as a suggestion, we have floated it out for discussion and consideration, and maybe somebody will find a big hole in it. We think it is a pretty good idea, but it is not parallel to what you say, because, in the first instance, it is not, let us say—the Congress deciding that you as the grower should engage in such and such a process. You are deciding it, yourself. It is your choice.

Mr. BENEDICT. Yes, but you have this mediation which results in certain recommendations. I think we can assume that while the recommendations may not be everything that the union wants, they would probably be above the level of concessions that the grower had been willing to give originally in collective bargaining. The grower has agreed to be bound by them at the union's option, but the union rejects them.

We then start this process again. Then are you not in practical effect, starting with the basis of what the first mediation has recommended and working up again from there?

Secretary SHULTZ. It is not necessarily the case. If the union chooses to reject the recommendations before the end of the 30-day period here and they have to choose one way or the other, then all bets are off and the union is free to strike, the farmer is free to lock out, take whatever position they want to take as to the merits of the issue involved. It is exactly to meet your problem that we felt it was important to have the recommendations known by the 25th day and then say to the other party, "You must decide one way or the other before the end of the 30th day," so that by the time the time period goes by, you do have a fresh slate. Otherwise, if you did not make the union choose this way, all the union would have would be a sort of platform from which to go ahead and bargain further. They couldn't lose anything, but they might gain something.

So it would be an inducement, in effect, to not take the recommendations and see what more you could generate by strike pressures. So the union is faced with a choice, too. They either take what is recommended or they decide to forgo that, and then they take their chances on whatever they can bargain out.

Mr. BENEDICT. As Senator Saxbe says, a lot of this is good in theory but, in practical workings, I don't think our experiences with the national railroad strikes have borne out that such a theory actually does this.

Secretary SHULTZ. I don't see that the railroad experience is particularly relevant to this. It is not the same kind of process.

Mr. BENEDICT. I would like to move to one other area.

Assuming that this does work, that this will work, it has to be based on the assumption that the union involved is entitled to a contract. It either has been recognized or it has won an election. The process of collective bargaining has taken place and there has been no agreement.

Now, let us take the other type of strike situation or picketing situation which occurs at harvesttime, where there is no legal obligation on the part of the grower or farmer to recognize the bargaining unit. The union may admit it has not recognized the employees. You could have organizational picketing, you could have stranger picketing.

Would you make provisions to stop this activity at harvesttime?

Secretary SHULTZ. I think you have to permit a union to have some rights to picket. There are provisions in the law for limited rights to organizational picketing. They would apply.

Mr. BENEDICT. What would you suggest as the limitation for this type of picketing in the farm labor bill?

Secretary SHULTZ. I think the act suggests a 30-day period as the limit on organizational picketing.

Mr. BENEDICT. I thought your testimony was that we should make different provisions than found in the National Labor Relations Act because of the differences in the farm labor situation.

Secretary SHULTZ. There are numbers of things in the act that are subject to interpretation. We thought that a separate board should look into these and interpret them as it felt they should apply in the agricultural setting. That does not mean that everything would be different.

Mr. BENEDICT. The 30-day period is written in as part of section 8(b)(7) of Taft-Hartley.

Secretary SHULTZ. Right.

Mr. BENEDICT. I am just trying to get your position. Do you feel that where the union does not represent the workers on the farm it should be entitled to picket with strangers for 30 days?

Secretary SHULTZ. Yes.

Mr. BENEDICT. At harvesttime?

Secretary SHULTZ. Yes.

Mr. BENEDICT. Where a union that does represent the employees could be prohibited under this other provision?

Secretary SHULTZ. Presumably, a union that does represent the employees has some control over them and can conduct a strike. Just because somebody puts up a picket sign does not mean that work is not going to get done. In fact, the history of farm labor organizational efforts is in many respects a history of strikes that failed.

Mr. BENEDICT. A lot of employers have been forced to sign contracts with unions as a result of stranger picketing, Mr. Secretary.

Secretary SHULTZ. Our approach is to call for an election procedure as the avenue to certification as the bargaining representative.

Mr. BENEDICT. But to do nothing when there is organizational picketing and a farm is being shut down? When no trucks are coming in or coming out, and the union admits it does not represent the employees and it is not entitled to bargain for a contract, and this is at the peak harvest season?

Secretary SHULTZ. I don't know that trucks would necessarily not come in and out. The picketing is directed to another employer. That is a different matter.

Mr. BENEDICT. It is a primary picket line, Mr. Secretary, the truck drivers may be legally induced not to cross it.

Secretary SHULTZ. Directed toward the Teamsters, who are driving the trucks? That is a different employer.

Mr. BENEDICT. It is legitimate picketing. It is a legitimate object because it is taking place at the primary site. There is every legal right in the world to encourage those trucks not to cross the primary picket line.

Senator MURPHY. May I ask a question?

I am getting confused. Now are you talking about a farmer who is being organized or the workers now trying to get a contract with the farmer?

Mr. BENEDICT. The situation I am posing to the Secretary now is where the union does not represent the employees.

Senator MURPHY. And then what happens?

Mr. BENEDICT. The union puts up a picket line which could effectively interfere with the operation of the farm at harvesttime. Now

if the union does represent the employees, we have a suggestion for a 10-day strike notice and then a 30-day period at the election of the grower during which there could be no strike. That is where the union does represent the workers and is legally entitled to a contract.

I am asking him about the other situation. Where the union admittedly does not represent the employees but, by its picketing action, could substantially interfere with the operation of the farm at harvesttime.

Senator MURPHY. I see what you mean. That would not be a legal picket line, would it?

Mr. BENEDICT. It would be a legal picket line under the National Labor Relations Act.

Senator MURPHY. Until it shut down the operations.

Mr. BENEDICT. Regardless, it would be legal, Senator. You would have the provisions of section 8(b)(7) apply which would permit them to picket for organizational purposes for up to 30 days before you could obtain an injunction in Federal district court.

Senator MURPHY. Picketing does not necessarily shut down the operations.

Mr. BENEDICT. You would have to take that on a case-by-case basis. Sometimes it might. Sometimes it might be entirely ineffective. That is correct.

Senator MURPHY. But it could be written into the legislation, could it not?

Mr. BENEDICT. It certainly could.

Senator MURPHY. If you had listened, you would have heard that in the legislation that I will propose we are going to try to stop all of the things except the permanent equitable procedures to set up workable contracts. All the nonsense that has gone on I could quote you from now until next Wednesday of cases. They are all, in my judgment, nonproductive, very often don't represent the will or wishes of the worker, which should be taken care of by legislation so that they just can't foul up the works. And they have done it too often in the past. I was even picketed one day before I had said anything.

Mr. BENEDICT. I think you are right. That is what I was trying to ascertain here. We have testimony that we should have a whole new Labor Relations Act for farmers.

Secretary SHULTZ. No, sir, that is not my testimony.

Mr. BENEDICT. You support different procedures so that farm unions and employees are subject to a different board, and not bound by the NLRB rules and regulations and case decisions that apply to industrial and construction unions.

Secretary SHULTZ. That is correct.

Mr. BENEDICT. I think the areas that Senator Murphy was referring to and which I am asking about are areas where we think there is a possibility that we can do it a little differently here than we have done under the National Labor Relations Act.

Secretary SHULTZ. There are limitless ways in which the act could be changed, not only for farmers but for everybody else. There is a sort of overall balancing of equities involved. Any time you have picketing, you have a balancing of equities to consider. It may do some damage, it may do some good.

Mr. BENEDICT. I won't pursue this beyond this question. You don't draw any distinction between a primary activity which involves employees of a farmer or grower who are on strike—who have left their employment and are on an economic strike—and a situation where a union wants to organize a farmer but has not been able to sign up his employees? Who may go down to a union hall and put strangers out, who have never worked for this man, to picket him to put economic pressure on him. You don't draw any distinctions between these two situations?

Secretary SHULTZ. I think there are distinctions. If it is a situation in which a union tried to organize, I assume you mean an election was held and the union was defeated in the election, I don't believe they would have an unlimited right to picket under those circumstances.

If we are going to have a great technical discussion of exactly how the law applies in this, this and the other situation, I will have to get hold of my solicitor who is here to answer your question.

Mr. BENEDICT. Thirty days is what industrial unions are permitted under 8(b) (7) for organizational purposes.

Secretary SHULTZ. You suggested a situation in which a union had made an effort to organize the employees and an election was held and the union lost.

Mr. BENEDICT. No. The situation I gave you is where the union did not represent the employees and it never made a demand for recognition. When you get into labor law, there is a great difference between whether there has been request on demand for recognition or not in this type of situation. I was talking about purely an organizational situation without bringing any union demand or request for recognition into it.

Secretary SHULTZ. There is a 30-day right to organizational picketing.

Mr. BENEDICT. Do you think the same 30-day picketing should apply here or should it be less?

Secretary SHULTZ. I am not suggesting amendments to the act beyond the relatively simple coverage and the provision for separate interpretation by a farm labor relations board and then directing attention to the special problem of collective bargaining strikes during the harvest season.

Mr. BENEDICT. I only point out to you, Mr. Secretary, that you are suggesting a procedure to protect the farmer from loss as a result of an economic strike at harvest time when he has recognized the union as representing a majority of his employees and is willing to bargain with it, but there is no agreement on the terms of a collective bargaining agreement. But, in the same context, where the union does not represent anybody and has no legal right to sign a contract, you are willing to let this farmer be picketed for 30 days at harvest time. I don't think the two are consistent.

Secretary SHULTZ. In the first case, the union has organized the employees. If the union has called a strike, the presumption is that the employees will go out on strike. So in that case the employees go out on strike and the harvest is not harvested.

Now, in the case where the union has no contract with the employees, has not been able to organize, and it puts up a picket sign and tries

to get the employees to go out on strike, presumably the objective of the picket sign is to notify the employees of the union to try their wares, and so forth—the employees are not necessarily going to go out on strike for that.

So I think there is a considerable difference.

Mr. BENEDICT. I have one last question.

As I understand it, you are not recommending that there be changes in the unfair labor practices that are enumerated in the National Labor Relations Act?

Secretary SHULTZ. No.

Mr. BENEDICT. The ones that are in that act now for union activity you would retain for union activity in the farm labor area, farm union area?

Secretary SHULTZ. It is that that gives the farmer some protection by being covered by the act. I think you should not overlook the fact that the protections of the act against secondary activity can be very important in protecting the farmer here.

Mr. BENEDICT. But it is your testimony that section 8(b) of the National Labor Relations Act should apply to unions?

Secretary SHULTZ. Yes.

Mr. BENEDICT. The farm unions?

Secretary SHULTZ. Yes.

Senator WILLIAMS. Mr. Blackwell?

Mr. BLACKWELL. Mr. Secretary, in Mr. Benedict's second example where the union is not recognized by the employer for organizational picketing and in the case where disruption of the operation does, in fact, occur, as I understand your suggestion made to the subcommittee this morning, the employer could not recognize the union for the purpose of then instituting the 30 days. Your proposal calls for an election in every situation, does it not?

Secretary SHULTZ. Our feeling is that the way to figure out what the workers want by way of representation is to ask them. And the tactics designed to coerce an employer to sign a contract and, let us say, put in a union shop or something, is not the way to go about it.

Mr. BLACKWELL. So that for an employer to obtain the advantage of the 30-day mediation period there would have to occur an election and a majority vote establishing the union as the representative?

Secretary SHULTZ. Yes.

Mr. BLACKWELL. Mr. Secretary, on the list of five men, the five men who are mediators, this five-man list would be compiled in each individual situation, as I understand it.

Secretary SHULTZ. I presume what the Secretary of Agriculture would do would be to have a list of people who were known to be fair-minded people and whose place of residence was out around different parts of the country, so that they could be readily available in these situations, and whose willingness to serve is known in a general way, and from this larger pool of names that he might accumulate, he would make selections to suit a particular case that came along, much as the Federal Mediation now upon requests supplies names to parties for mediation or arbitration duties.

Mr. BLACKWELL. There is, I take it, no overriding reason why the Secretary of Labor could not compile that list of mediation specialists rather than the Secretary of Agriculture.

Secretary SHULTZ. I think our reasoning here throughout the testimony is that there are some special characteristics to agriculture, and presumably the Secretary of Agriculture knows a lot about them. So why not let him compile the list?

But I am sure he would probably want suggestions from the Secretary of Labor and the Federal Mediation Service, who is more in the list-preparing business than anybody else.

But it seems to us that it would be proper to place this responsibility formally with the Secretary of Agriculture.

Mr. BLACKWELL. The Secretary of Labor and the Department of Labor historically, as you point out, though, are more in the business of providing this mediation service than any other department of the Government.

Secretary SHULTZ. Yes. On the other hand, we are not anywhere near as well posted on the particular problems of agriculture and who knows about them, and so on, as the Department of Agriculture is. So I think you can make arguments on either side of it.

In our thoughts about it, that seemed to weigh finally in favor of putting this particular responsibility in the hands of the Secretary of Agriculture.

Mr. BLACKWELL. You are stating for the record that the Department of Agriculture is better posted on employee problems in agriculture than is the Department of Labor?

Secretary SHULTZ. Well, they are better posted about the problems of agriculture in general. They spend a great proportion of their time studying those problems, understanding them. They undoubtedly have a greater feel for the agricultural setting than anybody else.

We would like to think in the Department of Labor that we know something about particularly the problems of farmwork and are very much interested in those problems. That is why I am here today testifying before you and supporting the idea of providing rights to organizations for farmworkers.

Mr. BLACKWELL. In this context, Mr. Secretary, I would call to your attention the Labor Department's responsibility as administrator in three important areas of farmworker-employee policy:

The minimum wage law, which is the only significant public policy on the worker's economic status in recent times, is, of course, under the administration of the Department of Labor, because, historically, you have administered that. And when that was enacted, the Department of Labor picked up this responsibility and is carrying it out.

The crew leader registration under the registration law, which was basically intended to protect the employees from exploitation by the crew leader—that, too, is under your administration.

The protective procedures under the immigration law, the green-card problem, the Secretary of Labor is also responsible to make the findings that no job displacements occur from the entry of green-carders.

It seems to me that you have a solid history of active work in implementing Government policy in respect to employees of the farm economy.

Secretary SHULTZ. I accept your statements, and far be it from me to argue against the competence of the Department of Labor, and

I don't intend to do that. There are many aspects of the whole field of agricultural work, and I think it is a matter of an overall judgment.

It seemed to us that this could very well be a responsibility of the Secretary of Agriculture.

Senator WILLIAMS. Senator Javits?

Senator JAVITS. Mr. Secretary, I have been briefed on what you have said. I am sorry, but, as you know, I have been rather busy the last couple of hours with other things. I was interested in a number of aspects of your proposal, which I understand to be a resourceful one, though we may not—that is, at least I may not—agree with all details. It is resourceful in an effort to resolve the question.

As you undoubtedly know, I am for working out some method by which organizing could take place in the agricultural field, and have been for a long time. I am especially interested, Mr. Secretary, in the way you would handle strikes at harvest time, or so-called emergency strikes, because there is an analogy with which we have been wrestling for a very long time.

How would you distinguish your plan from some form of compulsory arbitration?

Secretary SHULTZ. I suppose the most important distinction is that the factfinding, mediating, deciding process does not affect anybody who doesn't choose it to begin with. In this sense, it is more to be likened to voluntary arbitration than it is to compulsory arbitration.

Senator JAVITS. As I understand it, that is not quite so. You straighten me out if I am wrong.

But as I understand it, one of the parties accepted the 30 days and the other party has not accepted.

Secretary SHULTZ. No, sir. The way this would work is that, first of all, let us say, you have a contract and the contract is coming toward termination time. If the union we use in this example decides that it may strike, it must give 10 days' notice of its intent to do so. Then within that 10-day period, the employer can choose or can choose not to have a 30-day period which can be placed in time by the employer during which there cannot be a strike.

In exchange, so to speak, for getting that strike-free period, the employer agrees to abide by the recommendations of this neutral, appointed through a process under the responsibility of the Secretary of Agriculture, but is bound by those recommendations only if they are accepted by the other party before the end of the 30-day period.

So, what you have here is a series of choices, but no one is forced into this procedure.

Senator JAVITS. The fourth choice is that you have the right to restrict the right to strike for any time. Then you are practically saying that the employer can't let them strike because the emergency is too great, so he is forced to ask for the 30 days and therefore forced to accept mediation.

If there is any justification whatever for the idea that they are not permitted to strike during the harvest time, it is that the public's interest is superior to that of anybody else's rights. So the employer is for practical purposes forced to adopt that remedy. What else can he do?

Secretary SHULTZ. No; on the contrary, the employer may feel, for example, that if the union strikes, he will be able to staff his work

perfectly well and carry it on and may not want to get involved in these procedures at all.

Senator JAVITS. So you feel there is no compulsion on the employer?

Secretary SHULTZ. There is obviously a form of pressure that exists as a result of the threat of a strike. That is a pressure, if you want to call it "compulsion," that exists in all labor relationships when an employer says, "I am going to have a lockout," or a union decides that it may want to have a strike. It is unlike the national emergency strike in that the procedure, the putting into effect of the procedure is under the control of the employer or the farmer or the union, as the case may be, rather than some Government official.

Senator JAVITS. Would you say it would be fair to conclude that in the case of agricultural unions it is not the public interest but the private interest which prevails in terms of the harvest time? You see, in the emergency strike what we have always contended—Senator Morse, when he was here, and I—for our rationale in proposing the measures we did, was that it was the public interest which demanded that the strike, if one was taking place, be settled.

What you are saying is that in the case of agricultural harvest there is no major public interest involved superior to that of the individual, so that you would allow a farmer or a farm proprietor to permit a strike even if it meant the destruction of his crops, just relying on the fact that self-interest would probably dictate finding some way to preserve it.

Am I right about that?

Secretary SHULTZ. I think one should distinguish between what may happen between any individual employing unit and a situation for all employing units which produce a given commodity. If you were talking about, say, a national strike that would completely cut off the flow of certain important basic categories of foodstuffs for a year to the American population, then there is a different kind of situation entirely. Then you would be asking yourself whether or not emergency dispute procedures, whatever they are, or the ones that are now in the Taft-Hartley law, should be applicable. That would be a different situation.

Senator JAVITS. I must say, Mr. Secretary, I don't think I have quite communicated to you the purpose of my questioning you in this way. You see, it is contended that the reason for putting a restriction on strikes at harvest time is the public interest. All I am bringing out is that that is not so. You agree it is not so. It is the private interest.

Really, the effort is to give him a situation so that his crops are not wasted, they are harvested, is that true?

Secretary SHULTZ. Yes, sir.

There are all sorts of interests involved. I think the public has an interest in these things, but the overriding interest on an individual employing unit would be the interest of the farmer and his workers in this case.

Senator JAVITS. That is all I was trying to get at.

We have been talking about it in a very ambivalent way.

It is one thing if you are reading it as a private interest with some private power of any sort. It is another thing when you are dealing with it when the public wants it continued.

Now, the other question I want to ask is this. Should there be reliance in the agricultural field on no-strike clauses? Now, would you look with favor upon our writing into this legislation the enforceability of the no-strike clauses?

Secretary SHULTZ. No, sir.

Senator JAVITS. You would not?

Secretary SHULTZ. No, sir.

Senator JAVITS. Why?

Secretary SHULTZ. Because it seems to me if you are going to have any kind of spirit of free bargaining in the situation, you must leave it open for the possibility of a strike or the possibility of people putting forward their view in a forceful manner. And if you provide that whenever harm may be done as a result of a strike you can go to court and get the strike stopped, then you have just removed all the incentive to bargain on the part of the person who can always get the strike stopped.

Senator JAVITS. I don't think you get my point at all. All I said was that an effective technique in order to keep the production of agricultural crops continuous would be to allow the parties to negotiate for a no-strike clause to be written in that contract.

Secretary SHULTZ. That is up to them.

Senator JAVITS. Today such an agreement is not enforceable in the courts by an injunction proceeding. Would you consider in this field that it would be a favorable departure from the point of view of the public interest if we wrote into this particular type of collective-bargaining statute a statutory remedy of injunction where there exists a no-strike clause in the collective-bargaining agreements?

Secretary SHULTZ. I think that would be desirable in general and not simply in this, and so testified a week or so ago in connection with the situs picketing testimony.

Senator JAVITS. We knew that, but we thought it would be peculiarly applicable in this particular field.

The other question I would like to ask you is about the form of organization. There seems to be a feeling that by setting up this kind of separate board, you are creating some massive structure which won't have too much business for a long time or at least will have it ony sporadically, and this is more in deference to the ear of the NLRB.

I would hope that we might have some better scheme than that. For example, the suggestion is made that in view of the relative autonomy of the NLRB General Counsel, that perhaps the installation of a counsel with similar autonomous authority, especially for the agricultural field, might accomplish much of what you have in mind, especially with the restraints and provisions of the law, than to establish yet another massive bureaucracy essentially in the agricultural labor-management field.

Would you care to comment on that?

Secretary SHULTZ. If you had a general counsel for Agriculture as part of the rest of the NLRB process, you would have changed it somewhat from simply having the act cover, as at present, the agricultural labor, but you would not have changed it as much as we have suggested. And I guess basically we are impressed that there are all sorts of special problems and that it would be best to take a fresh and

clean look at the whole thing, and the simplest way to assure that that is going to happen is to set up machinery for that purpose. That is the reasoning behind our proposal.

Senator JAVITS. Mr. Secretary, when the representative of the Farm Bureau Federation appeared here, I asked him whether we now had attained a new plateau in this field, that they agreed there ought to be a law for collective bargaining with farm labor. And they said they did, that they did because they saw stability in the farm labor field.

Would you say that this is the basic philosophy of the administration in coming forward through you with a definitive proposal?

Secretary SHULTZ. I would say rather that agriculture has developed in such a way that you do have large farms that are employing units on a considerable scale now. Years ago that wasn't so prevalent.

So, it seems more appropriate to now include agriculture in the general notion of representation. It may not have been appropriate years ago. So it is that change rather than the prediction that the employment will rise or decline or whatever stability may mean.

Senator JAVITS. So you are really looking at the farm as a factory now in the large units?

Secretary SHULTZ. Well, I suppose the fact that we suggest completely separate machinery means that we don't really look on it as a factory, and it does have aspects of it that are comparable but others that are different.

Senator JAVITS. The last question I have is on this green-card business. Our counsel questioned you about it.

It is charged that the green-card holders represent a potential source of strikebreaking material. At least that is the charge.

Now, could you give us any enlightenment on that general question of how the green-card people are handled and what you feel is their significance in the farm-labor field?

Secretary SHULTZ. I would suggest that there are two aspects, you might say, to the question.

One is that there are a number of people who presently hold green cards, and they live in this country or they have rights to come into this country with those green cards. That decision reflects the past and gives certain rights to those people, and there they are. They can behave in respect to employment in the same way as anybody else can.

However, if somebody is coming across into this country and states that he or she intends to work at a place that has been found to be on strike, then they don't come in. On the other hand, there is a certain emptiness to that provision, it seems to me, in that the person could come in to go to some other place and switch employment, go to a place that was on strike, and that would be perfectly legal.

I don't know whether I am meeting the question or not.

Senator JAVITS. You don't think that there is anything that we can or should do in respect to this legislation about those green-card holders who, for all practical purposes, are commuters? In some cases they come in the morning and leave at night. That is, they come across the border in the morning and go across the border at night.

Secretary SHULTZ. I think that is a separate question as to how you should handle that. What we are discussing here is the question of representation and all the things that go along with that.

Senator JAVITS. I agree, but is there any effect that is so serious on what we are discussing that we ought to do something about the green-card holders? That is not only a separate problem, but it does not have so material an impact upon the labor-management field that we are discussing that we should for our purposes disregard it, at least in dealing with this act.

Secretary SHULTZ. I think that a large supply of labor existing in a particular area obviously does have an impact on, you might say, labor market conditions, including labor relations conditions, in that area. So there is a relationship as a result of the fact that there are a large number of people who hold these cards and are entitled to work thereby in the United States.

But I don't think that fact should lead us to disregard the equities of those people or the interests of the United States as producers in many cases from having such labor available.

Senator JAVITS. In other words, you don't think we ought to deal with that question in this statute?

Secretary SHULTZ. I think it is a separate issue and this should be concentrated on the matter at hand.

Senator JAVITS. That is all I have. Thank you very much, Mr. Chairman.

Senator WILLIAMS. Senator Eagleton.

Senator KENNEDY. On that point, before Senator Eagleton commences, of course, Mr. Shultz, in those responses to Senator Javits' question, I am completely satisfied with those responses. I am not sure that we are really reaching the central point, which I know Senator Javits and myself had in mind, as one who introduced the legislation on the green cards.

The only way you are going to stop green cards from coming in is if the Labor Department makes certification. So although your reponse to Senator Javits' question is that they will not come on in if there is a strike, it is only after the Labor Department makes a certification that there is a strike, it is my understanding.

Secretary SHULTZ. That is correct.

Senator KENNEDY. One of the great problems is the delay in the Department of Labor in making such a certification. In the meantime, hundreds of thousands of these green carders come into the United States. All you have to do is look at the record of the last year and see the inadequacy of the Labor Department in this area.

I was equally critical of Secretary Wirtz in this area. I would certainly hope that we are going to feel, certainly by you, and I would like to come back after Senator Eagleton questions you on this other matter, to the green card question, that there will be a sense of urgency and understanding as to the significance of what these green cards are.

Unquestionably, they have depressed wages in the border areas as well as up through California. They have brought about poor working conditions. I have felt that the Labor Department has had really in the past quite an incentive to really find out the implications of them.

So we start off with that and on the question of certification, whether there is a labor strike. The growers are disputing that, and the matter

comes to the court. Meanwhile, as we understand, because of the seasonal employment, the whole question after a period of weeks becomes rather moot. So it is not quite as simple, I would suggest, as was indicated by your response.

I don't think I have been unfair in stating what I understand the situation to be.

I would like to come back into that whole area, anyway, Mr. Chairman, because it is a matter of some interest. But I do think that the record ought to show that this is a very, very significant problem and one which I would like to come back to later.

Senator WILLIAMS. Senator Eagleton?

Senator EAGLETON. Mr. Secretary, I will be brief and ask a couple of questions.

Do I take it that the reason for your proposal in giving the employer the right to elect the 30-day period during which there will be fact-finding and no strike will take place, is that he could elect to have this come about during what you referred to as a critical period, either planting or harvesting? And is the rationale behind this theory that to permit a strike at planting or harvest time gives so much of a clout to the union as to put collective bargaining in a practical imbalance.

Secretary SHULTZ. I would put it this way, that the possible consequences of a strike at harvest season in wiping out the crop are of such magnitude insofar as the farm is concerned that if you are going to, in effect, encourage the development of collective bargaining in this field, you should give some attention to that problem and at least give him some method for dealing with it that is a little special.

Now, he does not have to take advantage of that method if he does not want to. But if he wants to, there is a method there to protect that crop. If he loses that crop, he has lost his year's work.

Senator EAGLETON. Again, under your proposal, if he elects the 30-day period, he avoids the strike during harvest time.

Secretary SHULTZ. Yes.

Senator EAGLETON. What about the converse of that same question? If the union is prohibited from striking at critical times or is permitted to strike only at noncritical times, what economic clout, if any, does that give to a union in noncritical periods?

Secretary SHULTZ. I suppose what the union gets from this is the assurance that during this 30-day period there will be a neutral party who will find the facts in the situation and make some recommendations. If the union chooses to accept them, they will be binding on the other party. So there is the potential for exclusiveness built into the procedure. So the union is not empty handed by this process.

Senator EAGLETON. If the union elects to be bound by the end of the 30th day.

Finally I will ask this. If the critical time element is important in agriculture—and I presume it is—could not the same argument be made in the industrial area in terms of, say, strikes against companies that did a large amount of business at Christmastime, department stores and the like, or a strike of a manufacturing giant, such as the automotive industry, when a new model is on the line? And, therefore, would your rationale supporting this suggestion in the agricultural field in your judgment carry over perhaps into the industrial sector?

Secretary SHULTZ. Well, you can point to situations that have a certain parallel to them. But our feeling was that the combination of perishability and the kind of fixed point in time given by nature, so to speak, set this apart. Even in the case of Christmas sales of the store, there can be some swing, sure. It is a huge season for the retail store. But it is not impossible to sell things after Christmas, either, we have discovered.

Once, however, the harvest season has gone by, the profit is gone, period.

Senator EAGLETON. Thank you, sir.

Senator WILLIAMS. Senator Kennedy.

Senator KENNEDY. Thank you very much, Mr. Chairman.

I did not extend a word of welcome to you earlier, Mr. Secretary. I want to join with the other members of the subcommittee in expressing our appreciation for your appearance here.

I personally feel that the green card question is one of the most basic and fundamental questions which we are facing in this whole agricultural farmer problem today. I am just wondering, Mr. Secretary, have you had a chance to visit any of these areas which employ green carders? Have you had a chance or opportunity to travel on down—I certainly would not expect so since you have assumed your new responsibility but prior to that time—in any of these border areas in Texas or down through New Mexico or California?

Secretary SHULTZ. Prior to assuming office I had visited briefly, but I don't pretend to have had a deep personal exposure to those areas.

Senator KENNEDY. Could you give us some idea of the importance you place on the development of legislation in the farm labor field—even if it should be an alternative to the specific legislation you suggest. For example, it may be the judgment of the members of this committee and the full committee and the Senate, itself, to adopt proposals along the lines that have been introduced in S. 8 and others?

What kind of priority do you place on it? How important do you really think this question is in terms of our whole labor domestic problem? Can you give us some idea?

I don't know whether you talked on this to any extent earlier, but I would like to get some sense of feel as to the urgency that you place on this question.

Secretary SHULTZ. I think it is an important subject. There are a sizable number of employees on farms for which we haven't developed an orderly means of determining representation and at the same time from the standpoint of the farmer the kinds of protections that are also accorded to him under the National Labor Relations Act, potentially so, are not now accorded.

The result is a certain amount of turmoil, I think, from both standpoints. So from the point of view of the equities of the individuals involved and the amount of turmoil in society generally as a result, it seems to me that this is a matter that ought to be acted upon. We have struggled quite hard to develop an approach to the subject, one that we think does meet the problems that are usually raised in this area; namely, the problem of the unique characteristics of agriculture

and especially this problem of the harvest season which we have been discussing here.

Senator KENNEDY. What are the housing conditions and the working conditions of the people you have just described here, the farm agricultural workers? Have you visited these?

Secretary SHULTZ. I am sure they vary tremendously from very poor to essentially all right.

Senator KENNEDY. Let us take areas in Texas, New Mexico, Arizona, California, Florida. What are those working conditions? How would you describe the living conditions of the people?

Secretary SHULTZ. I said a moment ago that I have not had a deep exposure to those on a personal level. I know that they vary. Some are very poor, some improvements have been made. But I am not prepared to engage in a detailed discussion of them.

Senator KENNEDY. Can you think of any group of people who work in this country who have any more desperate kind of working conditions than the agricultural worker?

Secretary SHULTZ. Well, having said that I don't feel prepared at this moment to render a detailed judgment on them, it is difficult for me to make comparisons. But I think the material available suggests that they certainly are down toward the bottom of the heap, and if they are not the worst, they are far from the median.

Senator KENNEDY. I suppose that it certainly would add some sense of urgency, if they are at the bottom or close to, as you describe it—an urgency requiring the attention of us in Congress of the administration, as well.

Secretary SHULTZ. Yes. This is why I say that the equities of the individuals involved, as I said earlier, are among the reasons for feeling that this is an important piece of business and ought to be transacted by the Congress.

Senator KENNEDY. You have rather broad latitude, as I understand it according to the regulations, on what green carders can come into this country and under what conditions they can or cannot come in. The Department of Labor has broad discretionary power in this area. Certainly, taking the sense of the Senate as expressed in the 1965 Immigration Act, which I have been greatly interested in and had something to do with, there was at that time a very strong feeling that residents from other countries should not be permitted to come into this country if they were going to depress working conditions.

I wonder how you view that general concept in the first place. Do you think we ought to permit the nonresident aliens or foreign workers to come into this country if we can show that there is a relationship between their coming into this country and depression of working conditions in this country?

Secretary SHULTZ. No. I think the position you described is a reasonable one. There are, however, two types of individuals who are potentially involved, it seems to me, that we ought to think about.

On the one hand, you have a person who has been, as a result of past decisions, accorded certain rights and privileges in the United States.

On the other, you have a person who has not been so accorded and who may apply for them.

I think one should distinguish between these two cases.

Senator KENNEDY. This is a real question which suggests, Mr. Chairman, that the Secretary of Labor and the Commissioner of Immigration ought to try to work things out together. We have found in the hearings that were held last year by the Immigration Subcommittee that we had both the Secretary of Labor and the Commissioner of Immigration giving entirely different interpretations to the statutes.

As a result of the varied interpretations, we were ending up with hundreds of thousands of workers being disadvantaged. I am hopeful that we can—either through staff operation or through the work of this committee with this administration, at least with Secretary Shultz—be able to eliminate these differences.

Getting back to the farm and agricultural disputes, as I understand it, even if the Secretary of Labor makes a designation—which comes after an extremely laborious and lengthy process—that there is a strike at a particular farm, as I understand it this does not prevent green carders from coming on in and working on a neighboring farm.

Secretary SHULTZ. That is correct. That is my understanding.

Senator KENNEDY. So as a practical matter, from what we saw, for example, in the experiences of this committee when Senator Williams held hearings down in the Rio Grande area, we found that the ones that were involved in the strike area just move on over to another farm and, in effect, nullify any kind of order that might eventually be reached by the Department of Labor.

I know that perhaps you haven't had a chance to get into the regulations in detail, but I would like to raise a point so that you have some idea of the thinking of the members of the committee.

In chapter I of the regulations of the Immigration and Naturalization Service, Department of Justice, part 211 and paragraph 1, it says that:

> When the Secretary of Labor determines and announces that a labor dispute involving a work stoppage or lay-off of employees is in progress at a named place of employment, Form I–151—

Which, as I understand, is the green card—

> shall be invalid when presented in lieu of an immigrant visa or reentry permit by an alien who departed for and seeks reentry from any foreign place, and so forth.

That gives in these regulations, signed by the Commissioner of Immigration and Naturalization, rather broad powers to the Secretary of Labor in restricting these thousands. And there are hundreds of thousands of green carders that are coming on into these areas and effectively acting as strikebreakers.

I would like to request that at least counsel and you have an opportunity to review those provisions and give us an interpretation of that language and what kind of significance you are going to give to it, unless you are prepared to respond now.

Secretary SHULTZ. I am not prepared to respond in detail except to comment that it seemed to me that your earlier statement that the ease with which the certification of a labor dispute procedure is circumvented suggests that the broad powers are really not so powerful, that is, the person comes in to work somewhere else.

(The material subsequently supplied follows:)

U.S. DEPARTMENT OF LABOR,
Washington, D.C. May 19, 1969.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Subcommittee on Labor, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As Senator Kennedy requested during my testimony on S. 8, collective bargaining for farm workers, before the Subcommittee on May 6, 1969, I have consulted with the Solicitor of Labor concerning the Department of Labor's authority over so-called green card commuters.

The Department's authority concerning these workers is, I find, extremely limited. The powers of the Secretary of Labor under the Immigration and Nationality Act relate to the certification of aliens for entry into the United States. Section 212(a)(14) provides that no alien shall be permitted to enter the United States for the purpose of performing labor unless the Secretary of Labor certifies that there are no domestic workers available and that the employment of the alien will not adversely affect American workers. This authority (implemented in the Department's regulations to be found at 29 CFR Part 60), however, applies only to specified classes of aliens and does not apply to "an immigrant, lawfully admitted for permanent residence who is returning from a temporary visit abroad"; as defined in section 101(a)(27)(B) of the Immigration and Nationality Act. Because green card commuters have been considered to fall into this category, the Department of Labor's authority with respect to the admission of aliens seeking to work in the United States is not applicable to them.

The Immigration and Nationality Act confers authority on the Attorney General to prescribe regulations concerning the use of entry documents for returning resident immigrants as defined in section 101(a)(27)(B). Under this authority, the Attorney General has authorized the use of Form I–151 (Green Card) in lieu of a visa or reentry permit under certain conditions. One of these conditions is that it may not be used for the primary purpose of accepting employment at a place where the Secretary of Labor has determined the existence of a labor dispute. The Department's authority under this regulation is limited to determining whether a labor dispute within the meaning of the Attorney General's regulations exists. It has no authority to determine whether the Form I–151 has, or has not been improperly used by a returning resident alien.

I share your concern that many holders of nonresident border crossing cards (white cards) are illegally engaged in employment in the United States and that such employment has adverse effects on American wage earners. As you know, the Department has no direct statutory enforcement responsibilities in this matter, but I do hope that the recent amendment of the immigration regulations restricting the card to use within 25 miles of the border may help to alleviate the problem.

I trust that this discussion will clarify my authority regarding the alien commuter problem under the existing legislation.

Senator Kennedy also requested me to supply the views of the Department of Labor on S. 1694, the bill which he and other Senators have introduced to amend the Immigration Act with respect to green card holders. A report on this bill to the Committee on the Judiciary is being prepared and will be forwarded to your Subcommittee and Senator Kennedy when available.

I am taking the liberty of sending a copy of this letter to Senator Kennedy.

Sincerely,

GEORGE P. SHULTZ,
Secretary of Labor.

Senator KENNEDY. Given the length of time it takes for certification—and as I understand it, there were maybe 20 such certifications last year—and given that even when there is certification, there are loopholes a mile wide which can be taken advantage of, this is very serious. There is a considerable discretionary power by the Secretary of Labor to close those loopholes. Regretfully, they were not closed, I do not believe, during the last administration. And I think in our exchange the record is quite clear, even with Secretary Wirtz, on this matter. And I think it is important to raise this question to find out your view and attitude on these regulations.

Secretary SHULTZ. Yes, sir.

Senator KENNEDY. Mr. Secretary, on the question of the green carders I have introduced an amendment to the immigration law. The amendment simply says that—

each commuter alien must be regularly certified every six months by the Department of Labor that his presence in the United States seeking continuous employment does not adversely affect the wages and working conditions of the American workers similarly employed.

The amendment provides for a revocation of alien commuter clearance and provides a ban on strikebreaking—for this regulation clearly needs strengthening.

Could you express any view on what kind of legislation you think would be helpful in meeting some of the problems of the green carders which exist today?

Secretary SHULTZ. I can't express a complete considered view on it. But I would say that it seems to me there are many equities involved and it must be recognized that people who have been accorded certain rights also have equities that we have given them. They are people, too, and we have to pay a little attention to their needs.

Senator KENNEDY. Would you give us your views on that legislation when you have a chance to review it?

Secretary SHULTZ. Yes, indeed.

(The information referred to had not been supplied when this hearing went to press.)

Senator KENNEDY. It is related to this farm problem, and I would appreciate very much getting your views.

One of the additional problems—and this is the final area, Mr. Chairman—is the white carders, the 72-hour passes that come in, which are flagrantly abused at the present time. They gain entrance into the United States on a 72-hour pass. Then they disappear for great periods of time. They show up on these farms working these other areas.

I am just wondering how you would view the abuses in the white-card area as well, if this is a problem.

Secretary SHULTZ. I don't think I have any comment on that at this moment.

Senator KENNEDY. Could I ask you to review that as well?

Secretary SHULTZ. Certainly.

(The information referred to had not been supplied when this hearing record went to press.)

Senator KENNEDY. There are some very distressing abuses of those privileges and entrances into the United States, and there seems to be very little done about it. I don't feel that establishing some kinds of procedures at the border entrance, both in terms of white carders and green carders, really is an unreasonable request. As a matter of fact, I think it is only complying with the law that exists at this time.

Thank you, Mr. Chairman.

Senator WILLIAMS. Mr. Nagle of our staff.

Mr. NAGLE. Mr. Secretary, with regard to this 10-day/30-day period, suppose that a union gives a 10-day notice to strike and the employer elects a 30-day period to begin sometime thereafter. What occurs during this interim period?

Secretary SHULTZ. There could be a strike during that interim period.

Mr. NAGLE. They could be free to strike?

Secretary SHULTZ. They could be free to strike. The union is foreclosed from striking during the 30-day period.

Mr. NAGLE. I assume——

Secretary SHULTZ. You understand what we have done here is address ourselves to what I think is a very hard problem; namely, how you give some protection for this critical period and at the same time maintain a kind of spirit of free bargaining. What we have floated out here is a suggestion. It has, I think, some substance to commend it. If it is not a commendation, it has some novelty to commend it. Novelty also suggests why we are not pounding the table and saying this is the answer, because maybe you can poke a lot of holes in it, but it is an idea. It is a way of getting the discussion going on how a problem might be met.

We think it is a pretty good idea. But I am not here to say that we have worked out all the wrinkles and details, but we offer it for exploration.

Mr. NAGLE. I suppose that the factfinder—mediator—could, if he thought it appropriate, recommend a retroactive settlement.

Secretary SHULTZ. Yes, indeed.

Mr. NAGLE. You indicate in your statement that you don't think that the product boycott is an appropriate device in this area or at least you condemn it in a representation dispute situation.

Do you feel the same way about the product boycott as a weapon in further disputes between the union and the employer? The union in past hearings has told us that because of problems inherent in the agricultural situation, including, among others, their competition with green carders, that they really need such weapons as the product boycott, if they are going to be able to be at all effective.

Do you think there is any merit at all to their concern?

Secretary SHULTZ. There is an argument there, but I think that the secondary product boycott has so many objectional aspects to it that on the whole I am opposed to permitting its use.

Mr. NAGLE. The union has also asked for exemption from the right-to-work provision, 14(b). What is your feeling on that?

Secretary SHULTZ. Well, our general position in this testimony is that we would associate the machinery that we suggest with the National Labor Relations Act in general and are not in a sense going through and trying to revise all aspects of the act to meet particular problems other than the ones that we have singled out here as the major ones.

So, in our proposal we simply leave 14(b) as it is.

Senator JAVITS. Could I ask you one question, Mr. Secretary, if you don't mind answering, which is not entirely related to this?

Are you actually working on any proposals for the Congress on this very vexing emergency strike problem in public utilities, airlines, railroads?

Secretary SHULTZ. Yes, sir.

Senator JAVITS. You do hope that the administration will send us a recommendation on this?

Secretary SHULTZ. I believe the President said that we would have some recommendations to this Congress, and we will.

Senator JAVITS. Thank you very much.

Now our counsel for the minority raises a question whether you would not think it proper to allow card checks for unionization in agriculture where an unfair trade practice by the employer made it impossible to have a fair election.

Secretary SHULTZ. In general, I oppose in this testimony the card-check approach to certification and call for an election process. I would say that where the degree and the extent of unfair labor practices are such that the Farm Labor Relations Board would think it appropriate as a remedy to certify or to order the employer to bargain in good faith, that this would be one occasion on which you would permit something other than an election process. But I would put it that way because it seems to me one would have to have a very flagrant type of situation involved rather than putting it in terms of some special situation that would lead to a card check.

Senator JAVITS. You would not make it automatic?

Secretary SHULTZ. This would be a possible remedy that the Board might consider as it views the extent and scope of unfair labor practices.

Senator JAVITS. Thank you very much, Mr. Secretary.

Thank you, Mr. Chairman.

Senator WILLIAMS. Mr. Blackwell?

Mr. BLACKWELL. Mr. Secretary, in the ideas advanced this morning you used the 500-man-day test in the minimum wage as criteria for determining coverage. You recognize that there are other useful criteria which could be used. For example, the Department of Labor and the Department of Agriculture, working cooperatively, have provided rather comprehensive data as to sales volume and also on the number of employees.

Secretary SHULTZ. There are other tests that could be used. As to sales volume, I think I said earlier it did not seem to me it is as good a test as something related to employment because it is employment that we are really dealing with here and the relationship between sales and numbers of employees varies tremendously among types of farms.

So, we felt that that was not a particularly good way of going about it and went the employee route. And given the fluctuations in employment in agriculture, it seems as though a man-day's type of approach was the more sensible one. The number that we selected has merit of obviously covering the larger farms. Those are the ones that I think this whole idea is directed toward.

Mr. BLACKWELL. What in your judgment, Mr. Secretary, would the 500-man-day test result in the number of employees covered?

Secretary SHULTZ. Our data suggests this would cover about 2 percent of the farms with employees and about 45 percent of the employees on farms. In other words, it would cover the large farms.

Mr. BLACKWELL. There are several different bases that can be used in starting with how many farm employees? What does your 45 percent yield in numbers of people? 400,000? 500,000?

Secretary SHULTZ. I think around 400,000, but I would have to look that up.

(The information referred to had not been supplied when this hearing record went to press.)

Mr. BLACKWELL. The latest data on the number covered under minimum wage by the 500-man-day test is 500,000. Your attitude would be the same?

Secretary SHULTZ. It would be the same if that is the case.

Mr. BLACKWELL. Do you have data showing the commercial size of this 2 percent of the farms?

Secretary SHULTZ. You mean the distribution as to numbers of employees within that?

Mr. BLACKWELL. Yes.

Secretary SHULTZ. We don't have it in the form requested. What you want is to say, here are the covered farms and they range in size from "X" to "Y," the frequency distribution as to size. Is that right?

Mr. BLACKWELL. Yes. For example, the material submitted in the last Congress showed that under the $50,000 test, for example, that of all farms in the United States that test covered only 3.5 percent. This can be used as a method of identifying the employees. Under that test 45 percent also of the work force would be covered. The number of workers, though, by that test is considerably higher than your figure. That is why we need to compare these data to see what they do show side-by-side.

Secretary SHULTZ. Of course, whichever route you take, whether you take the dollars route or the number of employees or man-days route, you can change the criterion and change thereby the amount of coverage.

Mr. BLACKWELL. For example, the data submitted by the Department in the last Congress showed the $50,000 test—and this then is focused on the farm meeting this dollar standard—would reach 1,076,000 people, which was said to be 45 percent of the workers. Under the 500-man-days you say 45 percent of the work force but a considerably smaller number of people.

So these should be laid side-by-side.

Incidentally, under the data submitted in the previous Congress, of all the commercial farms in the United States only 15.6 percent would be covered by the $500,000 test.

Secretary SHULTZ. That is a much bigger percentage than the percentage that comes out in these figures. But if you would like, we can prepare a table that shows the numbers and the dollars, and you can look at it and then see what you get when you pick a particular criterion, what you cover.

(The material subsequently supplied follows:)

DISTRIBUTION OF FARMS AND HIRED WORKERS IN MAY 1968 BY GROSS VALUE OF SALES IN 1967

	Farms [1]		Hired farmworkers [2]	
	Number	Cumulative percent	Number	Cumulative percent
Gross value of sales in 1967:				
All farms	1,317,000	100.0	1,161,800	100.0
$100,000 or more	30,900	2.3	399,300	34.4
$80,000 to $99,999	11,800	3.2	47,800	38.5
$60,000 to $79,999	26,000	5.2	65,800	44.1
$40,000 to $59,999	64,200	10.1	104,700	53.2
$20,000 to $39,999	182,500	23.9	147,700	65.9
$10,000 to $19,999	248,700	42.8	115,600	75.8
Less than $10,000	752,900	100.0	280,900	100.0

[1] Farms that employed 1 or more workers in 1967.
[2] Employment in May 1968.

DISTRIBUTION OF FARMS AND HIRED FARMWORKERS IN MAY 1968 BY EMPLOYMENT SIZE OF FARM IN PEAK QUARTER OF 1967

	Farms		Hired farmworkers	
	Number	Cumulative percent	Number	Cumulative percent
Employment size of farm, peak quarter of 1967:				
All farms	1,317,000	100.0	1,161,800	100.0
More than 500 man-days	30,000	2.3	523,000	45.0
500 man-days or less	1,287,000	97.7	638,800	55.0
More than 300 man-days	56,000	4.3	619,200	53.3
300 man-days or less	1,261,000	95.7	542,600	46.7

Source: U.S. Department of Agriculture, "Special Tabulations of 1968 Enumerative Survey."

Mr. BLACKWELL. I expect the percentage on this would probably be about the same. Your standard would yield about the same percentage because on commercial farms there are a million and a half that use no hired labor at all. It would be desirable to make clear in the record that there are other standards on which you can supply the committee with data.

Secretary SHULTZ. Yes.

Senator WILLIAMS. Thank you very much, Mr. Secretary. We expect to have you with us again before too long. We appreciate your cooperation.

Secretary SHULTZ. Thank you, Mr. Chairman.

Senator WILLIAMS. We will now conclude with the remaining witnesses this morning.

Mr. George H. Wedgworth and Mr. Charles R. Sexton. Are both gentlemen here? Will you come up? And Mr. Jack McGann will follow.

Mr. George H. Wedgworth is from Wedgworth Farms, Belle Glade, Fla., and represents the Florida Fruit & Vegetable Association and Sugarcane Growers Cooperative.

Mr. WEDGWORTH. Mr. Chairman, that is somewhat incorrect, in that those organizations have filed a statement in previous hearings. I am here representing the companies that I am employed in, rather than an association, if I may draw that distinction. I think their views have already been filed.

Senator WILLIAMS. Mr. Sexton, I also have you listed as representing the Florida Fruit & Vegetable Association. Is that accurate, or is that not accurate?

Mr. SEXTON. I am representing my own company and my own group of growers.

Senator WILLIAMS. What is your company?

Mr. SEXTON. OSLO Citrus Growers Association of Vero Beach, Fla.

Senator WILLIAMS. I am glad you are here. Have you gentlemen had an opportunity to talk with the people at the Department of Labor prior to today?

Mr. WEDGWORTH. No, we have not, in respect to this problem.

Mr. SEXTON. No, we have not.

Senator WILLIAMS. I did ask the Secretary whether he had had the benefit of people with knowledge and economic interest in the area. I gather that it was more of an in-house, within the Government's development of the proposal he offered this morning. You are addressing yourselves to S. 8 and S. 1808?

Mr. WEDGWORTH. Primarily to S. 8.
Senator WILLIAMS. Only to S. 8?
Mr. WEDGWORTH. Only to S. 8.
Senator WILLIAMS. The collective bargaining bill?
Mr. WEDGWORTH. Yes, sir.
Senator WILLIAMS. Proceed.

STATEMENT OF GEORGE H. WEDGWORTH, GENERAL MANAGER AND SECRETARY, WEDGWORTH FARMS, INC., BELLE GLADE, FLA.

Mr. WEDGWORTH. Mr. Chairman, I appreciate the opportunity to appear before your committee to present my views on Senate bill 8, which, if passed, could have a revolutionary effect on our country's agriculture industry as we know it today.

My name is George H. Wedgworth. For almost my entire life I have resided on a farm near Belle Glade, Fla. I am general manager, secretary, and a stockholder of Wedgworth Farms, Inc., a family-owned corporation. We are commercial producers of celery, sugarcane, and beef, employing approximately 40 full-time and 160 seasonal employees. I also am active as president of Sugar Cane Growers Cooperative of Florida, which is made up of 52 grower-members for the purpose of harvesting and processing sugarcane. The cooperative employs over 2,000, of which approximately 1,500 are British West Indians who are seasonal employees used in the harvesting of sugarcane. Of the remaining, approximately 200 are year-round employees.

My views and opinions are based upon a lifetime of employment in agriculture in almost every position from laborer to president of the company. Also, I have had experience in both exempt and nonexempt types of employment as related to the National Labor Relations Act. In addition, I have had recently actual experience with labor organizing efforts in both agriculture and industrial operations. I have been personally involved in discussions with labor organizers, church groups, agriculture laborers, crew leaders, farmers, and others concerning agriculture labor.

Senator WILLIAMS. And now a Senate committee.

Mr. WEDGWORTH. Yes.

There are those who would for their own purpose compare agriculture to industry. However, there are differences. These differences are such that they will make application of the present National Labor Relations Act unworkable if applied to agriculture. Most proponents do not understand or want to understand these differences and continue to think that the inclusion of agriculture labor under the National Labor Relations Act will help farmworkers.

It is not my purpose to oppose the principles of collective bargaining. It is, however, my purpose to relate why the same mechanism for collective bargaining in industry will not work in agriculture and will work to the disadvantage of the worker, employer, and also the consumer.

We in Florida agriculture have watched with more than passing interest over the past few years the development of a national conspiracy to obtain support for the inclusion of agriculture workers

under the National Labor Relations Act. It was hard to believe that reports from California were true regarding the alliances made between some church groups, labor organizations, racial groups, university students, Office of Economic Opportunity-funded organizations and others for the purpose of discrediting the agriculture producer in efforts to supposedly help the worker obtain "social justice," including the right to bargain under the National Labor Relations Act.

It was not until similar efforts were transplanted into Belle Glade during the season of 1966–67 that we became completely aware from a firsthand knowledge of the implications of this unholy alliance which was perpetrated against the employers and employees by these outside groups along with militant, subversive, and strong-arm tactics which they employed. That season was marked by unsuccessful efforts on the part of organizers to call general strikes by commodity groups, riotous and near-riotous conditions.

Fortunately, the efforts were a failure. Farmworkers resented the attempts to stop work, the chaotic conditions, the threats and intimidations by the organizers. The organizers left Belle Glade at the end of the 1966–67 season. Since they have left we have experienced two seasons with excellent management-labor relations existing.

There are those who are attempting to take the so-called Delano grape strike, which was, as in Belle Glade, fostered by outside groups, and use this incident to portray labor strife similar to industry in the early 1930's. If one would examine the facts, it becomes apparent that this over-dramatized event is relatively insignificant and not representative of the general agriculture labor-management relations. It is also equally apparent that attempts in California, Texas, and the abortive attempt to cause labor unrest in Florida are a part of the national conspiracy to focus public attention on the campaign to place farmworkers under the National Labor Relations Act.

The well-meaning groups and persons that have joined this campaign believe that rural poverty is a result of low wages, poor working conditions, or lack of full-time employment which can be corrected by the inclusion of agriculture labor under the National Labor Relations Act. Those who honestly believe this have not considered the rural unemployable, the nonagriculture rural population, and the economic condition of agriculture in general before blaming agriculture for rural poverty.

If rural agriculture poverty actually exists in south Florida, it should not. Crops went unharvested this past year for lack of labor. Agriculture employment offering wages far above the Federal minimum wage level was available to those who desired to work. Rural poverty could only have existed for those who did not desire to work or were unable to work. Agriculture provided the work opprtunity. Strikes and boycotts decrease work opportunity.

So much for background. I will now confine my direct comments on S. 8 to the following three points:

(1) It places in the hands of union bosses a tool that will give an unreasonable and unbalanced power over farmers.

(2) It is discriminatory in that it will cause conditions that will allow competitive advantage between producers.

(3) It will adversely affect many of those workers that it purports to help.

IMBALANCE OF POWER

Agriculture, unlike industry, many times places an investment that equals a very high percentage of the farmer's net worth into a crop that is perishable and has to be harvested within a few days of maturity. The farmer lacks the financial capacity to lose a crop or any part of it. By placing in the hands of labor organizations the tools provided in Senate bill 8, it gives them a life-or-death decisionmaking capacity over the farmer. This is an unreasonable and complete imbalance of power which will make a farce out of the term "collective bargaining."

A farmer will not have much choice when faced by unreasonable demand, which is sure to follow when an unreasonable power exists. He will either meet these demands, which very possibly could cause him to eventually discontinue farming, or not meet the demands and be immediately forced out of farming.

Some would argue that the prehire contract, as used in the construction industry, will eliminate the subjecting of a farmer to a strike at harvesting time. Those who make this argument do not understand the difference between construction and agriculture. Contract trades are well organized, but agriculture is not. Contractors need to estimate labor costs for bidding purposes. Agriculture seldom contracts in advance and usually does not know the price it will receive for its produce in advance. Prehire contracts also can work to the detriment of the worker in that it provides the tool for sweetheart contracts and selection of a representative that may not be of the employee's choice. In any event, the prehire provisions do not eliminate the strike at harvest time.

DISCRIMINATORY

By the introducers of S. 8 estimates, they expect this legislation to only affect 3.5 percent of the farms in the United States which employ less than half of the total farmworkers. This in itself states that 96.5 percent of the farms will not be directly affected and that over half of the work force will be excluded.

Agriculture production in certain crops vary from area to area as to size of the producer. In certain crops, the application of S. 8 to certain crops will eventually place some producers at a competitive disadvantage with other producers. This will eventually lead to the disadvantage of the employees of the disadvantaged producer. One could then truthfully state that eventually S. 8 will be discriminatory to the workers that it seeks to protect.

ADVERSE EFFECT ON WORKERS

Due to high cost of labor, and shortage of qualified labor, agriculture is being forced to mechanize. Sometimes this mechanization is very painful at first to the farmer. However, when perfection of the machinery is made and elimination of the dependency on high cost and sometimes an unstable labor force is achieved, job opportunity is gone forever in the replaced jobs. S. 8 will accelerate this trend toward elimination of jobs by mechanization.

I speak from firsthand knowledge in that my organization has pioneered in the field of mechanical harvesting of celery, not purely

voluntary but by being forced into having to do so by arbitrary decisions by a past Secretary of Labor.

Enactment of S. 8 will also accelerate an already astounding exodus of U.S. farmers to foreign soil. The real economic impact is now being felt by those farmers that elected not to move to a foreign country for production of certain commodities that are in direct competition with foreign growers. This impact eventually will be felt by the workers.

SUMMARY

For several years there has been a national conspiracy between many groups of varying interests and for varying goals to place agriculture labor under the National Labor Relations Act under the premise that it would help eliminate rural poverty and correct a social injustice. Many well-meaning individuals and groups have been taken into believing the method was correct because the goals are right. National campaigns have been inaugurated and Delanos have been created to sway public opinion. However, they represented a very, very small fraction of the agriculture labor force in the States in which they have occurred, to say nothing of the agriculture labor force of the Nation.

Agriculture and industry cannot be compared for purposes of applying the National Labor Relations Act. Those who make such comparisons are not informed of the differences that do exist.

Senate bill 8 will give an unreasonable power to labor bosses through strikes at harvest time. Unreasonable power fosters unreasonable demands. Life-and-death decisions over farmers by labor bosses will result.

Senate bill 8 is discriminatory because it affects less than half the agriculture labor force and only approximately 3.5 percent of the farms. This, along with the fact that it will cause the acceleration of mechanization and movement of agriculture to foreign countries, will eventually work to the disadvantage of the workers it seeks to help.

We do not question the right to collective bargaining if a way can be found to place the parties on equal terms. However, to give one side the life-or-death decisionmaking power makes a farce on collective bargaining. Instead of collective bargaining, we will eventually wake up and find collective agriculture. Thank you.

Senator EAGLETON (presiding). Thank you, Mr. Wedgworth.

Senator Williams had to go on to another engagement, so he asked that I pinch-hit for him to the conclusion of these hearings.

Were you present during the entire testimony of Secretary of Labor Shultz this morning?

Mr. WEDGWORTH. Not quite the entire testimony, but almost.

Senator EAGLETON. I realize you have not had a chance to study his proposal. And bear in mind that a number of us on this committee have not had a chance to study it since it came in late last night. The first time I saw it was this morning, myself.

How does the thrust of his proposal, without going into the precise details that you might want to ponder—10-day period, 30-day period—but how does the thrust of this proposal strike you in terms of the life-and-death struggle which you referred to in your statement so

far as a strike might occur at harvest time? He has a way of avoiding that during the 30-day period. Does it strike you as a fair approach?

Mr. WEDGWORTH. First let me say I have not had an opportunity to study this. I was impressed with the Secretary's recognition of the differences between agriculture and industry, and at least he offered a refreshing and new approach to this particular problem.

In respect to the 30-day period which he has suggested, I think there are still problems that exist on the question of during planting time and harvesting time, since commodities do vary from industry to industry, wherein some commodities can be executed in a matter of 30 days and in other harvesting may not be executed in a matter of several months.

So its application to the different and varying conditions in agriculture between commodities really makes the application of what has been suggested different on different types of agricultural commodities.

Senator EAGLETON. Counsel wishes to ask some questions.

Mr. BENEDICT. Mr. Wedgworth, the area that you have been discussing, on which I questioned Secretary Shultz, presupposes that the union has either been recognized or is entitled to recognition under the law, and a bargaining impasse has been reached between the two parties in trying to work out the terms of a collective-bargaining agreement.

The other side of that which I posed to the Secretary is where the union does not represent a majority and is not entitled to recognition under the law because of flagrant employer unfair labor practices, or because it has won an election, but it is engaged in an organizational or informational or area standards or some other type of strike or picketing activity at harvest time.

Do you feel there should be any difference in the law that is applicable to this type of situation, as opposed to where the union has a legitimate and legal right to enter into a bargaining agreement with a farmer or grower?

Mr. WEDGWORTH. Let me first say that I did not come here prepared to discuss the intricacies of the difference in a plan that has been proposed which is new to me for the first time this morning and the existing mechanisms under NLFA.

In respect to drawing differences, I think that a complete study would have to be made before I could comment intelligently on it in respect to the different conditions surrounding the events that could be thought up at a particular time.

Now, cetrainly, people have strong views in regard to rights to picket and the existing rights they have now. It would seem to me if it is an organizational representation dispute, I think under the generally accepted views it would be very hard to deprive them of the right to at least put up information pickets. This is a field I am not expert in. It is one that I would have to have a lot more study on.

Mr. BENEDICT. Under the present law, under the National Labor Relations Act, this type of picketing could occur for a period of 30 days. I wonder if you feel that you are in a position to comment on this? Whether you feel there should be a different time period with respect to farm employees because of the nature of the industry?

Mr. WEDGWORTH. As I said earlier, I didn't come prepared to discuss the real technicalities of the difference between a proposal that

was made for the first time this morning, and I don't think it would be helpful to the committee for me to express an opinion on it.

Mr. BENEDICT. Are you familiar with the provisions of the National Labor Relations Act?

Mr. WEDGWORTH. Somewhat. I am not an expert. I have people on my staff who advise me in regard to it, but I am not a technician in regard to it.

Mr. BENEDICT. You would rather that I did not ask you technical questions?

Mr. WEDGWORTH. That is what I am saying, yes.

Senator EAGLETON. Mr. Wedgworth, I have one or two final questions.

I notice in your prepared statement which you have submitted that you employ 1,500 British West Indians as seasonal employees. Is that correct?

Mr. WEDGWORTH. That is correct.

Senator EAGLETON. Do you have a contract with those employees, a negotiated contract?

Mr. WEDGWORTH. The Employers Association, the British West Indian Employers Association, does negotiate annually a contract with the participating countries in full view of the Department of Labor.

Senator EAGLETON. Who are the negotiating parties to this contract? You on one side, and who signs the contract?

Mr. WEDGWORTH. The negotiating parties are the British West Indians Central Labor Organization. Actually, the party is the Regional Board, made up of the countries of Jamaica and Barbados and other British West Indian countries. They are actually government representatives. The other party is the—actually, it is negotiated as a group, but the contracting parties are broken down into the Sugar Producers Association of Florida, the Florida Fruit & Vegetable Association, and there is the Virginia group in regard to apples, and other employees of British West Indies, where they are certified by the Secretary of Labor.

Senator EAGLETON. I take it the government employees of Jamaica and Barbados negotiate with you and your associates in terms of working conditions, wage rate, and the like.

Mr. WEDGWORTH. That is correct; in full view of representatives of our Government.

Senator EAGLETON. Has this procedure, wherein Government does the negotiating on behalf of a group of employees, worked out rather satisfactorily as you view it; harmoniously?

Mr. WEDGWORTH. Let me say that this is not a question of Government-to-Government negotiation. This is employers in full view of Government, which is somewhat different.

Senator EAGLETON. Well, it is employers negotiating with Government officials who are speaking for a group of employees.

Mr. WEDGWORTH. The other party, that is correct. It has been a satisfactory procedure for many years.

Senator EAGLETON. Is there anything that we could perhaps borrow from that procedure, that has worked satisfactorily for many years, and apply it on our domestic scene here in the United States?

Mr. WEDGWORTH. There are things that we would like to have you borrow which are in relation to a contract. We have never experienced

a strike. There are no provisions for handling of strikes or provisions for handling of disputes. Disputes have always been handled without resorting to actual strikes as such.

Mr. MITTELMAN. I would like to ask you a question that I have asked a number of other growers who have testified on this bill.

Under present law, isn't it true that there are essentially no provisions prohibiting the conduct of farm union organizers? For example, in many States secondary boycotts are legal in closed shops and there are no restrictions on organizational or representational picketing. There is no restriction on strikes at harvest time. All that is true under existing law; is it not?

Mr. WEDGWORTH. I will take your statement; yes. I am not an expert on that, either, so I will take your statement.

Mr. MITTELMAN. You and a number of other growers testified to an assortment of problems that you claim would exist if S. 8 would pass. Unions would do this and unions would do that, and there would be this extreme imbalance of power between unions and farmers.

Isn't it a fact that that imbalance of power exists right now, that with or without S. 8 a farm union, if it could organize workers, would be able to call a strike and that under existing law there are many fewer prohibitions on farm union organizers than there would be under S. 8?

After all, there are a lot of unfair practices to which a farm labor union is not now subject. Under S. 8 they would be. That is why I have difficulty understanding the position of the growers. raising all these problems as if S. 8 would create the problems. But the problems are there now. Right now, if the farm union in California goes out and wants to institute a national boycott of grapes, wants to surround a retail grocery store with picket signs urging people not to shop at the entire store, that is legal under existing law in many States. It may be illegal in some States but a number of States would permit it. The farm labor union in California apparently wants to go out right now and negotiate a closed shop. Not just a union shop, a closed shop. That is legal in a lot of States. Why is it that you view S. 8 as a mechanism for creating all of these problems? Why is S. 8 going to exacerbate the problems that the farmers now face?

Mr. WEDGWORTH. If you listened to my statement, I said that I was not here to oppose collective bargaining. If some mechanism can be devised which will allow for free collective bargaining on an equal basis—S. 8 does not provide this nor any scheme that I have seen so far provides this.

Mr. MITTELMAN. Existing law does not do it either, does it?

Mr. WEDGWORTH. Just because—as you put it—there is not any remedy under existing law, it does not necessarily follow that if we do adopt something else that does not in itself provide an equitable answer.

Mr. MITTELMAN. Is it correct to say that the reason the imbalance does not exist, under existing law, is because growers are permitted to frustrate organizing campaigns? In other words, fire workers who stress a desire to join a union, or refuse to bargain with the union when they know the union represents a majority of their workers?

Mr. WEDGWORTH. I think that you will have to agree that there have been very, very, few organizing efforts; there have been very few, rela-

tively speaking, successful efforts looking at the total picture. It is my view that there are relatively peaceful labor-management relationships in the agricultural field, if an in-depth study is made of it. The dramatization of these things which has been made through the public media, and otherwise I think, has broken completely out of proportion what actually exists in agriculture relations, as far as management and labor is concerned.

Mr. MITTELMAN. I am perfectly willing to accept that statement. What I am trying to get at is, why would the bill S. 8 make it worse or better than it is today.

Mr. WEDGWORTH. The enactment of S. 8 would give a tool in the hands of the organizer which would be completely out of balance; it would just make a farce out of collective bargaining.

Mr. MITTELMAN. People keep saying that. What tool would S. 8 give the organizer that he doesn't have today?

Mr. WEDGWORTH. I would like to answer that by saying you should ask the people, who are out attempting to get S. 8, why they desire this tool so greatly.

Mr. MITTELMAN. Let me rephrase the question. Aside from secret ballot elections under the National Labor Relations Act, what tool would require a farmer to bargain with a union that could demonstrate that it does, in fact, represent a majority of the premises through an election? What tool does S. 8 give that farm organizer? Let me give one example.

I believe you said you would object to a provision in S. 8, which would permit a farmer to sign a prehire agreement with a farm union requiring farm laborers to join the union within 7 days of their work employment. There is nothing in existing law which prevents a farmer from signing such an agreement if a farm labor organizer comes to his farm and starts picketing under existing law. There is nothing at all that prohibits that.

Mr. WEDGWORTH. The bare fact is that this is not—I know of no instance when this has happened. I think with the legislative authority to do so you would find the practice happening. It is not presently happening. It is not presently a problem.

Mr. MITTELMAN. I disagree with that, too. S. 8, on its face, does not authorize any union to picket to force a farmer to sign a prehire agreement. In fact, picketing could be illegal. It could be enjoined. It cannot be enjoined now without S. 8. Again, I get back to a basic problem. You have a situation now where there is no law on the books. Essentially, what you have is a law of the jungle that applies here. It is sheer power. There is no mechanism for the orderly settlement of any dispute. You can't even find out whether employees really want, or don't want, a union. The only way you can find out is if the employees walk off the job, and even then the farmer can go out and hire replacements. There is testimony here that they have hired green carders in California. I don't know whether that is so or not. That is disputed.

Don't you see any virtue in substituting for what is really the law of the jungle some orderly process for resolving these disputes?

Mr. WEDGWORTH. I say again, if you listened to my statement, that as far as collective bargaining and the mechanism for it I am not here

to oppose that. I think the Secretary of Labor at least put a refreshing approach to it. Offhand, I see things which I think need further thought in discussion. Therefore, in essence I am recognizing that possibly as this question grows in magnitude some order might have to be brought into it, but I don't think the industrial application of the National Labor Relations Act would provide this. That is simply what I am saying.

Mr. MITTELMAN. Thank you.

Mr. BLACKWELL. Mr. Wedgworth, I am Fred Blackwell, counsel to the subcommittee for the majority members. I want to continue the avenue which Mr. Mittelman explored with you.

Incidentally, I have worked with this legislation 10 years, at least, long before the "unholy alliance," which you cite at page 2, came into existence, long before there were enough riots around to even speculate on national conspiracy. For the first 4 years plus, that Senator Williams and other Members of the Senate first introduced this legislation, this discussion was carried on in what might be called solitary splendor.

Mr. Mittelman's very constructive inquiry has suggested a long look ahead for the employers in your position. Is U.S. Sugar Co. a member of your cooperative?

Mr. WEDGWORTH. No; it is not.

Mr. BLACKWELL. They are big enough; they don't need to be a member of your kind of organization.

Now the point here, and I realize that you not being a lawyer this sounds technical to you, so I will try to translate it in a nontechnical situation. Now in your 1966–67 encounter with the unholy alliance in Belle Glade, your viewpoint prevailed. The activity was there. You responded. There did not evolve from the activity a union or contractor, a recognized bargainer for the workers. Is that correct?

Mr. WEDGWORTH. I wouldn't put it in terms that my viewpoint did prevail. I think in this case the actual laborers themselves, in the field, I think their viewpoint prevailed. Agricultural workers, in our area at least, have a phenomenal ability to know what is going on. They have ability to have choices of occupations outside of agriculture in south Florida. They have the opportunity to decide to work for employers that I am associated with or move and be employed by others because there has been a very great demand for workers, not only seasonally but year round. There is a great work opportunity. They have freedom of choice of work. They have the ability to get together and organize and express their views without the employment of a third party representative.

I am thoroughly familiar with the way in which agriculture labor goes about negotiating on an informal basis, but on a very effective basis, their working conditions, their wages, all of those things. So, to back up your statement, I think in the case of the 1966–67 instance, the workers themselves who were much more involved in it than I, made the determination and as a result of that we have experienced 2 years of continued fine labor relationship.

Mr. BLACKWELL. Just to keep a balanced record here, this subcommittee in prior years—I don't believe I can date it now—well, the migratory labor subcommittee which previously had the legislation

has made field trips to the Belle Glade area, and to other areas of Florida, and on those field trips we meet with the employees and have discussions with them on their views about these things. Thus, for your information, almost 100 percent of the employees with whom we talked on these field trips stated a desire contrary to what you describe this morning. The employees who are in these situations do state quite clearly that they are interested in a union and if they thought they could join a union without any reprisal or without any economic adversity as a result, they would.

In fact, a union did not evolve from this 1966–67 activity, is that correct?

Mr. WEDGWORTH. That is correct.

Mr. BLACKWELL. Mr. Mittelman's point is that if a union had evolved out of that, then there are several dire consequences which confront the farm employer because the bargaining situation is not covered by the National Labor Relations Act. For example, the union could exact a closed shop. It could require you, as an employer, not to hire anybody except the named individuals which were submitted by the union. As a matter of fact, Mr. Mittelman——

Mr. MITTELMAN. Mr. Blackwell, I want to clarify that. I don't happen to know what the Florida statutes or the law provides. It may well be that the Florida closed shop is illegal. I know that in New York it is not illegal. I just don't happen to know what the Florida law is.

Mr. BLACKWELL. You would then have as your only resource the common law of the State of Florida, and as we have looked at this situation nationally in most States the employer would be on the downside of this equation.

Another example would be the secondary boycott which is illegal under the NLRB. Perhaps you are buying boxes, crates, from a manufacturer a thousand miles away. A labor dispute occurs there that is of no interest to you or your employees. But if there were a strong union it is possible that your employees could strike you in sympathy with this situation a thousand miles away. That would be prohibited under the National Labor Relations Act. The product boycott which has not yet, according to my knowledge, had impact on your particular farm product, has almost unlimited license under the current status of the law. The point is that you succeeded in 1966–67. For you to maintain the situation that you have now one must presume that the employees will never organize themselves into strong unions.

From our research into this general subject that is a rather hazardous assumption for you to plan your business on in the years ahead. For you there are protections and very meaningful protections running to the employer under the National Labor Relations Act. The product boycott, for example, would be illegal under the National Labor Relations Act.

Mr. WEDGWORTH. I am familiar with the vicissitudes that we may fall into. I hope you are not suggesting that my commodity be next on the list for a national boycott. We certainly are aware of those things but I think in that field consumer interest will eventually prevail. This question is one which I don't think you need to sell me today in front of this committee. I think I have recognized that possibly there is a formula which recognizing the differences between industry and

agriculture, that possibly can be devised which would give equal protection and equal and balanced power as far as collective bargaining. I merely submit that S. 8 does not do this.

Mr. BLACKWELL. Have you established in your own operation, your cooperative or have you as an individual farmer established a voluntary grievance procedure?

Mr. WEDGWORTH. I operate two companies. For the one, which is a sugar cooperative which is much the larger operation, we have grievance procedures.

Mr. BLACKWELL. Is this the fieldworker?

Mr. WEDGWORTH. In the cooperative we are in the field of harvesting and processing. Parties exempt and parties nonexempt under NLRB. The employer policy in regard to grievance is applied to both equally. There is no distinction between the exempt and nonexempt.

Mr. MITTELMAN. Do you have a union in the processing plant?

Mr. WEDGWORTH. No, we do not have a union. In the last 6 years we have had four organizing campaigns.

Mr. MITTELMAN. Have you found the National Labor Relations Act very unfair to you in respect to the——

Mr. WEDGWORTH. Let me say that I did not come here today with that type of discussion in mind. We have found things, which I am not prepared to discuss today, that under the National Labor Relations Act and the Board which seemed to us as employers, weighted pretty heavily in favor of the union in regard to at least representation questions. This is all that we have been through.

Mr. MITTELMAN. Would it be accurate to say that a strike against you in your processing plant, after the crop was harvested, would be just as damaging as a strike just before the crop is harvested?

Mr. WEDGWORTH. In some respects, with sugar, with which we are concerned there, it is not as damaging as it would be over in my other company which is interested in perishable vegetables. Sugar will stay in the field for a while and wait. Celery will not.

Mr. MITTELMAN. Do you have a packing shed operation in your vegetable operation?

Mr. WEDGWORTH. Our packing is done in mobile field harvesters in the field as contrasted to packing plants, per se.

Mr. MITTELMAN. Are the employees who man those mobile harvesters subject to the National Labor Relations Act or are they excluded?

Mr. WEDGWORTH. In my opinion, no.

Mr. MITTELMAN. You say in your opinion.

Mr. WEDGWORTH. Let me say I am not an attorney. I did not come here to discuss detailed, legalistic questions. I say to the best of my knowledge and in my opinion those workers working on the farm in agriculture are exempt from NLRA.

Mr. MITTELMAN. I am sorry if you misunderstood me. I am not trying to get into technical, legal questions. What I am addressing myself to is the practical aspects of this matter. The thrust of my questions is simply to bring out the fact that under existing law there is really no protection for a grower in your position, whereas under S. 8 or other proposals that have been made within the framework of the National Labor Relations Act, there would be in fact some protection.

I think it is unfair—it is not a question of fairness—it is inaccurate to assess S. 8 in isolation. I think the whole picture must include the fact that under existing, or I should say in the absence of any law, which is really what the present situation comes down to, a farmer has really no protection at all from an organizing attempt, a strike at harvest time, secondary boycott, closed shop, at least in many, many States.

Again, you repeated your remark that you thought that S. 8 would represent the wrong balance, that it has imbalance of power weighted in favor of unions. I would really appreciate it if you could write a letter to this committee, a practical letter, it does not have to be in legal technical terms but a practical explanation of why you think that S. 8 would weight the balance in favor of unions as compared to the balance that exists now in the absence of any law. Could you possibly do that?

Mr. WEDGWORTH. I will be happy to.

Mr. MITTELMAN. Thank you, sir.

Mr. BENEDICT. I have a comment. From what I have just been hearing, I am surprised that you are not here suporting S. 8 and the farm unions here opposing it. I have been listening to all the protection you would get if farmers were under the National Labor Relations Act.

I think that we are all aware that there is much opinion in this country which feels that a lot of union activity and conduct in the industrial and construction union area, which Congress thought it had prohibited, has been legitimized as the result of the NLRB's decisional processes and through court decisions, and that many of the union activities which Congress intended to prohibit in 1947 and 1959 have not been halted.

To summarize your position, generally, is it fair to say that you would not oppose a collective bargaining law for farmers and growers if some compromise could be worked out concerning strikes at harvest time, and if adequate safeguards were included to prevent disastrous economic results to farmers from unlawful and illegal coercive activities sometimes carried on by unions?

Mr. WEDGWORTH. Let me say this in regard to collective bargaining, and this particular principle and your statement, and try to sum up my feelings. We are a firm believer as an employer, both in our sugar operation and in our vegetable and cattle operation, that we prefer to have an employee-employer relationship without a third party. I want to make clear on that, even under covered employment as far as NLRA is concerned, we conduct ourselves in such a way that we try to maintain this relationship. We also do this in our agricultural operation.

Now if anyone proposes any legislation which would provide a tool for ease of representation in respect to what is taking place now, in the type of people whom we have had personal experience with who are interested in organizing farmworkers, we would prefer—I would prefer personally to take my chances in maintaining the employer-employee relationship that we have without S. 8 than I would with S. 8.

Senator EAGLETON. Thank you very much, Mr. Wentworth. We appreciate your being with us. Thank you for being indulgent to our questions.

Our next witness is Mr. Charles R. Sexton of Vero Beach, Fla., who represents the Florida Fruit & Vegetable Association.

Mr. Sexton, I have read through your statement and the basic thrust is quite similar to that of Mr. Wedgworth. We could put your entire statement in the record and permit you to capsulize it for us, or you may read it at your pleasure. So you may proceed.

STATEMENT OF C. R. SEXTON, MANAGER, OSLO CITRUS GROWERS ASSOCIATION, VERO BEACH, FLA.

Mr. SEXTON. Thank you, Senator. I would like to certainly have my testimony in the record. It is your pleasure, sir, whether you want to have a repetition. If it will go into the record, fine, or if you would like to question me on any phase of it.

Senator EAGLETON. Let us put your statement in the record at this point and let me ask one question.

(Mr. Sexton's prepared statement follows:)

PREPARED STATEMENT OF C. R. SEXTON, OSLO CITRUS GROWERS ASSOCIATION VERO BEACH, FLA.

My name is C. R. Sexton, and I am the manager of Oslo Citrus Growers Association of Vero Beach, Florida. The company I represent is a small citrus harvesting and fresh fruit marketing co-op in the lower Indian River area of Florida. Oslo Citrus Growers Association is made up of 32 small to medium-size growers of Florida citrus. Our growers range in size of acreage from as little as 5 acres to as large as 300 acres. Our co-op is 49 years old.

I am here today to oppose the passage of Senate bill 8, which would authorize the inclusion of agricultural workers under the N.L.R.A. My growers and I feel that if this bill is passed, it will be the death knell of the small citrus producer in Florida.

Like many other segments of agriculture, the citrus grower in the past few years has been fighting a losing battle in the price-cost squeeze. The only way we have been able to survive is by increasing our farm debt. Debt is no substitution for income. It is ironical to us that agriculture, the cornerstone of our national wealth, has not participated in the prosperity of this great country.

Two years ago, the Florida orange grower received for his fruit, prices which were 50% below his actual cost of production. . . . Yet in the same year, wages paid to harvesters were twice what the grower received per box of fruit for his crop.

The grower has an investment of approximately 2,000–3,000 dollars per acre in his groves. The harvester, with no investment, actually received more money than the grower. This current season, the price of grapefruit is reflecting back to the grower a return of 15 cents a box for fruit shipped in fresh form. . . . For fruit going to the processor, the net return is nothing. The harvester is being paid 25 cents a box at the minimum and oftentimes higher. The acute shortage of harvesting labor has put the picker in the position where he can and does command any price he wants.

To illustrate my point, I would like to refer to the Florida Industrial Commission's latest industry wage survey. For grapefruit harvesting, the picker averaged $3.02 per hour. . . . He worked an average of 5.9 hours a day and 3.5 days a week. His weekly average was 21.4 hours. Work is available a minimum of six days a week. The labor shortage is so acute that the Department of Labor has seen fit to allow the industry to use foreign workers to supplement the domestic labor force this year. I think perhaps these Government figures tell an untold story. The work availability is here. Our harvesting season starts in late September and goes through July. The wages are more than adequate, but the workers do not take advantage of the opportunities.

What is collective bargaining going to do for these people? They have the grower in an uncompromising position now and there is no out for the grower but to pay higher and higher wages for less work produced.

Now, I would like to tell you what collective bargaining will do for the grower. His costs will sky-rocket. He will soon go broke if he is a small or medium size grower. This could only result in the reduction of jobs available. There is not one grower in 10,000 who understands the rules and regulations of the N.L.R.A. In my opinion, he would be in constant violation, or threat of violation. Who is going to help and advise him? A small town lawyer? Where will he be able to get, at a reasonable fee, a qualified labor relations attorney? What would such an attorney cost him? How close is he to an N.L.R.B. office if a dispute arises? How long will it take him to have a hearing? What happens to his crops in the meantime? What happens to the small grower if he is in a labor dispute during a freeze or hurricane or drought? Can he wait for days, weeks, months before he can seek any relief? If he is in a labor dispute, the employment service will not refer workers to him. Will wages automatically go up? What labor union has ever negotiated a contract and reduced the price of labor? Are we to be in the same category as the construction industry is in today? In Miami this past week, construction laborers have just ended a 26-day strike and were granted an increase from $3.65 an hour to $6.15 an hour. Florida growers are in direct competition with construction companies for this type of laborer.

If by any chance the citrus growers could survive such demands, who would pay the freight for this? The grower or the consumer? We are an industry which takes many years to grow a productive tree—a year to grow each crop. We harvest, pack and ship our product 1,000 miles away from the farm and take what the buyer will give us. We cannot control the price of our product. We are not like industry where if labor goes up they can add on the increase to the price of the product. Today I am selling my grapefruit for prices below what fruit was selling for during the depression. I don't think I have to tell you what has happened to taxes, fuel, fertilizer and insecticide costs. Everything which goes into the making of a crop of fruit has gone up, and the top is nowhere in sight . . . yet I am receiving less each year for my fruit.

The grower has been hurt by this; not labor! I would like to add that the only alternative the grower has had in the last few years is to take his capital and leave the country, or to substitute capital for labor (mechanization) where possible. He is not leaving because of cheap land or better growing conditions, but because of a better supply of labor at a reasonable cost.

A large segment of the strawberry industry in Florida has already moved to Mexico. The Florida tomato industry is right now in a life-and-death struggle with Mexican competition. Extensive cucumber and vegetable acreage is being developed in Central America and the Caribbean today.

I think it is sad that in this great country of ours we do not have the economic climate to allow our growers to survive and enjoy the prosperity that farmers have given to the rest of the nation. Also, I think it is sad that through this legislation which is being proposed, the control of our nation's fruit and vegetable industry will be out of the hands of the farmer and into the hand of organized labor.

Thank you for allowing me to express my views and those of my growers before this committee.

Senator EAGLETON. Bearing in mind that strike at harvest time would work on enormous economic hardship on the employer, hence it is a distinctive situation from that in the industrial sector as was repeatedly brought out by both questions and answers by the witnesses.

I am not trying to pin you down to precise details in terms of legislative niceties, but I want to ask you what would be your general intuitive reaction to the recommendations of Secretary Shultz, this morning, insofar as the basic thrust of his proposal is concerned.

Mr. SEXTON. Senator, I will have to fall back and say that my biggest impression is the fact that he made a distinction between industry and agriculture. I think basically that this is what people, growers, and I don't know the past history, the past testimony, but I know I feel very strongly, myself, about the fact that there are

differences in agriculture which are unique and they are unique within agriculture.

For example, my commodity, citrus—I am strictly in citrus—is completely different from Mr. Wedgworth's. And of course I am looking at it from the standpoint of the small grower, since I am a small grower myself. I represent a group of small growers. With me it is a question of economics. I have an investment. I have my small growers who make their livelihood out of it. They are not people who are versed in the law. They are not people who can stand economic loss. They are at the mercy right now of labor, so to speak.

So, I must say that I heard the Secretary's comments. I am not an attorney; I could not go into the ramifications or philosophies of it, other than the fact that I was delighted he did recognize that there is a distinction. I think this is the crux of the whole problem, the fact that there are distinctions and these distinctions must be laid out.

Senator EAGLETON. Thank you, Mr. Sexton. We thank you very much and appreciate your being with us.

Mr. SEXTON. Thank you, Senator.

Senator EAGLETON. Our last witness of this session is Mr. Jack McGann of the Liberty Lobby.

STATEMENT OF JACK McGANN, LEGISLATIVE AIDE OF LIBERTY LOBBY; ACCOMPANIED BY MICHAEL D. JAFFE, GENERAL COUNSEL

Mr. MCGANN. I have with me Michael D. Jaffe, our general counsel.

Senator, I have a prepared statement. You have probably looked it over. With your permission I will read it or whatever you suggest.

Senator EAGLETON. We can put the entire statement in the record if you wish to capsulize it for us, or do whatever you think gets your idea across best.

Mr. MCGANN. Senator, I prefer to read it and then answer any questions you may have on it.

Senator EAGLETON. Go ahead.

Mr. MCGANN. I am Jack McGann, legislative aide of Liberty Lobby. I appear today to present the views of Liberty Lobby's 20,000-member board of policy, on behalf of the 229,000 subscribers to our monthly legislative report, Liberty Letter. The board of policy has overwhelmingly voted in opposition to labor monopoly.

We oppose S. 8 as an attempt to extend the already monopolistic power of the giant national labor unions. Agriculture was excluded from coverage under the national labor laws for specific reasons, which are as valid today as when Congress first determined that labor relations in agriculture required special treatment. We can see no justification for enactment of legislation which can only disrupt a vitally important segment of the American economy.

In considering S. 8, it should first be clearly kept in mind that this bill would give agricultural unions more power to force membership on workers than is enjoyed by other unions under the National Labor Relations Act. We refer, particularly, to that section of the bill which will permit contracts forcing workers, as a condition

of employment, to pay dues to a union representing only a small fraction of workers. A union boss and an employer could get together and sign an agreement that all employees be hired through a union hiring hall. Every employee would be required to join the union within 7 days. It must be emphasized that this could be done before a single farmworker authorizes the union to act as his bargaining representative.

It is clear, then, that the purpose of S. 8 is not to give farmworkers the right to join unions. They already have that right. The real purpose is to force unionism on all agricultural workers, whether they want it or not. If it is enacted, the farmworker will be totally at the mercy of the union, which he must join if he wants to work. National labor policy is, and should be, essentially neutral toward unionism. The worker should be equally free to join, or to refrain from joining, a labor union, and the law protects him in this choice. Under S. 8, however, the Federal Government will be joining in as a union organizer, making it virtually impossible for a man to earn his living as a farm laborer unless he pays tribute to union bosses not of his choosing.

In taking this approach, S. 8 follows the wishes of the leaders of the AFL–CIO's United Farm Workers Organizing Committee, a group strong in nationwide publicity, but weak in support among agricultural workers. Dolores Huerta, the union's vice president, recently demanded "a favorable public policy which affirmatively favors the growth of farm unionism." The notorious Cesar Chavez has made it clear that his real objective is a closed shop for agricultural workers, with his union happily collecting dues from workers without even giving them an opportunity to vote on representation.

We cannot believe that Congress will bow to these outrageous demands. Farm unions should be required, as are unions in industry, to work to convince workers of the benefit of membership. There is no reason for the Federal Government to do their organizing for them.

Even if the special privileges given to farm unions by S. 8 are removed, however, Liberty Lobby believes that conditions in the agriculture industry make it impractical to place the industry under the National Labor Relations Act. Primary among these conditions is the fact that farm products must be harvested at a certain time. If they are left in the field, they will rot and become worthless. There is no way a farmer can stockpile in preparation for a strike, as is common in industry. Therefore, a farm union controlling the total labor supply in an area has a power greater than that possessed by any trade or industrial union. If it strikes at harvest time, the farmer must either give in to the union's demands or suffer the loss of his entire crop.

We believe that extension of the NLRA to agriculture will have disastrous effect on American agriculture. Two points in particular stand out as demanding the committee's consideration.

First, it should be recognized that it will be the small- and medium-sized farmers who will be the principal victims of mass unionization of farm labor. The large corporation farms, although they too will

be hurt, will be in a position to deal with the giant national labor unions. The small farmer, on the other hand, will have no choice but to give in to whatever exorbitant demands are made on him. The inevitable result will be intensification of the present trend toward a reduction in the number of family farms. The Federal Government is spending millions of dollars each year on agricultural programs with the avowed purpose of supporting farm prices so that farmers can remain on their land and enjoy a reasonable standard of living. It would be highly ironic if another Federal program were instituted which will have the effect of forcing small farmers off the land, and hastening the consolidation of family-sized farms into large corporation units.

Secondly, the interest of the American consumer should be considered before the enactment of legislation giving the national labor unions control of American agriculture. Food prices are at an all-time high, as every consumer knows, although these prices are not reflected in the farmer's income. Mass unionization of farm labor will inevitably bring with it, as we have already seen, strikes at harvesttime, wages unrelated to productivity, shortages of commodities and, finally, totally unacceptable increases in the price of food to the American consumer. We believe that Congress should place the interests of the consumer, a class which encompasses all Americans, ahead of the demands of a small special-interest group. Thank you.

Senator EAGLETON. Thank you, Mr. McGann.

Do you have any observations you would care to make on the suggestion made by Secretary of Labor Shultz here this morning which does point up the distinction between agriculture and industry insofar as strikes at harvest time are concerned?

Mr. MCGANN. Senator, unfortunately, I was unable to hear the Secretary's entire statement and inquiries made on the particular matter. However, I do feel that a strike in the agricultural field certainly could be a matter of life and death. After all, eating is an extremely hard habit to break as we all know.

Mr. Jaffe, would you care to comment on that?

Mr. JAFFE. I would like to make one comment on Secretary Shultz's remarks, although we have not had a chance to study his plan thoroughly. This relates to the 30-day process of holding up a strike at harvest time. I believe one Senator pointed out this morning that there is a problem involved in this in that it is basically a backdoor approach toward compulsory arbitration. If a farmer wants to take advantage of the provision in the act he will have to submit himself to binding arbitration.

Now, I believe compulsory arbitration as a general principle is opposed by representatives of both management and labor. I think it would be wrong to take this kind of approach.

Senator EAGLETON. Also, I might point out to you that your statement refers to the fact that this would be hardest on the medium and small-size farmers who would be the principal targets of the mass unionization of farm labor. Under Secretary of Labor Shultz's proposal 98 percent of all farms would not be covered under his proposal. Under S. 8, 96.8 percent in the United States would not be covered by the proposal. So far as small farms are concerned they are excluded.

Mr. JAFFE. Perhaps the statement did not reflect our true meaning in this. I was looking at it as a long-range proposition. Whenever you have this kind of social legislation—I think history will bear this out—you have it affecting a small group of people at the start and gradually being extended until it does pretty well cover the field, such as minimum wage legislation. We were referring to the long-range effects on American agriculture.

Senator EAGLETON. Thank you, Mr. McGann.

Mr. MCGANN. Thank you, Senator.

Senator EAGLETON. That concludes this day's hearings on S. 8. The subcommittee will be in recess.

(Whereupon, at 1 p.m., the subcommittee was recessed subject to call of the Chair.)

AGRICULTURAL LABOR LEGISLATION

FRIDAY, MAY 16, 1969

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 4232, New Senate Office Building, Senator Harrison A. Williams, Jr. (chairman of the subcommittee) presiding.

Present: Senators Williams (presiding), Yarborough, Mondale, Eagleton Cranston, and Schweiker.

Committee staff members present: Robert O. Harris, staff director; Frederick R. Blackwell, counsel to the subcommittee; Robert E. Nagle, associate counsel to the subcommittee; Eugene Mittelman, minority counsel; and Peter C. Benedict, minority labor counsel to the subcommittee.

Senator WILLIAMS. We will convene the subcommittee for further hearings on S. 8, a bill to extend the National Labor Relations Act to agricultural workers and on S. 1808 to prohibit harmful child labor in agriculture.

We are highly honored this morning to have President George Meany of the AFL–CIO who truly speaks for millions and millions of American working men and women.

The AFL–CIO has been prominent at all the hearings that the Senate Labor Committee has held dealing with conditions of farmworkers, whether it was dealing with the National Labor Relations Act coverage or day care for youngsters, health, or housing.

Whatever the issue, coast to coast, where the Labor Committee has gone, the AFL–CIO has been prominent and most helpful.

Mr. Meany.

STATEMENT OF GEORGE MEANY, PRESIDENT, AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS; ACCOMPANIED BY ANDREW J. BIEMILLER, LEGISLATIVE DIRECTOR; WILLIAM KIRCHER, DIRECTOR OF ORGANIZATION; AND THOMAS E. HARRIS, GENERAL COUNSEL

Mr. MEANY. Mr. Chairman, thank you very much. I, as you state, represent the AFL–CIO, an organization of more than 13½ million workers, most of whom have the right to organize and bargain collectively protected by law, and all of whom want these same conditions extended to the country's agricultural workers.

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Let me say, Mr. Chairman, that we in labor are very much aware of your own persistent and diligent efforts to ease the plight of migratory and other farmworkers in America.

We appreciate the fact that you have not only looked upon their problems as a U.S. Senator but that you have walked in the fields with them and heard their appeals and seen firsthand the medieval conditions under which they are forced to labor and live.

I want to emphasize the interest of labor in the bill you are considering—S. 8. A smiliar bill has been introduced in the House of Representatives by Representative O'Hara and others—H.R. 9954.

Both bills would do the job we are talking about, include agricultural employees under the provisions of the National Labor Relations Act. There are some differences in format, however, and under the circumstances we favor H.R. 9954.

But we should not let these differences interfere with the objective. The objective is to extend the fundamental rights enjoyed by other workers—the right to freely unite in a labor union and the right to bargain collectively—to the agricultural workers.

One wonders how many times, Mr. Chairman, the cold hard facts of the plight of the farmworker in America must be recited and how many times must the picture of migratory labor be exposed before we finally achieve this objective.

Not only are farmworkers denied the accepted pattern of uniting for the purpose of collective bargaining, they have been excluded from the whole range of social reforms achieved in this country over two generations.

For example: Farmworkers suffer more than any other group from recurring periods of unemployment, yet they are not eligible for jobless benefits anywhere, except in Hawaii, Puerto Rico, and the District of Columbia.

Farm labor is one of the most hazardous occupations, yet farmworkers are fully covered by workmen's compensation in only 14 States, and in about half the States, they are not protected at all.

Farm wages are the lowest of any group in the labor force, but it was not until 1966 that farmworkers were included under the Fair Labor Standards law.

Even now, farmworkers are not accorded equality with other workers covered, for their wage floor is 30 cents an hour lower, and until we can get the law changed, it can go no higher.

Finally, farmworkers are largely outside the scope of the social security system, yet they have no other means to provide against old age, or to provide for their families if they die or become disabled.

There are other shocking injustices. Child labor, outlawed everywhere in the land, is still common in agriculture, and in fact apologists for the big farm exploiters are callous enough to hail this injustice as an asset to society.

Free public schools are often unavailable to the children of migrant farmworkers.

In America, where the banner of equal opportunity is flown on high, there is no excuse for excluding some 1.2 million hired farmworkers from the benefits of laws enacted to help all other workers.

There is no such thing as second-class citizenship in America and

the farmworkers have a right to be assured of their citizen status without any further delay.

How has this situation come about?

I believe it has happened because America has let a bucolic mystique of the farmer develop, which fogs the Nation's vision and influences the Congress and State legislatures to write legislation which exempts farmers from obligations carried by other employers.

In order to understand this, let's look at the agricultural industry as it exists today—not the way it existed 30 or 40 years ago or in the 19th century.

For one thing, only about one-fourth of the total population lives in rural areas today. The growth of ever-larger and mechanized efficient agriculture enterprises has cut the number of farm units in half since World War II.

Then there were about 6 million farms. Today there are 3 million, and of these the 300,000 largest account for nearly two-thirds of total sales.

For another thing, farm employment—not rural employment, which includes rural dwellers not engaged in farming—totals about 4.8 million, and of these 3.6 million are engaged in family farming. Only about 1.2 million are hired farm employees.

In the main, the latter are the farmworkers we are talking about and who are excluded from the mainstream of American life and are denied the benefits of the protective welfare legislation other American workers have long enjoyed.

Examine the agriculture industry closer, and we find that a mere 2.7 percent of the farms pay half of the farm wages. And only 6 percent of the farms account for 76 percent of the wage bill.

Now let's dwell on these wages a moment. The latest figures I have are for the year 1967. Average farm wages that year were $8.60 a day if board and room were furnished and $8.90 a day without board and room.

On the basis of average hourly wage, in October 1966, the wage for domestic workers was $1.18. In the South, which provides half the farm employment, the average hourly wage was 95 cents.

Before we start figuring their annual income, though, we ought to know that only about 650,000 of these hired farmworkers were employed for more than 150 days.

And before we add on the fringe benefits of housing and room and board, consider that less than one-fourth are provided with housing—and that housing is usually very primitive. Less than 12 percent are given food grown on the farm and only about 7 percent are served one meal a day.

Put these facts together and that painting of a pastoral wholesome farm life just doesn't make sense. The farm mystique is a myth.

The true farm picture is characterized by large corporate farms—agrobusiness—wages well below poverty levels, primitive living conditions, and medieval terms of employment and working conditions.

Let me point out that traditionally, the AFL–CIO has supported every major bill designed to help farmers—even when its opponents argued that farm subsidies were against our interests because they raised our food prices.

In the past, we have said we support these programs because we have never looked for bargains at the expense of some other group.

But the picture has changed. And we in labor are taking a fresh look. Instead of helping the average farmers, these programs have put the squeeze on him. The big operators are not only reaping the bulk of the crops, they are reaping a rich harvest of subsidies. And they have set a cheap labor standard.

So the Executive Council of the AFL–CIO, at its last meeting, said:

> AFL–CIO support for a major national effort to aid rural Americans reflects our belief that rural people deserve to share in the abundance they have done so much to create it.
>
> It is also based on the evident fact that solving the urban crisis partly depends on ability to improve job opportunities and living standards in the countryside.
>
> To succeed, however, the national effort must be strengthened and redirected toward this end, along the following lines: A reasonable ceiling should now be placed on the Federal income maintenance benefits paid to any farm. We recognize that the unique problems of agriculture still require Government aid to help many farmers obtain a fair return for their production. Excessive payments to large and profitable agro-businesses, however, cannot be justified.

That attitude reflects our view that times have changed.

In the days of old, most farm acreage was tilled by family farmers. But today, this isn't the case. Today we have big corporate farms and many farms are owned by hobby farmers, who own and operate them for the sole purpose of cultivating tax loopholes and reducing their nonfarm income tax payments.

This practice is not only selfish, it is mercenary pirating of the land. It is also absentee ownership with no thought given to those who actually do the hard work and stoop labor.

We believe it is right and proper to help the family farmer. He needs help. And he is not the farmer who exploits the farmworker, because he doesn't have any workers to exploit. So we have been supporting farm programs for a long time now.

We have also been supporting programs for farmworkers for a long time. But here, also, we have seen too few favorable results.

Again this year we are asking that the second-class status of the farmworker be ended. We believe they should be paid the same minimum wage other workers receive.

We believe they should be covered by social security, unemployment compensation, workmen's compensation, and have the benefits of these and similar programs all other workers have.

We believe farmworkers should have access to medical and health care facilities, to public schools, and to job training and retraining programs. We also believe they should have decent, clean housing.

We think that basic to it all is the right for farmworkers to organize and bargain collectively.

We are aware the United Farm Workers Organizing Committee, in testifying on this point, contended that mere coverage was not enough, that there should be exemption from certain onerous provisions of the National Labor Relations Act.

The fact is, Mr. Chairman, the AFL–CIO has long sought the repeal of these sections, which are unpalatable to all of organized labor. But reform of Taft-Hartley and Landrum-Griffin is another fight for another day. Today we are fighting for the right of the farmworker to a union and to collective bargaining.

The essential fact is that the fundamental roadblock in the drive of these workers for union recognition is the intransigence and selfishness of the big farm operators.

If the table grape growers in California—the tomato growers in the Rio Grande Valley of Texas—and the melon growers and vegetable growers—all the big corporate farm employers—were practical, sensible, and just men, they would follow the lead of the wine grape growers in California.

Some recognized their workers without formality and others agree to allow their workers to vote in an election as to whether they want a union or not.

To date, these other employers have not demonstrated anything like the virtues of the wine grape growers and so we have urgent need of the kind of legislation being considered here today.

The corporate farm spokesmen have a lot of irrational arguments against this legislation. They say, for example, that farmworkers move around too much and the administration of the NLRA would be impossible.

This argument isn't valid at all. Other industries are seasonal and NLRA works in those industries.

Employers also maintain they can't stand a strike at harvest time because they are different. Well, every industry has some claim to being different and all have had strikes at what management spokesmen claim are critical production times. Other industries are well organized and doing all right.

And many other employers are paying much better wages, providing much better working conditions and are making much more money than the average big farm employer.

And in any event, trade union organization and strikes do not necessarily go hand in hand. The big table grape growers have blocked a union until now, but they have a strike and boycott on their hands.

As long as they insist on keeping their workers in deprivation and as long as they bitterly and violently resist trade union organization, they can expect strikes to occur—with or without a recognized union—and at harvesttime, if that becomes necessary.

The big farm employers also claim their product is perishable at harvesttime and, therefore, they should be exempted from the National Labor Relations Act. This is a weird argument.

Why not argue for special legislation governing the handling of perishable food products in retail supermarkets?

That would make as much sense.

The fact is that food is perishable all the way from the seed to the stomach. And that is no excuse for giving the grower a special legislative deal when it comes to labor relations.

No. Perishability of grapes or tomatoes is not the issue. Perishability of people—their human dignity and economic well-being—is the issue.

The continued denial of the right of farmworkers to organize and bargain collectively is an affront to the American principle of equal justice under law.

It will surely lead to more farm labor strife, because farmworkers have no other way to present their grievances and have their demands heard and acted upon.

Its continuance will also help perpetuate the poverty and degradation of men, women, and, shamefully, the children, who harvest so much of the food and fiber produced in this Nation.

Its continuance will mean the continuance by all of American labor of the boycott against California table grapes.

The way to end that boycott is for the employers to take the road to justice—let their employees exercise their right as human beings to join a union and bargain collectively.

I would like now to comment on the statement given the committee by Secretary of Labor Shultz.

We are pleased that the Secretary supports the principle that agricultural workers should, like other workers, have the right to form unions and bargain collectively. However, the proposal does not accomplish the Secretary's aim.

What is given with one hand is taken back with the other.

Indeed, what is proposed are a number of special rules and procedures to make it more difficult for farmworkers to form unions and to secure recognition than for other workers.

For example, employers would be forbidden to recognize a union of farmworkers unless and until the union wins an election.

That is not the rule for other workers: a specific proposal to that effect was rejected even by the 80th Congress which wrote the Taft-Hartley Act.

Under the present law an employer not only may but must recognize a union which he knows represents a majority of his employees. If an employer in good faith doubts the union's claim, he can secure an election.

Also, a union is forbidden to picket for recognition for more than 30 days, and an employer confronted with recognition picketing can secure a special expedited election.

If these rules are unfair to anyone they are unfair to unions, in that employers, but not unions, have the option of securing an expedited election.

The Secretary stated:

> Agricultural workers * * * are largely unorganized and, therefore, employers should not be permitted to enter into collective bargaining agreements unless an election first indicates majority representation by the contracting union.

This is a complete non sequitur. It does not at all follow from the fact that agricultural workers are largely unorganized that it should be made exceptionally difficult for them to organize. If anything, the converse is true.

The proposal that a union of farmworkers must always win an election to receive recognition also takes no account of what 30 years' experience under the National Labor Relations Act shows; namely, that antiunion employers will commit massive flagrant and repeated unfair labor practices that preclude the holding of a fair election.

Our experience, unfortunately, makes it all too clear that there are ranchers in California and Texas who are as unscrupulous about thwarting the wishes of their employees as any employer in the Nation.

The administration also seems to be advocating some sort of special prohibition against consumer boycotts in the agricultural field.

If farmworkers are brought under the National Labor Relations Act they will, absent special provisions, be subject to section 8(b) (4)

of that act, the so-called secondary boycott provisions, though the act does not use that term.

As we have made clear on various occasions, we think those provisions are unfair to workers and unions.

However, the administration seems to have something more than that in mind, since the statement expressed hostility to "a boycott directed against an employer's merchandise."

We believe that any group, whether a union or some other sort of association, has a constitutional right under the first amendment to urge consumers not to buy a particular product.

We may or may not agree that a particular product should be boycotted, but we think there is a constitutional right to do it, so long as the means employed are peaceful and noncoercive.

I am advised by our attorneys that there have been differences of opinion among the Supreme Court Justices as to when or whether picketing may be employed in consumer boycotts, but complete agreement that there is a constitutional right to advocate a boycott by such means as handbills, newspaper ads, and so forth.

The proposal of the administration would create a special "Farm Labor Relations Board (FLRB), comprised of members acquainted with the farm industry."

Farmworkers would be covered in general by the National Labor Relations Act, but representation proceedings and unfair labor practice cases involving agriculture would be handled by a special board, and that board would be specifically instructed that it would not be "bound by 34 years of industrial precedent established under the NLRB."

Under the proposed setup there would be a separate general counsel for agriculture and a separate field staff, including regional director, regional attorneys, and so forth.

The obvious purpose of this proposal is to give the big ranchers a board stacked in their favor. We are not in favor of that.

Apart from that, the proposal is as fatuous from the point of rational Government administration as any I have seen during my years in Washington.

The 34 years of NLRB precedents which the new board is to disregard have been sanctioned by the courts. It is improbable that the courts would approve a different set of interpretations of the same statutory language by a farm labor relations board, nor would it be desirable.

The cost of a parallel farm labor relations board, complete with regional offices and field staff, would be astronomical in proportion to the volume of business it would have.

We will continue to do our best to aid farmworkers in organizing, but even if our most sanguine hopes and those of the United Farm Workers Organizing Committee are fully realized, the personnel of such a board would spend most of its time looking out the window.

Perhaps it is unnecessary for me to deal with the proposals about collective bargaining in the agricultural field, since the proposals on organizing would effectively prevent the creation of farmworker unions.

However, the statement follows the same pattern here as with respect to the right of farmworkers to organize. It first accepts the principle

of collective bargaining and the right to strike, and then proposes restrictions which would extirpate them.

Farm laborers would be permitted to strike except during harvest time. Of course, that is the only time that migratory workers are employed, and the only time that any farmworkers can strike effectively.

To begin with, farmworkers would be required to give a special 10 day's notice of intent to strike. The Labor Act already provides that if a collective bargaining agreement is in effect the union must give a 60-day notice to the employer and a 30-day notice to the Federal Mediation and Conciliation Service and a 30-day notice to any State mediation agency.

Why an additional 10-day notice should be given I cannot imagine, but the statement specifically contemplates that the 10-day notice would "supplement" the other notices.

Our experience with some of the California growers indicates that this 10-day notice would indeed be valuable to them, and that they would make use of it—to recruit strikebreakers.

Next, it is proposed that the grower have the option of invoking compulsory arbitration. It isn't called that, but that is what it amounts to. For if the grower opts for compulsory arbitration the workers are barred from striking for a 30-day period chosen by the grower.

Their supposed right to strike at the end of that period would usually be valueless, and they would have no real option but to accept the arbitrator's terms.

Then we come to the proposal that the arbitrator be chosen by the parties from a list of five names selected by the Secretary of Agriculture.

As far as the farmworkers are concerned, that is indeed putting the fox in charge of the henhouse.

The Department of Agriculture has long been noted for its tender loving care of the Nation's big farmers and for its callous indifference Federal Mediation and Conciliation Service to have been given this role.

In sum, the administration's proposals are completely unacceptable.

We reaffirm our support of legislation along the lines of S. 8 and H.R. 9954.

Senator WILLIAMS. We are most grateful, indeed, President Meany, for your statement in support of the substance of the bill that is before this committee and the bill that is before the House of Representatives.

I should like to say that we have overcome strong resistance in many areas where the congressional objective of the majority was to bring legislative coverage to areas of great need and areas that have been overlooked.

Yes, there was great resistance to bringing the minimum wage to farmworkers. With your help and the legions that stood with you we overcame that resistance.

We even had resistance when we tried to bring a measure of care and consideration to the young people through education programs and day-care centers for those who weren't of school age.

Resistance, too, in areas of bringing measures of health services to

farmworkers, but we did overcome that resistance and those programs have been enacted.

Frankly, I did not expect that we would have resistance from the executive branch of Government when it came to this inclusion at long last of farmworkers under the National Labor Relations Act.

What we have received from the executive branch has been opening words of support for the idea but, as you have so forcefully and clearly stated, what the executive branch gave in generalities they took away with the special treatment that they have said will be necessary.

So here we stand. I think this committee's responsibility will be to wait a reasonable time for the generalizations of the administration to be put in legislative form. If that is to be presented and introduced, certainly it is our responsibility to consider what is behind administration thinking, what is behind the generalities.

I suspect, as you do, that these generalities mask what has to be an approach that would ultimately be meaningless to farmworkers in their opportunity to be organized, so that they will be in a position to bargain collectively.

We will wait a reasonable time.

I do have a question or two. You mention the wine grape growers. We have witnessed within the last 3 years recognition of unions in that part of the agricultural industry, which grows grapes for the wine presses.

I just wondered how that has worked out from your great organization's knowledge and experience.

Mr. MEANY. It is working out very well. We have had no real problems and the development of unions does not seem in any way to have kept the wine grape growers from going on about their business.

Senator WILLIAMS. Is that part of grape growing a seasonal industry?

Mr. MEANY. All grape growing is seasonal.

Senator WILLIAMS. The fact that it is seasonal has not brought great calamity to the wine grape growers.

Mr. MEANY. No. You see, Mr. Chairman, on this question of seasonality and the argument of the perishability of the product, of course there is a basic question there that is fundamental to our type of society.

If a man has a right to quit his job and to do so collectively with others, and I think that every human being has that right, whether it is covered by law or not, I think you have the right to stop working for somebody else if you don't like the conditions.

I think you have the right to join with others who feel the same way.

Now, if that right exists, and I believe it exists, I do not think that Congress under our structure has any right to enact a law to protect some other person from the adverse consequence of the exercise of that right by the individual worker.

In other words, if you give protection to the grower on the ground that he might be hurt because the other fellow decides to quit work and do so collectively, I say that is complete class legislation in favor of the grower.

Now, as to the perishability, as we pointed out in this statement, food is perishable but if workers are not to have the right to strike

on the farm because food is perishable, then you had better get around to taking away the right of Teamsters to strike or clerks in the stores that sell the products to strike. They have the right to strike.

The driver who drives the perishable food also has the right to strike and it is quite obvious if he goes on strike, whether the food is harvested or not, it does not reach the market.

So, to deny the right to strike of the workers on the farms because of the perishability of the product is just complete nonsense.

Now, the way that this problem should be disposed of is through collective bargaining.

If there were collective bargaining, I am quite sure it would be normal for both sides to come up with a contract that would cover the period during which the worker is expected to work.

In other words, they wouldn't have a contract that would apply only to a period when nobody was working. Whatever protections were under the contract the worker would want them when he is working.

So that it would be the first item on the table that we have a contract to cover the period of time when the worker is working and when the ranch owner wants his product harvested. So this would very readily be disposed of by collective bargaining and be disposed of in the only way that the farm operator could be sure of having help when he wants to harvest his crop.

But to try to protect the farm operator and to protect his product from this problem of perishability by denying rights by law to the farmworker is completely ridiculous and is completely contrary to the concept that we have of the American system of equal justice under law for everyone.

Now, there is absolutely no justice in denying these corporate farmworkers the same right that every other factory and industrial worker in this country has, Mr. Chairman.

There is just no justice in it whatsoever.

Senator WILLIAMS. My feeling is that that is most wise and most right. The chairman of the full Labor Committee is with us, Senator Yarborough.

Senator YARBOROUGH. Thank you, Mr. Chairman.

Congratulations to you, Senator Williams on your long and effective work, first as chairman of the Migratory Labor Subcommittee, and now as chairman of the full Labor Subcommittee with far more jurisdiction and powers.

I want to congratulate you on the diligence with which you have taken on this new chairmanship and pursuing these hearings, the mine safety hearings and many others.

You are pursuing many fields with great energy and diligence. We are all proud of it.

I want to congratulate Mr. Meany on the closing part of his statement. Unfortunately, I did not hear it all but it was forceful and effective.

As I heard him, I was thinking of the difference between agriculture today and agriculture in my boyhood. I worked as a harvest hand in the wheatfields of Oklahoma, all on family farms. I never worked on big corporate farms. The family plowed the whole field and then brought in migrant labor to harvest the wheat with a combine.

There is a different situation now. The corporate farms have hundreds of employees. In the words of President Franklin D. Roosevelt in 1938, when he recommended the first minimum wage law, he said the worker in the factories and fields ought to be protected. Agriculture has changed since 1938.

In 1966, for the first time, we brought under the minimum wage law agricultural workers. It is time to recognize that corporations work not only in big factories under shelter but they work in big factories in fields.

I have attended symposia, more than one, on agriculture of the future. They tell us in just a few years farming will be done under plastic cover. Vegetables will be raised in buildings and the buildings will become factories in a few years—raising vegetables in this country entirely under great plastic domes. It becomes more factorylike every year.

So the conditions that formerly existed with family farms are vanishing too fast in this country. It is only reasonable that the workers in what are now essentially farm factories in so many parts of the country have the protection of the worker who works under the shelter.

I thank the chairman.

I will be forced to leave, Mr. Meany. I have a signing of a bill that I worked on last year for HEW. The signing is at 11 o'clock. It is an act that this committee passed. I regret to leave.

Again, I want to thank the chairman of the committee for the great expedition with which he is hearing the matters which have come before the subcommittee this year.

Senator WILLIAMS. We have had nothing but cooperation from you, Mr. Chairman, and you have my thanks.

Senator Mondale.

Senator MONDALE. Thank you, Mr. Chairman.

Mr. Meany, I am most grateful to you for your excellent testimony.

I would like to make one observation, if I might, about your reference to farm States.

Those of us who come from farm States have been very grateful to organized labor. By and large, the Congressmen from the urban areas are continuing to support some kind of reasonable program to permit the average family farmer to stay on the land and to receive a decent return.

Those of us who have consistently taken that position also favor your suggestion today in distinguishing between the average family farmer, who with his family is trying to make a living on the land, and the large corporate farm enterprise. Usually under absentee and often conglomerate ownership, many large corporate farms receive vast farm subsidy payments which, in my opinion, are not only not needed, but also imperil public respect for the entire program.

So I think those family farm organizations that represent family farmers endorse the distinction which the AFL–CIO drew in its resolution to which you made reference in your statement.

It seems to me that we are entering into a new phase in the inclusion of farmworkers in some kind of labor relations structure in that for the first time we see a response from corporate growers, and from the Secretary of Labor, with alternative suggestions.

One alternative suggestion I think will be introduced by Senator Murphy. I don't know if we know the terms of it yet.

Another has been recommended by the American Farm Bureau in earlier testimony before this subcommittee. Then we have the proposal suggested by the Secretary of Labor.

All these proposals have at least one theme in common: They prohibit a strike when it is meaningful. And, they claim that farmworkers are so unique that it is not reasonable to include them under the National Labor Relations Act.

In the Secretary of Labor's proposal a system of compulsory arbitration is offered where the arbitrator is picked not by the mutual choice of parties as is normally the case but a neutral who often will be in favor of the grower.

Do you have an opinion as to why we are seeing for the first time this response from the growers and the kinds of proposals which the Secretary of Labor has presented?

What is causing this new situation?

Mr. MEANY. I think it has been one of the dramatic results of our attempts to organize the corporate farm laborers in California and Texas. I think the publicity attendant on that has brought to the attention of the general public and, I am sure, to Members of Congress the very unfair situation which prevailed.

Senator MONDALE. Could it be that the huge corporate farmers who for years have said just a plain "No," now sense that the American people——

Mr. MEANY. Senator, they have said "No" very, very effectively as well as emphatically. This is not new. This has gone on for years.

Senator MONDALE. Now they say "No" and propose in a sense of realism that they want the right to organize, the right of collective bargaining according to their proposals.

Could it be that they are beginning to sense that the American people now realize the plight of the farmworker, now realize the injustice to which you have made reference, and they are trying to defensively respond with proposals which would appear to give them that right but in fact wouldn't?

Mr. MEANY. I think this is true. I think they are on the defensive. They started out by saying "Yes"; these workers should have the same rights as other workers.

Then they proceed to submit proposals which very definitely would keep these workers in a lower status than ordinary industrial workers in the country. But this, Senator, has gone on for years.

Now I remember a good many years ago I was in California and there was a lemon strike. This was not a strike by Americans. It was not a strike by any union. It was a strike by a group of Mexicans who could not speak English, who knew nothing about our American system, who were brought over like animals across the line in trucks, men, women, and children, herded into these trucks, no seats, standing up, and were living in tents in California.

I was there and I saw this myself. They finally rebelled against the inhuman conditions which prevailed. The company in answer to that took the tents away and shut off the water and left them there high and dry. There was no union involved whatsoever.

The American Federation of Labor at that time took care of these people with the cooperation of the California relief authorities and the California unions; took care of them to the extent of trying to make them comfortable and get them back home to their own land across the border.

The American Federation of Labor spent $25,000 in 1941, the year I am speaking about, to help these workers, with no idea of trying to unionize them. We didn't try to unionize them.

They were migratory; they didn't live here. The effort we are now making, I would like to point out, Senator, does not indicate that we can see a viable union there except a long, long way in the future. We are making some progress along that line.

But we are keeping up our efforts because what we are doing there is slowly but surely bringing about the results, which, in the final analysis, is what trade unions are all about. Trade unions are not an end in themselves.

So, we are getting some results out there. The growers are on the defensive and the defense consists in a good many cases, as we organize, as we make these workers aware that they have some support, the growers respond by giving them a little more money and improving the conditions a little bit.

But this today is entirely beside the point. What we have here is a matter of simple elemental justice. As far as the family farmer is concerned, we have supported all sorts of legislation over the years to help the family farmer, even when there were people who said you are helping a fellow who is going to raise the prices of the food you are going to eat.

We took the position these people should be helped.

We are not worrying about the family farmer in this legislation. We are worrying about the farm factory where they have sheds where there are thousands of people—not hundreds, but thousands—employed.

We think that these are factories, and that these people should be in the same class as industrial workers. They have the same problems as industrial workers: They have to feed and educate their children; they have to take care of their families in every possible way.

They should be put on a par with the industrial workers. This is a matter of plain, ordinary, simple injustice.

We feel that the Congress is here to correct that type of injustice.

As far as the administration's proposal is concerned, from our point of view, it is worthless. As for the lip service they are giving to the right of the farmer to organize, we cannot even thank them for that in view of the terms that they set up in their proposals.

Senator MONDALE. Could it be that the administration's proposals and Farm Bureau proposals are thinly disguised efforts to try to interfere with the boycott of table grapes because it is increasingly effective?

While all the proposals may be a little vague about the rights available to the farmworkers, it is very clear from all about the adverse implications it would have on the grape boycott. It is not stated in that way but the way it is fashioned it would have that effect.

You mentioned in your response the issue of perishability. The Secretary of Labor says that this issue is a unique one.

Mr. MEANY. It is not unique.

Senator MONDALE. You mentioned the fact that teamsters and others, retail clerks, deal with perishable foods all the time. You mentioned the precedent of the wine grape growers who have a perishable product and who are now organized and where there has been no labor strike I know of, at least, no labor stoppage.

Is it not also true that in Hawaii they have had State legislation by which your farmworkers have been organized for over 30 years?

Mr. MEANY. Yes.

Senator MONDALE. Has that created profound disruptions, or created any experience that would justify the so-called uniqueness argument?

Mr. MEANY. If it has, I haven't heard of it, Senator.

Senator MONDALE. Isn't it true that many of the canners who own the fields and the crops, that produce the peas, beans, and corn——

Mr. MEANY. A lot of them are organized.

Senator MONDALE. And have been under the National Labor Relations Act. What is the difference?

Mr. MEANY. They have been organized in the canneries out there more or less, to my knowledge, for at least 25 years. We have large locals there. In fact, the membership in our Federal canning locals in the San Jose-Oakland-Livermore area and up in Marysville and places like that, at the height of the season back in 1941, was over 100,000.

These people are still organized. Most of them are members of the Teamsters or the Amalgamated Meat Cutters and Butcher Workmen. They are handling perishable food. The food comes to the cannery and if the food comes to the cannery and they walk out, it doesn't get into cans. It, of course, would be wasted in a matter of days.

Now, the employers seem to be able to live with that and in some cases these are the same employers who will not give these rights to their labor out on the farm.

As far as the food is concerned, if you are going to deny the basic right of a worker to have the protection of our labor law because of the perishability of the product, then you had better get ready some amendments to deny these rights to workers who now have them, the canners and the teamsters and other people who handle food, the retail clerks in the store.

Senator MONDALE. I come from an area which is a large producer of peas and corn for canning purposes. I know, for example, in the production of peas a matter of 2 days' time will make a high quality, premium pea one which is second rate. It becomes too hard. Five days will turn it into a marble.

Yet, many of those canning plants are organized and have been organized for years.

I fail to see anything in our experience that justifies this so-called uniqueness argument of the Secretary of Labor and the American Farm Bureau that would put them in an entirely different category.

The other point that runs through their argument is that there is something unique about farmworkers, or something about farmpeople who work, that they like to strike.

Isn't it true that just as the farmer would be concerned about continuing production during harvest, that the farmworkers also will be concerned about production because they are the most desperately off

in America, and they will want to be making a good income during the one period of the year when they can do so?

They are not desirous of a strike anymore than anyone else.

Thus, it seems to me these arguments are simply ridiculous.

Mr. MEANY. There is nothing unique about that because in my experience workers who are abused and unpaid and mistreated, somehow or other they become strike conscious. I don't see the farmworker different from anybody else.

Senator MONDALE. There seems to be, at least in my opinion, one unique element in this farm situation to which you have already made reference.

That is that along the California and Texas border you have a situation that is unique in that despite all of its complexity, it is a virtually effortless task for the grower and farmer to go down to the border and hire desperately poor Mexican workers, bring them across the border and to work for wages that depress farm working conditions. And, where there is a strike, border labor is brought in and completely substituted for union members within a day or day and a half after they call a strike.

In fact, we have seen that occur with respect to the Giumarro farm. The union could have a majority of the workers on the farm signed to authorization and membership cards, and call a strike. The workers would then come out of the fields. The next morning all those jobs have been replaced by labor brought in from Mexico, unskilled farmworkers who in Mexico would be lucky to make 20 cents an hour if they could find a job.

Now, in your opinion, if that situation continues to exist, is it going to be possible to have a healthy labor-management relationship?

Mr. MEANY. Yes, if we can get the Government agencies involved to enforce the law. These people come across the border. They are supposed to be coming across with the idea of taking up residence in the United States. That is what they state.

Actually, they maintain their residence across the border and go back—sometimes every day or once a week. This is always a source of potential strikebreakers.

We have complained to the Department of Justice about this situation. Frankly, the law is certainly not being observed as it is supposed to be. Actually, the law is supposed to prevent strikebreaking by these people, but it does not.

Senator MONDALE. Dr. Coles from Harvard says if you see a migrant, you see a desperate man. Most of the migrants come from southern California and southern Texas. I think the reason they are desperate, the reason they migrate, is that they are exposed to an almost inexhaustible supply of foreign labor.

I doubt that most of the large industrial unions of this country would have organized or could have organized successfully with that kind of competition and that kind of enormous reservoir of strikebreakers.

Mr. MEANY. This keeps the wages down. I recall a few years ago when we were getting a certification that there was no labor available and, therefore, they could bring braceros over.

Our survey showed that the reason there was no American labor

available was that American labor could get more per week from relief than they could get working.

Senator MONDALE. I think I am right that in several of those cases where your affiliate, the United Farm Workers Organizing Committee, called a strike, within a day strikers were all replaced by Mexican farmworkers who were recruited by radio and by growers' agents; these strikebreakers were picked up by trucks and buses, sometimes at the Mexican border, sometimes in Mexico, and within a day were substituted for all of the legitimate employees and members of the union who under any other circumstances could probably have had a successful strike.

One of the things that bothers me about all of our proposals now is that unless we can do something about the problem I am still afraid that we are going to be faced with frustration.

One of the things that struck me about the proposals by the United Farm Workers was the idea that it ought to be made an unfair labor practice in a labor dispute for a grower, for anyone for that matter, to import and use nonresident aliens for the purpose of breaking a strike.

I am not asking you to comment on that today but I have just about given up on your hope or expression here that the authorities are going to start enforcing the laws that prevent this flood of competition from desperately poor people from Mexico. I am very much concerned about that. Thank you, Mr. Chairman.

Senator WILLIAMS. Thank you. I overlooked noting the fact that President Meany is accompanied this morning by his able legislative director, Andrew Biemiller, and the director of organization, Mr. Kircher, and associate counsel, Tom Harris.

Senator Eagleton.

Senator EAGLETON. I have a few questions, Mr. Chairman.

Mr. Meany, you have pointed up quite persuasively your argument in connection with the uniqueness matter, the strikes at harvesttime, in an exchange with Senator Mondale.

Looking at the other side of the coin, are there some unique factors in terms of trying to organize agricultural workers that might give you cause to desire additional protective statutory remedies over and beyond just including agricultural workers under the present National Labor Relations Act as currently written?

Mr. MEANY. I don't know of any additional protection they want. If they were brought in under the protection of the law and situations developed that would indicate that they needed some additional protection, I am sure we would make it known.

But basically, what we want now is to put them under the law and give them the same general protection as other workers.

Senator EAGLETON. Do you care to make any comments on the other bill that is before us today, S. 1808, harmful child labor?

Mr. MEANY. That is being handled as part of the legislation that pertains to the minimum wage.

Senator EAGLETON. Thank you.

Senator WILLIAMS. Senator Schweiker.

Senator SCHWEIKER. No questions, Mr. Chairman, thank you.

Senator WILLIAMS. The counsel for the minority, I believe has a question or two, Mr. Meany.

Mr. MITTELMAN. President Meany, referring to your testimony on Secretary Shultz's proposal relating to strikes at harvest time, which you characterize as compulsory arbitration, isn't it correct that what the Secretary's proposal involves is a cooling off period of 30 days and that the key question that has to be answered in connection with that 30-day period is, will there be anything left to strike over at the end of 30 days.

Mr. MEANY. If the employer opts for that period, he will surely want it when the harvest is in. The right to strike at the expiration of that period will be meaningless if the crop is already in.

Mr. MITTELMAN. Isn't it a fact that conditions vary from crop to crop and farm to farm in different geographical areas so that in one particular area for one particular crop a 30-day cooling off period may in fact eliminate the effective right to strike on the part of the farmworkers, whereas, with another crop, in another area, it may not do so; the farmer may require a great deal of work to be done after the 30-day period?

I will give you one specific example. I know through the hearings of this committee, I guess it was the Migratory Labor Subcommittee, in Texas, 2 years ago, that celery, which is one of the crops raised there, requires a great deal of hand labor, to plant it as well as to cultivate it and harvest it.

This period drags out over a good part of the year. It is my understanding that merely cooling off a strike for 30 days for that kind of product would still leave plenty to argue about at the end of the 30-day period.

Mr. MEANY. That is possible for some crops. The big labor force is there at the harvest.

Now, there may be certain crops to which that would not apply but I think in almost all cases it would.

Mr. MITTELMAN. My other question concerns your testimony that collective bargaining itself will take care of the problem of strikes at harvesttime. That is, a collective bargaining agreement would be negotiated in due course covering the work to be done during harvesttime.

One of the questions that Senator Javits raised when Secretary Shultz was here concerned the enforceability, by way of injunction, of no strike clauses in collective agreements covering work to be done at harvesttime.

As you probably know, as it now stands the Norris-LaGuardia Act has been interpreted to prohibit a Federal court from issuing an injunction to enforce a no-strike clause incorporated in a collective-bargaining agreement.

I wonder if you would have any comment on whether you believe that a no-strike clause written in a collective bargaining agreement should be enforceable by way of injunction in a Federal court in an agricultural context?

Mr. MEANY. I would like to ask my attorney here, Mr. Harris, who is certainly more familiar with that phase of it than I am, to reply.

Mr. HARRIS. While you have correctly stated the holding of the Supreme Court in *Sinclair Refining Co.* v. *Atkinson*, that Norris-LaGuardia precludes a court from enjoining a strike in violation of a breach of contract, it also seems to be becoming settled that where a

contract provides for arbitration and an arbitrator finds that there is a breach of the no-strike clause and hands down an award directing the men go back to work, that the Federal courts can specifically enforce such an arbitration award.

So that a collective bargaining agreement containing a no-strike clause and providing for arbitration does seem to give adequate protection to the employer and that, of course, would be true in agriculture, also.

Apart from that, on the general subject, of course it is rather hard to argue that a no-strike clause should not be specifically enforceable.

But, as I am sure you know, there has been a lot of long and sad experience by the unions with the courts so that we would be concerned about such issues as ex parte injunctions, notice, and in some cases it is not always that clear whether the contract is being violated or not.

If, for example, the State courts of Mississippi were free to deal with the matter of strikes in the delta, given any jurisdiction at all to issue injunctions, we are concerned on the basis of long experience that it would be abused.

So that this issue is not something I think could be just dealt with that simply.

Mr. MITTELMAN. Thank you.

Senator WILLIAMS. Mr. Benedict.

Mr. BENEDICT. Mr. Meany, you mentioned a little while ago your feeling about the right of any employee to withhold his labor and stop working if he was dissatisfied with his wages or hours or conditions of employment. Alone or in concert with others.

I don't quarrel with that. I find myself in basic agreement with you.

Your solution, however, as I understand it, was to negotiate a collective-bargaining agreement.

Mr. MEANY. Yes.

Mr. BENEDICT. I direct your attention to the situation where the employees who have organized themselves, or who have been organized by a union, do not represent a majority.

In such an instance, as you well know, the employer would be committing an unfair labor practice under section 8(a) (2) of the National Labor Relations Act to enter into a bargaining agreement.

We have other types of situations, organizational picketing; area standards, and informational picketing.

Putting aside for one moment the situation where the union has a right to a contract because it does represent a majority of the workers, can you see any justification, and if so, to what extent would you go to in limiting the right of minority strikes and picketing or stranger picketing at harvesttime?

Do you see any distinction?

Mr. MEANY. Between the industrial worker and the farmworker?

Mr. BENEDICT. No; I am talking about the farmworker completely now.

Assuming your first point, where the union is entitled to a contract, where the union represents a majority of the employees, it should be permitted to strike without certain sanctions being imposed on it.

Do you feel that should be true in these other situations?

Mr. MEANY. I still don't understand you. You mean to say where the union fails to secure a majority?

Mr. BENEDICT. Take a situation where the union may have signed up 10 percent of the people.

Let us take a hypothetical situation. These 10 percent go out on strike. The other employees continue to work, they want to work.

Mr. MEANY. The employer then has a right to call for an election, to expedite an election being held under the National Labor Relations Act.

Mr. BENEDICT. Under the present law it would take 30 days, with certain restrictions.

Mr. MEANY. No; I don't think so.

Mr. HARRIS. Under the present law the maximum that the picketing could go on is 30 days. The Board usually moves more rapidly than that, however.

The employer faced with recognitional or organizational picketing can ask for an expedited election. He does not have to wait 30 days for that election, talking about 8(b) (7).

Mr. BENEDICT. How about a union engaged in organizational picketing, engaged in area standards picketing or informational picketing?

Mr. HARRIS. I think the union or anybody else, for that matter, has a constitutional right to do that. I think they have a right to picket the grower on the basis that he is paying substantial wages.

I think they have that right even if they are in a minority, though, as I am sure you know, it is not permitted if it interferes with deliveries.

Mr. BENEDICT. You are incorrect, sir. Under 8(b) (7) they can picket indefinitely unless one of the objects found on the facts is either organizational or recognition.

Mr. HARRIS. Or if it interferes with deliveries.

Mr. BENEDICT. No; that is incorrect.

If it is found it is merely area standard picketing or informational picketing, 8(b) (7) (C) does not apply. The courts have sustained the Board on that.

Mr. HARRIS. Well, sir, we are at a disagreement on that.

Senator WILLIAMS. Can we have an arbitrator appointed here?

Mr. BENEDICT. I would like to point out one remark you made.

You say:

> A union is forbidden to picket for recognition for more than 30 days and an employer confronted with recognition picketing can secure a special expedited election.
>
> If these rules are unfair to anyone, they are unfair to unions in that employers, but not unions, have the option of securing an expedited election.

I submit to you that is incorrect. Under 8(b) (7) (C), once the picketing starts, the union may file a petition for an election and the Board will hold an expedited election in the same manner as if the employer filed a petition.

Mr. MEANY. I will have to let the judge answer that one.

Mr. HARRIS. My understanding is that the Board interprets that as applying only to employers, the so-called prehearing election being available to an employer under 8(b) (7), but not to a union.

A union could, of course, petition for an election if it could make a showing of interest, the 30 percent.

But I believe the Board interprets the prehearing election proviso as applicable only on an employer's petition.

Mr. BENEDICT. I submit you are incorrect. Section 8(b)(7)(C) states:

> Where such picketing has been conducted without a petition under Section 9(c) being filed within a reasonable period of time not to exceed thirty days from the commencement of such picketing: *Provided*, That when such a petition has been filed the Board shall forthwith, without regard to the provisions of Section 9(c)(1) * * * direct an election.

Section 9(c) permits the filing of election petitions by either unions or employers.

Mr. HARRIS. You are reading the statute quite accurately but the Board has interpreted as I have told you.

Mr. BENEDICT. I administered it for 11 years. I submit to you, sir, you are wrong.

Thank you, Mr. Chairman. I have no further questions.

(The following communications were subsequently supplied for the record:)

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., May 19, 1969.

GEORGE MEANY,
President, A.F.L.–C.I.O.
Washington, D.C.

DEAR MR. MEANY: I am wirting you in further reference to our discussion of Section 8(b)(7) of the National Labor Relations Act at the hearing on the farm labor bills last Friday.

The initial language of Section 8(b)(7) defines the type of picketing and picketing threats it applies to—i.e., "where an object thereof is forcing or requiring on employer to recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative", unless the union involved has been certified by the NLRB pursuant to a secret ballot election as their exclusive bargaining agent.

Thus, before the impact of subsections (A) (B) or (C) can be considered at all, it first must be determined that the picketing involved is being carried on for either a recognitional or an organizational object.

Turning to the second proviso to Section 8(b)(7)(C), I refer to your statement that primary informational or area standards picketing could not continue for more than thirty days if it interfered with deliveries to or shipments from the employer.

The fact is that there must always be duel objectives in picketing before this proviso becomes applicable. If a recognitional or organizational object is established, then the union may also picket to "truthfully advise the public (including consumers), that an employer does not employ members of, or have a contract with, a labor organization". In this situation, this type of limited informational picketing may continue indefinitely if it does not have the effect of interfering with deliveries to and from the employer's plant.

The other side of this is where there is no evidence to substantiate a finding that the picketing has either a recognitional or an organizational object. Examples of such picketing would be general informational picketing and what has now come to be called area standards picketing. Where this kind of picketing occurs, and an object proscribed by Section 8(b)(7) cannot be established by the evidence, the picketing may continue indefinitely, regardless of whether it is truthful or whether it interferes with deliveries to and from the plant.

The second matter which we discussed involved the question of who could file for an expedited election under Section 8(b)(7)(C).

The scope of subsection (C) is confined to instances where either recognitional or organizational picketing "has been conducted without a petition under Section 9(c) being filed within a reasonable period of time not to exceed thirty days from the commencement of such picketing".

The first proviso to subsection (C) states that when a petition has been filed within the thirty-day period, the NLRB shall conduct the expedited election

without regard to the provisions of Section 9(c)(1) and without regard to whether the union has made an adequate or substantial showing of interest.

Section 9(c) of the National Labor Relations Act authorizes the filing of petitions for secret ballot elections by both employers and unions. I again repeat that where primary picketing is occurring for either of the objects proscribed under Section 8(b)(7), the filing of a timely representation petition by either the employer or the union involved will set in motion the NLRB's expedited elections procedures.

In the majority of instances, of course, it is the employer who files the election petition, due to the fact that the union has commenced picketing for recognition it could not obtain voluntarily with the knowledge that it did not represent a majority of the employer's employees and could not win an election. In some instances that I am familiar with, however, the union has filed the election petition after it commenced picketing where it knew it did represent a majority of employees in order to get a quick election through the expedited procedure rather than the more time-consuming procedures otherwise applicable under Section 9(c) of the Act.

I intend to send a copy of this letter to Chairman Williams of the Labor Subcommittee, with a request that it be included in the hearing record, together with any response which you may desire to make.

Sincerely yours,

PETER C. BENEDICT,
Minority Labor Counsel.

AMERICAN FEDERATION OF LABOR &
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., May 22, 1969.

PETER C. BENEDICT, Esq.,
Minority Labor Counsel,
U.S. Senate, Washington, D.C.

DEAR MR. BENEDICT: President Meany has asked me to reply to your letter to him of May 19, 1969, inasmuch as the colloquy about which you wrote him was between you and me.

On looking into the matter I am persuaded that you are correct that area standards picketing, which does not have an object of securing organization or recognition may legally be carried on indefinitely, regardless of whether it meets the requirements of the proviso to § 8(b)(7)(C). I find that your analysis of § 8(b)(7) is in accord with the Board and court decisions on this point.

However, you are mistaken in taking exception to our assertion that where recognition or organizational picketing is taking place the employer has the option of securing an expedited election and the union does not. President Meany's statements on this were as follows:

"Also a union is forbidden to picket for recognition for more than 30 days, and an employer confronted with recognition picketing can secure a special expedited election.

"If these rules are unfair to anyone they are unfair to unions, in that employers, but not unions, have the option of securing an expedited election."

After quoting these statements in your letter, you state, "I submit to you that is incorrect."

Mr. Meany's statements on this point were entirely correct. The expedited election procedure under § 8(b)(7) becomes operative only after an employer files a charge under § 8(b)(7) and the regional director finds that the charge has merit. See NLRB Rules and Regulations, Series 8, Part 102, Subpart D, Section 102.73–76; NLRB Statements of Procedure, Series 8, Part 101, Subpart D, Section 101.22–23. It is of course quite true that a union as well as an employer may petition for an election, but the expedited procedure provided under § 8(b)(7), i.e., the prehearing election, is available only where an employer has filed a charge. Thus an employer has the option of determining whether there is to be a special expedited election, by filing or not filing a charge. If he thinks the union will lose the election he files a charge under § 8(b)(7), but if he thinks that the union would win an election if one were held promptly, he simply refrains from filing a charge, though he may, in that event, be subjected to continued picketing.

A union, however, has no such option because it cannot file a charge under § 8(b)(7). See *Reed* v. *Roumell*, 185 F. Supp. 4, 46 LRRM 2565 (E.D. Mich., 1960).

In your letter you state:

"I again repeat that where primary picketing is occurring for either of the objects proscribed under Section 8(b)(7), the filing of a timely representation petition by either the employer or the union involved will set in motion the NLRB's expedited elections procedures."

This assertion is misleading, in that the filing of an election petition does not set in motion the NLRB expedited election procedures,, unless a charge has been or is filed under § 8(b)(7), and only the employer may file such a charge.

Incidentally, I am puzzled by your statement at the hearing that you administered this provision for 11 years, inasmuch as it has been on the books for rather less than 10 years during some of which you have, I believe, been working for the Committee.

I will appreciate your having this letter included in the hearing.

Yours very truly,

THOMAS E. HARRIS,
Associate General Counsel.

U.S. SENATE,
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C., May 28, 1969.

THOMAS E. HARRIS, Esq.,
Associate General Counsel, A.F.L.–C.I.O.
Washington, D.C.

DEAR MR. HARRIS: Thank you for your prompt reply to my letter of May nineteenth.

There is little point in continuing this exchange indefinitely, but I do feel that your letter of May twenty-second requires one additional comment on my part.

You are, of course, correct in stating that no expedited election can be held under the provisions of Section 8(b)(7)(C) unless an unfair labor practice charge has been filed under that section.

I think it is fair to state, however, that our discussion took place in a context that assumed that such a charge had been filed.

As I know you are aware, the NLRB's regional offices will hold an 8(b)(7)(C) charge in abeyance until recognitional or organizational picketing has been conducted for thirty days (absent unusual facts which warrant shortening the period such picketing is permitted such as in the early *Q. T. Shoes* case eventually ruled on by the U.S. Court of Appeals for the Third Circuit) before it will initiate action to obtain an injunction against such picketing in an appropriate U.S. District Court. During the interval from the filing of this charge to the expiration of the period the Act permits this picketing to continue, an expedited election can be triggered by the filing of a petition for an election by either the employer or the union.

The following statements from President Meany's testimony, which you quote in your letter, also indicate that we were considering expedited elections after an 8(b)(7)(C) charge had been filed:

> Also a union is forbidden to picket for recognition for more than 30 days, and an employer confronted with recognition picketing can secure a special expedited election.
>
> If these rules are unfair to anyone they are unfair to unions, in that employers, but not unions, have the option of securing an expedited election.

Thus, absent the filing of such a charge, a union is not forbidden from engaging in recognitional picketing for more than thirty days, and the employer cannot obtain an expedited election any more than the union can, by filing a petition for an election.

It is true that a union cannot file an 8(b)(7)(C) unfair labor practice charge against itself to create the potential situation for an expedited election, and it is also true that a union which files an election petition and engages in recognitional picketing cannot obtain an expedited election if the employer waits until after the picketing has been conducted for thirty days before it files the 8(b)(7)(C) charge. In these circumstances, the picketing would then be enjoined and the

election petition processed under regular procedures. However, an election petition filed by an employer at such a time would also be processed under regular procedures.

I hope that this clarifies this subject to your satisfaction and, as I stated in my earlier letter, I shall request Chairman Williams to include your letter with mine in the hearing record.

With regard to the other matter you raised, to be technically correct, I should have stated that I had administered the provisions of the National Labor Relations Act for eleven years. After working with the Board here in Washington, I was assigned to the NLRB's 2nd Regional Office in New York City from 1957 to 1960 as a trial attorney and acting supervisory attorney, and thus was personally involved both in the NLRB's transitional period in adapting to the 1959 amendments to the NLRA and in the processing of many of the early cases under Section 8(b)(7).

Thereafter, I was a supervising attorney at the Board's 22nd Regional Office in Newark, New Jersey from 1960 to 1961, and was Assistant Regional Attorney and sometimes Acting Regional Attorney at Newark from 1961 until I came with the Committee in May 1965. I trust this information is adequate to relieve your puzzlement.

Very truly yours,

PETER C. BENEDICT,
Minority Labor Counsel.

AMERICAN FEDERATION OF LABOR AND
CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., May 29, 1969.

PETER C. BENEDICT, Esq.,
Minority Labor Counsel, Senate Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. BENEDICT: I have your letter of May 28, 1969.

We have now reached an agreement on what the law is, even if not on what it ought to be.

Yours very truly,

THOMAS E. HARRIS,
Associate General Counsel.

Senator WILLIAMS. I would like to say that we are working here and we hope successfully to create some legislation authorizing collective bargaining rights for farmworkers.

Any success here could be eroded away if replacement workers should continue to be permitted through administrative oversight to come into this country and take the place in the fields of those who would be endeavoring to organize.

We are reassured with Senator Mondale's Migratory Subcommittee on the scene that any oversight here will certainly be diligently pursued.

Mr. BIEMILLER. May I say, Mr. Chairman, on that point, we are also working with Senator Kennedy of the Senate Judiciary and Congressman Feighan of the House Judiciary Committee to see what approach can be made under the immigration laws to this problem, which is without any doubt a very serious one, one of the greatest handicaps that our United Farmworkers Organizing Committee is up against.

Senator WILLIAMS. Thank you very much.

Mr. MEANY. Thank you, Senator.

Senator WILLIAMS. The subcommittee will recess now to the call of the Chair.

(Whereupon, at 11:20 a.m. the subcommittee recessed, subject to call of the Chair.)

AGRICULTURAL LABOR LEGISLATION

WEDNESDAY, JUNE 18, 1969

U.S. SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 10:20 a.m., pursuant to call, in room 4232, New Senate Office Building, Senator Harrison A. Williams, Jr. (chairman of the subcommittee), presiding.

Present: Senators Williams (presiding), Eagleton, Bellmon, and Schweiker.

Committee staff members present: Robert Nagle, associate counsel to the subcommittee; and Eugene Mittelman, minority counsel.

Senator WILLIAMS. We will resume our subcommittee hearings on S. 8 and S. 1808 at this point.

Our first witness this morning is Rev. Shirley E. Greene, who comes to us from the National Council of Churches.

We welcome you to our committee again, Mr. Greene, and look forward to your statement on the bill S. 8. I read your statement. I don't recall anything in it on S. 1808. You are dealing exclusively with the National Labor Relations Act amendment?

Reverend GREENE. Yes, with S. 8, right.

Senator WILLIAMS. Proceed.

STATEMENT OF REV. SHIRLEY E. GREENE, ON BEHALF OF THE NATIONAL COUNCIL OF CHURCHES; ACCOMPANIED BY DR. JOHN TURNBULL

Reverend GREENE. I am Shirley E. Greene, field secretary, National Division of the United Methodist Board of Missions, and a member of the section on migrant work of the National Council of Churches.

I would like to introduce my associate, Dr. John Turnbull, a member of the staff of the National Council of Churches, located here in Washington.

I am here to speak in behalf of the National Council of Churches, an agency comprising representatives of Protestant and Orthodox communions. Obviously, we make no claim to be speaking for these member churches nor for their members. The viewpoints presented in this statement are based upon the official statements of the General Board of the National Council of Churches, a body broadly representative of its member church bodies.

The concern of the churches for the depressed and deprived condition of wageworkers in agriculture, particularly seasonal and migratory

workers, has extended over a full half century. It was in 1920 that a group of churchwomen inaugurated a ministry to migratory farmworkers which laid the foundation of what has come to be known across this Nation as the Migrant Ministry, a cooperative undertaking of the National Council of Churches of Christ in the USA, State and local councils of churches, Church Women United, and many Christian denominations and local churches.

In its early decades this ministry had primarily social welfare orientation and was admittedly characterized all too often by forms of paternalism which we have outgrown, and recently come to regret and repudiate. Nevertheless, the Migrant Ministry was one of the forces which gradually aroused the conscience of the Nation to the poverty, the disenfranchisement and the degradation of these people who harvest the Nation's crops. Field observations of the plight of farmworkers have led us to our present position of standing with farmworkers in their struggle for recognition and for justice.

For nearly two decades it has been clear to the National Council of Churches that neither good deeds done in the name of Christ nor goodwill on the part of the more sensitive growers is going to solve the problems of farmworkers in a manner consistent with their need for dignity and their right to justice.

The experience of wageworkers in other industries has made it abundantly evident that exploitation and oppression are inevitably the lot of most workers in a competitive, profit-oriented economy unless and until they achieve bargaining strength through union organization. The era of the original Wagner Act (1935–47) revealed the possibilities of strong and effective union organization and the balancing of the powers of labor with those of management under the auspices of enabling legislation and National Labor Relations Board administration.

In one of the first pronouncements after its organization in 1950, the National Council of Churches addressed itself to "The Concern of the Churches for Migratory Farm Workers." Although this pronouncement adopted in 1951 has been recently superseded and updated, it is significant to note that at that early date the National Council of Churches called for:

> The extension of minimum wage legislation, social security benefits and labor legislation to include migratory farmworkers.

By 1960, our position had become much more definite. The general assembly, which is the largest representative body of the national Council's full membership, resolved that:

> We urge the continuation of current efforts at responsible and democratic labor organization among these workers. We favor extending to them by law the right of collective bargaining and access to the services of the National Labor Relations Board on a par with other wage workers in industry. We call upon employers of Christian conscience to encourage and stand with these workers in their efforts to gain human dignity, self-respect and economic security through the well-tested device of union organization.

On several occasions spokesmen for the National Council of Churches have appeared before this committee and other committees of the Congress to testify on the basis of these policy positions in behalf of extension of National Labor Relations Act coverage to farmworkers.

In December 1966 the National Council of Churches adopted a revised and updated policy statement on "The Concern of the Churches for Seasonal Farmworkers." In keeping with our previous actions, this statement called for: "Inclusion of farmworkers under the provision of the National Labor Relations Board." And so we testified before the chairman's previous Subcommittee on Migratory Labor as recently as July 12, 1967.

By this time, however, a new factor had entered the farm labor picture. This was the organizational drive of the farmworkers themselves to improve their wages, hours, and conditions of labor through voluntary organization for self-help. Representatives of the various State migrant ministries and of the national migrant ministry have sustained close association with the leadership and the activities of these organizations from their earliest days. In the growth of the United Farm Workers Organizing Committee we began to see that which had been an abstract principle—the right of farmworkers to organize and to bargain collectively—converted into the flesh and blood reality of men and women joining hands in a movement for freedom, for dignity, and for self-determination. Some of the issues which seemed quite simple and clear cut as long as unionization was an idea on paper began to emerge as much more complex when embodied in people in action.

We have come to respect the integrity of United Farm Workers Organizing Committee and its leadership. We believe it represents a genuine expression of the "responsible and democratic labor organization" for which we called in our general assembly statement of 1960. From it we have developed new insights into the relationship between farmworkers and the agricultural industry.

Growers have apparently been convinced that their former stance of total opposition to legislative action in the field of labor-management relations in agriculture is no longer viable. As indicated by the testimony of several spokesmen for grower organizations during these hearings, the growers—at least their more vocal organizations—are ready to talk about legislation to restore and preserve order in place of the chaos which currently threatens to engulf this sector of the national economy.

Both UFWOC and the National Council of Churches had already been advocating legislation, so we did not have to change our position on that point. Three years of experience with attempts to organize in the face of the bitter opposition of virtually the total grower community and often in the face of hostility from the general community has produced a rapid maturing of the insights of UFWOC. Their approach to the issue of enabling legislation today is much more sophisticated than it was 3 years ago—or even 1 year ago.

They are convinced that a simple extension of the provisions of NLRA, including the Taft-Hartley (1949) and Landrum-Griffin (1957) amendments would give the appearance of progress but would in fact tie the hands of the union in its crucial struggle for recognition and meaningful bargaining. As a result of their prolonged and tough barganing experience with wine grape growers and their desperate, but thus far unsuccessful, efforts to bring table grape growers to the bargaining table perhaps, Mr. Chairman, we should put a

parenthesis in here to say that it appears from news reports of the last few days from California that it may be too strong to say "thus far unsuccessful efforts to bring table grape growers to the bargaining table." They have not yet arrived at the bargaining table but there seems to be some movement in that situation.

At any rate, in this situation UFWOC has learned the hard way what is needed to provide fair and reasonable "rules of the game" for collective bargaining in industrialized agriculture. Therefore, UFWOC is no longer asking for simple extension to agriculture of the provisions of the amended National Labor Relations Act with all its freight of Taft-Hartley and Landrum-Griffin amendments. They have learned, through bitter experience and through a careful appraisal of the experience of workers in other relatively unorganized industries and sections of the country, how deadly to their hopes and aspirations can be some of these amendments, such as the so-called right-to-work clause (14b), the prohibition of secondary boycotts and recognition and organizational picketing.

UFWOC is asking, as you heard from Mrs. Huerta testifying for Cesar Chavez on April 16, for essentially the provisions of the original Wagner Act without certain of the encumbrances of Taft-Hartley and Landrum-Griffin.

We have noted in addition to Mrs. Huerta's testimony, the content of testimony from three other sources as we have sought to define and clarify our own position. These are the statements submitted by George Meany for the AFL–CIO, by George Shultz for the administration, and by Charles Shuman for the American Farm Bureau Federation. In this range of testimony we find a wide spectrum of proposals, some of them quite innovative, and we assume all of them put forward in good faith as containing seeds of solution to the problem of labor-management relations in agriculture.

Let me make it clear at this point that the position of the National Council of Churches is not a carbon copy of, nor a simple endorsement of, that of any other group, organization, or individual. It is our own position arrived at on the basis of our wide field experience and observation through the Migrant Ministry and formalized in the policy statements and resolutions mentioned earlier in my testimony.

Fundamentally, the National Council of Churches stands where it has always stood. The basic principle which we affirm and reaffirm is the right and desirability of union organization and good-faith collective bargaining in industrialized agriculture. We advocate the passage of the strongest possible legislation suitable to the achievement of that goal.

As to the specific content of the legislation, we do not come to you with another novel proposal or with outlines of an alternate bill. We have considerable confidence in the competence of this committee to draft a suitable bill to accomplish the purpose we have stated. Our concern is to urge upon you acceptance of the basic purpose.

We would like, however, to share some observations and comments on certain aspects of the various proposals which are now before the committee. We do this against the background of a couple of rather basic convictions about the nature of collective bargaining.

1. We believe that collective bargaining in a democratic society

should take place in the most permissive atmosphere possible, untrammelled by restrictive legislation.

On this ground we reject the administration's proposal for a 30-day cooling-off period, followed by arbitration binding on the party requesting the "cooling off." The administration's proposal is an interesting one and represents an innovative approach to a situation where clearly innovation is needed. We can well imagine the inclusion of such a provision negotiated in a contract between a grower and a farm labor union, at least on a trial basis. We do not believe this kind of restriction on freedom of bargaining should be written into the law.

On the same ground we reject farm bureau's proposal for inclusion of language in the legislation which would prohibit contracts providing for union membership as a basis of continuing employment. This is the so-called right-to-work provision which was introduced into labor law via Taft-Hartley and which has been incorporated in labor-management legislation in several States. The National Council of Churches has a consistent record of opposition to so-called right-to-work laws.

In a policy statement on "Ethical Issues in Industrial Relations of Concern to Christians," adopted in December 1959, the general board affirmed the following:

> To the extent to which labor and management act with a high degree of social responsibility in the process of bargaining they should be given freedom to deal with issues of mutual interest. One such issue involving this freedom which has come to the forefront of public attention is the right of the two parties to include in a bargaining contract the element of union security, as represented by membership as a basis of continued employment. On this point it is the opinion of the General Board of the National Council of Churches that union membership as a basis for continuing employment should be neither required nor forbidden by law: the decision should be left to agreement by management and labor through the processes of collective bargaining. Union membership as a condition of continued employment is not supported by this statement as a subject of collective bargaining unless the union concerned is recognized by established processes as representative of all employees in the bargaining unit.

2. Our second basic conviction regarding collective bargaining is that to be effective it must be conducted between equals. The ineffectiveness of collective bargaining in industry, broadly speaking, prior to the passage of the Wagner Act is a matter of history. The Wagner Act provided a basis upon which labor was able to organize to achieve a reasonable degree of equality with management at the bargaining table. Great progress in the practical science of labor-management relations took place during the years 1935–47 under this act.

Obviously the views of labor and of management differ as to the impact of the Taft-Hartley and Landrum-Griffin amendments upon this balance of power. Mr. Meany suggests—and I refer here to his testimony before this committee—that the reform of these acts is a battle for another day, and in general terms he may be right.

On the other hand, we are dealing here with a specific problem, namely, the problem of creating a situation in which farmworkers and agricultural producers can sit down together at the bargaining table on a basis of equality. This is the only legitimate and meaningful goal of the legislation to be shaped by this committee. To achieve that goal we believe that the committee should give very careful consideration

to the proposals of the United Farm Workers Organizing Committee for extension to farmworkers of the provisions of the National Labor Relations Act without the Taft-Hartley amendments which impose the so-called right-to-work clause 14(b), and prohibit secondary boycotts and recognition and organizational picketing.

On the same grounds—i.e., the necessity of bargaining between equals—we oppose the arguments of Messrs. Shuman and Shultz that agriculture must be seen as a special kind of industry unable to live with the same patterns of labor relations which have been forged in the experience of other industries over the past three and a half decades under the NLRA.

Seasonality and the fear of strikes at harvest time are at the heart of this plea. The argument seems to assume that farmworkers are so stupid that they cannot understand that a work stoppage at harvest time is quite as inimical to their interests as to those of the grower, and that growers are obdurate that they will never be able to reach agreements with workers in time so that a contract can be signed and the crops harvested when they are ready. To incorporate the farm bureau's proposal for a legal prohibition on any strike which might result in the loss of farm produce would make a mockery of the whole process of collective bargaining and would place farmworkers in an even weaker position then they occupy today.

Many other industries have a high seasonality factor, but they have learned to operate in an arena of free collective bargaining without undue hardship or loss. We believe that agriculture is coming into a stage of maturity in which it can and must learn how to do the same.

In this connection also we reject the proposals of Shuman and Shultz for creation of a special board and special machinery apart from the National Labor Relations Board to handle farm labor affairs. The NLRB has shown itself entirely capable of mastering the intricacies and peculiarities of a wide range of industries and administering the provisions of NLRA very effectively across the board.

We are unconvinced that they cannot handle labor-management relations in agriculture equally well. To set up a special machinery for agriculture suggests either that growers are unwilling to face up to their responsibilities as a mature industry and are seeking a sheltered status, or that they are looking for a board which they can manipulate to their own advantage. Mr. Shultz's supplemental suggestion that the panel of factfinders for farm-labor disputes be nominated by the Secretary of Agriculture gives considerable ground for the latter suspicion. We firmly oppose this suggestion.

Recent developments point up another aspect of the right to collective bargaining and the powers of the strike, which gives us serious concern, and which we believe must be an integral part of any consideration of legislation affecting the same. We refer to the abuse of the so-called green card clause of the Immigration and Naturalization Act.

An example of the systematic victimization of farmworkers in their efforts to organize for collective bargaining is the use by growers of strikebreakers from Mexico coming as "commuters" holding the alien visa or Alien Registration Receipt Form I–151. Congress clearly intended that the Alien Registration Receipt Form I–151 should be an immigration visa for aliens who genuinely intend to become resi-

dents of this country. Yet this green card, as it is called, is being used by thousands of Mexican nationals who reside in Mexico and commute across the border every day for work as strikebreakers in the fields of Texas and California. When growers' buses meet these immigrants at the border every morning and return them to the border every night, the violation of the clear intent of the law is obvious. We find it increasingly difficult to understand how the INS can stand idly by and permit this flouting of the law which they are sworn to enforce.

We are equally disturbed with the report that visitors cards are also misused to the same end. Persons holding visitors cards are legally prohibited from working while in this country. Yet these cards are issued wholesale to Mexican nationals who purportedly work in the fields in the United tSates as strikebreakers. If a handful of aliens from other parts of the world were to gain entry to the United States by similarly flouting immigration restrictions, the U.S. Immigration and Naturalization Service would be hot on their trail.

Yet in this particular situation along the Mexican border, the same Service daily admits thousands of aliens who are reportedly misusing the immigration visas issued to them by the Service itself. If so, this is aid and comfort by the Federal Government to the struck growers, who are trying to defeat the striking farmworkers in their legitimate efforts to organize.

We are also aware of a large and growing volume of illegal entry by persons using fraudulent credentials and other devices. This resurgence of the ancient wetback traffic is apparently being met by the border patrol with considerably less than vigorous enforcement of the immigration law.

The foregoing is not to be interpreted as an objection to the immigration of Mexican nationals or other aliens to this country. What we do object to is the clear violation of the law. As an integral part of our desire to see effective bargaining procedures for farmworkers we call for the amendment or enforcement of the law controlling the so-called green carders to the end that the spirit and intent of that law become a reality. We also call upon the Immigration and Naturalization Service vigorously to enforce the laws against the wetback traffic.

Let me conclude by summarizing briefly the basic position of the National Council of Churches in respect to the legislation under consideration and the proposals before you. We have sometimes been charged with bias in favor of farmworkers. Our response to this charge is that we are not biased in favor of farmworkers as an occupational category. We are biased, and freely admit it, in favor of people, of the rights of people, and of freedom and justice for people.

We are biased in favor of poor people.

We will support all sound and reasonable programs designed to remove their poverty. Farmworkers are and have been for generations notoriously caught in the toils of poverty. Let it be added that we have been and continue to be equally concerned over disparities in our economy which have frequently placed farmowner-operators in poverty. We would support with equal alacrity their right to organize and bargain in the market for a fair price for their commodities.

We are biased in favor of self-help and self-determination.

We believe that UFWOC represents the best attempt of farmworkers in our time to practice self-determination and to pursue the route of self-help. For this reason we support their struggle for the strongest possible legislative tools for the achievement of union organization and collective bargaining.

We are biased in favor of peace with justice in labor relations.

We are convinced that neither peace nor justice are possible in the agricultural labor market until union recognition has been won for farmworkers and good faith collective bargaining can proceed between management and labor.

Thank you, Mr. Chairman.

Senator WILLIAMS. Thank you, Reverend Greene.

Senator Bellmon? Any questions?

Senator BELLMON. Yes, sir, Mr. Chairman, I would like to ask a couple of questions.

Reverend Greene, you make the statement that many other industries have a high seasonability factor, similar to the factor of seasonability in agriculture. Could you mention some of the industries you had in mind when you make that statement?

Reverend GREENE. I think of such industries as the garment industry, where fashions come and go, on a seasonal basis. The automobile industry, as a matter of fact, where current styles and models are put out on an annual basis, and they have to get the cars on the market at the time when the model is announced, and is new, if they are going to retain their share of the market.

Senator BELLMON. Do you feel that producing an automobile is like producing a crop of apples or peaches, so far as seasonability is concerned?

Reverend GREENE. It seems to me that in terms of seasonality, they are comparable, yes, though there are obviously many differences in other respects.

Senator BELLMON. Do you know how long a crop of fruit will stay on the trees, and allow it to be harvested?

Reverend GREENE. I don't know in detail. I know it varies from crop to crop. Some of them are highly perishable; some of them, of course, can wait longer.

Senator BELLMON. How long would you say a crop of fruit would be left on the trees, while a labor matter is being settled?

Reverend GREENE. I am sorry, I am not competent on that point.

Senator BELLMON. What would be your idea of how long they might give a grower and a union to negotiate?

Reverend GREENE. Well, again, I would have to say it seems to me it would differ, from crop to crop. I would imagine apples could stay 2 or 3 weeks, peaches probably a much shorter time, but I am not an expert on that aspect of the agricultural operation, so I may be off even on those estimates.

Senator BELLMON. But does this seem to you to have the same factor of seasonability as the automobile industry? If, we will say, a crop has a 2- or 3-week period of time in which it could be harvested? To me there is a great difference. You mention that there are many industries with a high seasonability factor. I don't find any, except in agriculture, that have the same problems that agricultural growers

have, and I don't agree with you that the garment industry, or automobile industry are even similar, because they have a lengthy period of time, and they may not produce the products, but the farmer's situation is that he has already invested his year's work, and when harvest comes, he either harvests, or he is out of business, and I don't know of another industry that is in this particular condition.

Reverend GREENE. May I ask in this connection that it is my own feeling, and I think the feeling of our migrant ministry people, that the issue of seasonality, and the danger of threat to crops, has been overplayed by those who are opposed to this legislation.

It is my understanding, for example, that the contracts which have been signed between UFWOC and some of the wine grape growers have "no strike" provisions written into them. In other words, simply because there is legislation here providing coverage under the NLRA does not mean that there are necessarily going to be strikes at harvesttime, as I try to suggest in my testimony.

It would be contrary to the interests of workers as well as growers to have that occur, and what I would anticipate, and what I think has been the practice thus far is an attempt to negotiate a contract which will cover wages, working conditions, and so on, over a year, or whatever the stated period is, and with provision for no strikes as long as the provisions of the contract are observed.

Senator BELLMON. Do you agree with these no-strike-at-harvesttime provisions?

Reverend GREENE. Yes, if they can be equitably negotiated, in good-faith bargaining between equals, and union and management agree on this, I think this would be highly desirable. Certainly there is nothing in our testimony or in our position that wants either to see growers damaged by seasonal strikes, or to see the consumer deprived of any commodity.

Senator BELLMON. I am glad to hear you make that statement.

You make the statement that you would like to see labor legislation include migratory workers. Why do you single out only migratory workers?

I realize you represent the migratory ministry, but there is a problem with other workers who are not migrants.

Reverend GREENE. Well, let me say, sir, there is a history behind this. The concern of the National Council of Churches in the farm labor field first was generated through the activities and experiences and observations of the migrant ministry. The focus was very heavily on seasonal and migratory workers, and that emphasis got into these early statements. We were quoting here from 1951 and then from 1960.

You will notice that most of the more recent statements, as we have become better acquainted with the whole field and the whole problem, do now refer to inclusion of farmworkers.

In other words, we do not select out migratory workers, but I had to be faithful to the policy positions as they were stated previously.

Senator BELLMON. I see.

Reverend GREENE. In answer, then, in summary, I would say that we have moved from a rather specific concern for migratory and seasonal workers, although we still have that concern, because of the peculiar problems they face—irregular employment, low annual incomes, and

so on—but we have broadened our concern now to the field of farmworkers in general. Again, I think I should emphasize, since I have said so much, that our concern here in terms of the bargaining and union operation, is with farmworkers in industrialized agriculture.

We are not talking about the single hired hand on a family farm. We are talking about a situation which we call industrialized, where there is substantial separation between labor and management in the operation, and substantial volume of labor employed.

Senator BELLMON. How would you define an industrialized farm or industrialized agriculture? Do you have a definition?

Reverend GREENE. I think the National Council of Churches does not have a formal definition which I would quote to you. I have done some work on this for the national council in a pamphlet which we produced, entitled "Let Justice Roll Down," in which we talked about this situation. In broad terms, by "industrialized agriculture" we refer to those farm operations in which the functions of ownership, management, and labor tend to be separated.

That is to say, there is one group of owners—some cases, of course, the owner may also be an active manager, and in other cases, the owner may be a corporation, hiring managerial talent—the function of labor is separated from the function of ownership and management. This is the general pattern of American industry, and it is that division of function which we refer to as industrialized agriculture. Obviously, the larger operations which employ substantial blocks of labor and particularly so at harvesttime.

The contrast would be, I should say, with the family farm, where the same person or family provides usually the ownership and the management, and most of the labor, most of the time.

Senator BELLMON. You don't attach the term "industrialized agriculture" to a farm that employs, we will say, 10 employees; or it is not a matter of size, rather it is a matter of structure?

Reverend GREENE. Well, it is basically a matter of structure, although size usually correlates with structure.

Senator BELLMON. It is going to be difficult for the committee to write a law that exempts a portion of agriculture, unless we are able to identify what industrialized agriculture is.

Reverend GREENE. I would assume there would have to be some kind of cutoff point in terms of the number of employees, or the number of man-hours of employment. In that connection, let me say I have heard various figures given, and I would like to urge that the cutoff point be at a relatively low position.

I think there is little point in enacting this legislation but making the cutoff point so high that it doesn't really get at the problem, it only deals with a small fraction of the very largest employers.

Senator BELLMON. You have said that you would support the right of growers to organize and bargain for fair prices. Has the National Council of Churches done anything in this field?

As you know, at the present time, a grower or a farmer is pretty much at the mercy of market price, and when he produces something and takes it in to be sold, he is told what he will be paid for it. What has been done toward collective marketing?

Reverend GREENE. We have a policy statement dating from 1958 on "Ethical Issues in Agricultural Policy," which has one paragraph

referring specifically to the value of agricultural cooperatives as a self-help device on the part of farmers. We have not gone into any action program to support or become involved in market bargaining. As a matter of fact, I will have to be frank to say to you that because of preoccupation with other matters, the national council has not reviewed its position on general issues in agriculture, in agricultural policy, in agricultural economics, since that 1958 statement.

I am the secretary of a task force recently organized under the auspices of the National Council of Churches to deal with matters relating to food, agriculture, population, and hunger, which is going to be looking again at this situation. It will particularly, for example, be looking at the issues of market bargaining, in the light of the fact that all national farm organizations are now interested in this subject. Particularly the NFO movement, for which my friend Harry Graham will be speaking to you in a few moments, has arisen since we reviewed our position. I can say that insofar as we have had a position on this matter, it has been in support of farm cooperatives.

We have not yet come directly to grips with market bargaining of the NFO style, because we haven't done a review since they have been in operation.

Senator BELLMON. Do you feel, Reverend Greene, that unless we achieve some element of effective collective selling for farmers, before we put into effect legislation that will require farmers to enter into collective bargaining arrangements with farmworkers, that we may put farmers in an untenable position of having their costs rise at a time they are not able to enforce increases in the price of the products they sell?

My question is: Shouldn't these come together?

Reverend GREENE. I think the grower is already in an unenviable position. He is in a cost-price squeeze; he is under pressure not only from what meager farmworker organization has been achieved, he is under pressure of costs, and cost rises, in virtually every aspect of his operation. I thoroughly believe that these two factors need to be seen together.

My position is, however, that growers in industrialized agriculture in this country can no longer use the wages and working conditions of their workers as their safety valve to keep them in business, in the face of what is essentially a chaotic market for agricultural produce.

Now you ask: Should they come together? I think it would be highly desirable if these two movements of labor organization and market bargaining moved together. It is my opinion, however, that growers will not move as aggressively toward organizing for their own benefit in the marketplace prior to the pressure from worker organization as they will subsequent.

Therefore, I think in fact it may very well turn out that the best thing that can happen for the grower is to have the workers organize, and be faced with a real situation in which he can no longer temporize, and in which he will be forced to move into a market-bargaining program for his own protection, in order to get sufficient income for himself and also sufficient income so that he can pay union scale to his workers.

This seems to be the way these things happen. The results in our

society seem only to come when pressure is exerted on behalf of those who are hurting most, and these, I believe, are the farmworkers.

Senator BELLMON. But up to now, the national council isn't doing anything actively toward achieving collective selling for growers?

Reverend GREENE. I regret to say that is the case. As I have indicated, we have a committee that is exploring the possibilities of moving on that front.

Senator BELLMON. Reverend, I have one final question, which is about half facetious. You are a minister?

Reverend GREENE. Yes.

Senator BELLMON. Is there a ministers' union of any kind? How do you go about bargaining or selling yourselves?

Reverend GREENE. We don't have a union, do we, John?

Dr. TURNBULL. No; we don't.

Senator BELLMON. Do you suppose you might be overlooking a possibility?

Reverend GREENE. And we suffer in the marketplace for the lack of one.

Senator BELLMON. Thank you very much.

Mr. Chairman, that's all.

Senator WILLIAMS. Thank you, Senator Bellmon.

Reverend Greene, yours is a most comprehensive statement, and a very helpful statement. It comes from an organization that was on the scene that we are concerned about long before the attention of this committee focused onto the problems of farmworkers.

Do you know anything about—and I am sure you do—the history of the noninclusion of farmworkers in the National Labor Relations Act? Were you concerned in those days and on the scene, and recall why they were specifically excluded?

Reverend GREENE. I am sorry, Mr. Chairman, I don't have personal knowledge of that. I can only point out to you, as you know very well, that most of the social legislation and labor legislation of the 1930's excluded farmworkers. This was true of social security, it was true of minimum wage, it was true of workmen's compensation, true of NLRA, the whole bit.

Gradually, as you know, and to a very considerable extent, thanks to your good efforts and those of your committees, this coverage has been extended in a few places, in a limited basis, to farmworkers, but it seems to have been a pattern at that time, and I can only account for it on the basis of the pressure from the employers of farmworkers to secure exclusion.

Senator WILLIAMS. Mr. Graham and Mr. Braiterman will be speaking with us next. If they could think about that in terms of history, I would appreciate it.

This, in a sense, sort of grades citizenship of working people, doesn't it?

Reverend GREENE. I am sorry. Did you say "degrades"?

Senator WILLIAMS. Doesn't it grade them? There is one degree that was included in all of the economic and social laws, most of which have developed over the last three decades? That is one grade of citizen; then there is this grade of citizen that has been basically excluded. I think you are wrong on social security. Farmworkers are included.

Reverend GREENE. But they were not in the original act.

Senator WILLIAMS. But in fact, so many are not included. Doesn't this grade citizens into that group covered and that group not covered, call it first class, second class, third class, or whatever you want to call it?

Reverend GREENE. It seems to me, and I think the only rationale for it is one which I think is unacceptable, and that is that agriculture somehow isn't an industry—and incidentally, going back to your earlier question, I have a hunch that this was the strong argument put forth back in the 1930's, perhaps with more color of fact and truth in those days than would be the case today.

Senator WILLIAMS. It was sort of a bucolic way of life.

Reverend GREENE. Agriculture was thought of in terms of the pattern of the family farm, where the labor was supplied by the father and his children, and maybe his didn't include them in labor legislation.

Now in fact, of course, even in those days, there were in certain parts of the country, and particularly in California, a substantial block of industrialized agriculture. Increasingly in the decades which have intervened, agriculture, which used to call itself a way of life, now prides itself on being an industry, and they talk about agribusiness, and the agricultural industry, and so on.

I think it is high time that they accepted the responsibilities which go with that prideful self-characterization, which would include a willingness to meet the same kinds of standards and conditions in labor relations as do other industries.

Senator WILLIAMS. Now it is true that to a great degree the unions were created, organized, and built their membership under the National Labor Relations Act before the amendments of the Taft-Hartley legislation, or the Landrum-Griffin legislation. And they did modify the Wagner Act.

I gather that the three important areas that you address yourself to deal with secondary boycotts, organizational picketing, and State law overriding of collective-bargaining agreements on union membership as a condition of continuing employment.

Those are the three major changes in the Wagner Act that you addressed yourself to? Am I right on that?

Reverend GREENE. Yes, sir; that is correct.

Senator WILLIAMS. And it is your feeling that—now these are my words—in infant unionization of farmworkers the Taft-Hartley and Landrum-Griffin changes would be too burdensome an encumbrance on unionization of farmworkers? Is that a fair way to put your feeling on this?

Reverend GREENE. Yes. We think there is some history to show that to be true not only in farm labor, but in some of the other relatively unorganized parts of the country, and industries.

Senator WILLIAMS. Well, I think maybe this is a little too candid, but I will try it anyway. We, of course, here as a legislative group, are trying to pioneer a vast new territory. You appreciate that. As you see, we are a mature country in terms of workers organizing into unions. We are mature, and yet this is pioneer country for farmworkers.

Now, we, of course, are faced with the question of whether we push on with all of the energy that we have, or can summon, to bring them into equal citizenship, or do we give them a degree of added opportunity with legislation comparable to the Wagner Act.

I am not forming any opinion here myself. I will suggest the practical fact; we thought it would be a significant improvement from the standpoint of working people in the industry of agriculture to bring them under the law that all other workers are under, and then we have your statement and the UFWOC position which would make a difference, and from a legislative standpoint this would be much more difficult.

We finally get down to: Will it be all or nothing at all? It really comes down to that, I think.

Reverend GREENE. Well, Mr. Chairman, I appreciate the difficulty of the position of the committee. I am glad that I am on this side of the table at this point, and not on your side, because I think you have a very difficult series of choices to make here, and I recall to your mind that——

Senator WILLIAMS. And by the way, our choices are not individual expression, but it is, you know, a democratic process; one for the majority.

Reverend GREENE. I would just like to remind you that the position which we have taken in our testimony is, first of all, we want to see the strongest possible law to create a situation of essential bargaining equality in this field.

We have suggested to you that we believe there is some merit in the UFWOC argument, and we urge the committee to give careful consideration to it.

The National Council of Churches is not taking the position of an all or nothing, of asking that you go to the extent of special consideration proposed by UFWOC, or no legislation at all. We want to leave you with maximum freedom. That's why we didn't try to come in with a bill of our own. We want to leave the committee with maximum freedom, under the rubric of the strongest possible—and this means politically possible, as well as administratively workable, in your judgment—the strongest possible law to create a situation of equity in this field.

Senator WILLIAMS. You make no claim to be speaking for the member churches of the National Council of Churches, nor do you speak for, you say in your statement, their members. Does that go for your other position as field secretary of the National Division of Methodist Board of Missions of the United Methodist Church?

Reverend GREENE. Yes; I am in no sense representing that board in this appearance.

Senator WILLIAMS. Well, do you feel any sense of any general feeling of the membership of the churches that form the National Council of Churches on this issue?

Reverend GREENE. I think there is no such thing as a general feeling on the part of the, what is it, John, how many million members?

Dr. TURNBULL. 42 million.

Reverend GREENE. The 42 million persons who belong to the 33 denominations which, in turn, constitute the National Council of

Churches. We have grower representatives; we have worker representatives; there is no unanimity of opinion here. What is reflected here is the position taken by the General Board and General Assembly of the National Council of Churches, in the name of the National Council of Churches, based upon the field experience and observation of the migrant ministry.

In other words, the most informed segment of our churches in this field clearly are the people who have worked in the migrant ministry. This includes, incidentally, not just a small employed staff, although it does include that, but also a great many volunteer committees of people who work in summer projects, and who relate in one way or another to various aspects of the migrant ministry.

At the last count I saw, something over 10,000 persons were involved in various committee relationships and staff relationships in the migrant ministry. We are talking against a background of their experience, and trying through interpretation of basic Christian ethical understanding of human relations to put before you the best judgment of the National Council of Churches.

But this in no sense represents unanimous opinion. We wouldn't even know whether it represents a majority opinion of the 42 million.

Senator WILLIAMS. Well, I appreciate your giving us that background. Other organizations come before us, the spokesmen for a major or national association of people, whatever their banner, and with great confidence will say they speak for, and the number will be the total membership of their organization.

I read a letter yesterday—I am not sure when it come into the office, probably 3 days or so ago—from the spokesman for the Farm Bureau Federation, dealing with another matter, and one of his first statements said he was speaking for 4,000—I believe the figure is 4,000—members of the farm bureau, urging me to not reduce the oil depletion tax allowance of 27½ percent because it would be hard on farmers.

I was thinking, if this organization did in fact poll 4,000 members, and did get that expression of opinion, they are doing a very effective, workmanlike job. I don't know whether they did or they didn't. You see what I mean?

Reverend GREENE. Yes.

Senator WILLIAMS. It would be impossible for you to poll 42 million church members who were in churches that are part of your organization, but I wonder if you do gather in convention, in regions, or in any degree, so there can be some feeling of popular appreciation for what we are talking about here, that expression of opinion.

Reverend GREENE. Let me respond to that by saying that in addition to the policy statements which I have cited of the National Council of Churches, there have been among the denominations, abundant evidences of support for this general point of view. That is to say, financial support of the migrant ministry, which has been working at this sort of thing so diligently.

You don't usually put money in something you think is going in the wrong direction. There have also been resolutions and policy

statements adopted in a great variety—I couldn't even begin to estimate the number at local levels, judicatorial levels, State council of churches, local denominational groups, national denominational bodies, who have generally supported this position.

I know of no substantial body—and I will defer to John Turnbull if he would correct me—but I know of no substantial body of official opinion in any of the denominations which runs counter to this point of view.

Now in terms of individual persons, and no doubt in terms of individual congregations there will be found widely varying views. We have witnessed controversy in California, for example, where a number of congregations dominated in policy by growers, in the Central Valley and elsewhere, have taken positions counter to that of the California Migrant Ministry and the National Migrant Ministry. This you would expect and understand.

Unlike the farm bureau or any farm organization which is organized specifically around the concerns of farmpeople as farmpeople, churches are not organized around this kind of an issue. They are not even organized around social issues in general. Consequently, with something like 50 to 60 percent of the total U.S. population in church membership, you are going to get almost as wide a range of opinion in the churcher as you do in the general population.

Mr. Chairman, if it would be helpful to the record, I am sure we could submit a series of supporting denominational statements, related to this matter.

Senator WILLIAMS. It would be very helpful, if you could do that.

Reverend GREENE. We will be glad to do it.

(The information referred to had not been supplied when this hearing record went to press.)

Senator WILLIAMS. Before we turn to Senator Schweiker, we have the grape boycott, which is in its third year, isn't it, and this is directed to one part of the agricultural industry, specifically pinpointing the organizational effort of the table grape part of the industry?

Reverend GREENE. It is my impression, Mr. Chairman, that the table grape boycott is not that old. The strike is up to 3 years old, and there was some boycott effort in connection with some of the specific labels of wine, before agreements were reached there. I may be wrong, but my impression is the table grape boycott is of somewhere between 1 and 2 years' duration.

Senator WILLIAMS. Well, this is a national effort, isn't it?

Reverend GREENE. Yes.

Senator WILLIAMS. It has grown to national and international proportions?

Reverend GREENE. Yes.

Senator WILLIAMS. And it is an expression of opinion that the unions should be recognized and bargained with? Is that the basic thesis?

Reverend GREENE. The basic purpose of boycott is to enforce the request for union recognition, collective bargaining and coverage under NLRA. I would assume anybody who supports the boycott, if he does it at all knowingly, would do it because he believed in those objectives.

Senator WILLIAMS. We read a great deal about the boycott, but we

don't read of it in context of the incitement of violence. I haven't read of any descriptions of breach of the peace and violence in this activity.

Reverend GREENE. I am sure you do know, Mr. Chairman, that the United Farm Workers Organizing Committee is dedicated to nonviolence, and its leader, Cesar Chevez, is one of the leading apostles—I should say since the assassination of Martin Luther King perhaps the leading apostle—of nonviolence in this country. He went through a 25-day fast, as you well know, in large part as an expression or testimony of his dedication to nonviolence, and did it because of the fear that in the growing, mounting impatience with the obduracy of the growers, there might be episodes of violence.

Senator WILLIAMS. Well, as we try to improve our society, and reach order through law, certainly one of the foundations of that society would be a nonviolent approach to change in the expression of opinion.

Reverend GREENE. And there is no better illustration of that, in my judgment, than orderly collective bargaining.

Senator WILLIAMS. Well, you know, sometimes we feel a little sorry for good principles, that they get lost in the news of the front pages. Unfortunately, most of our reporters have left. There is one young lady there, and I wish she could find a way to get her paper to sort of banner the fact that notwithstanding the deep, deep controversy over the issue we are talking about, and the expression of earnestness on either side, that it is singularly and fortunately and significantly unmarked by violence and breach of the peace and breaking of law.

Reverend GREENE. Amen.

Senator WILLIAMS. She didn't take a note, so I guess that will be lost.

Reverend GREENE. Well, Mr. Chairman, the trouble is, you see, that is good news.

Senator WILLIAMS. Yes. Good news, unfortunately, is generally no news.

Senator Schweiker?

Senator SCHWEIKER. I just want to commend the chairman for his point, and rest on that.

I have no questions.

Senator WILLIAMS. Thank you very much, Reverend Greene.

Now, Mr. Harry Graham, from the National Farmers Organization.

You have been before the Migratory Labor Subcommittee, Mr. Graham.

Mr. GRAHAM. Yes. At one time or another in the last 7 years I have been before most committees, it seems like.

Senator WILLIAMS. Then I gather this is your first appearance before the Labor Subcommittee on farm worker issues.

Mr. GRAHAM. Yes, it is.

Senator WILLIAMS. We welcome you here. We are glad to have you back before the Labor Committee.

STATEMENT OF HARRY GRAHAM, NATIONAL FARMERS ORGANIZATION

Mr. GRAHAM. Mr. Chairman, I am going to read part of this, and interject some things in as I go along, partly as a result of your request, and may I answer your question first, before I start with testimony, concerning the history of these exclusions for agricultural labor.

At the time of this legislation there were a lot of exclusions of agriculture. Indeed, in some of the farm legislation that was passed they wrote into some of the farm legislation the same type of exclusions.

We have been worrying with a potato marketing order bill in both Houses that was a result of excluding some types of potatoes from market orders and including others in them, but I think the basic problem that was faced back in the 1930's with labor, which then was relatively powerless, and agriculture, which was politically very powerful, was that the compromise that was reached to enable labor to have this act applied to them was to exclude farm laborers from the original act.

I think it was simply the power of agriculture at that time that did it, and it was one of those compromises that you folks here in the Senate and over in the House are all too familiar with, as the way you get the best possible legislation, which is not always the best legislation.

Now, at the time that the legislation was passed, some of the testimony that was given at that time indicates that this was the background. It maybe does not sound very romantic, but I think it was practical politics at that time, and even at this time, too.

We would commend the committee for holding hearings on the proposed legislation to extend the provisions of the National Labor Relations Act to cover labor engaged on farms.

For several years this issue has been increasing in intensity, fanned into white heat by demagogues who prey upon the fears of people, accentuated by those who appeal to emotions instead of reason, and frequently so devoid of facts as to make a reasonable solution impossible.

During this time, it has been apparent to anyone who tried to view this with objectivity that some solution must be found to the impasse which has gripped the growers and laborers, especially in California. Wishing, however fervent, cannot make the problem disappear.

It is obvious that collective bargaining is going to be extended to agricultural labor, even as it is being extended to agricultural producers. The questions of how, and under what conditions, must soon be answered to prevent complete anarchy in this field.

This problem probably is of greater concern to the NFO than to any other farm organization. On the one hand, we are faced with ever-increasing costs, which have already outrun our income. Some of these costs reflect the gains of labor in our industries. And unfortunately, these costs cannot be passed along to the users of farm products as easily as they can be passed on to the users of industrial products.

The farmers of the United States are the largest single group which purchases the products of industry and labor, so they are particularly hard hit.

It should also be understood that American farmers are not opposed to economic gains by our brethren in industrial labor groups. We understand, perhaps better than any other group, that a prosperous agriculture depends on prosperous customers.

However, we are dismayed by the fact that the increasing prosperity of the consumers, helped by a steady price for food which results in an ever-declining percentage of the pay of the public being expended on food, while at the same time the relative financial position of the farmers continues to decline when compared to the rest of the economy.

We are further dismayed by the cries of outrage which arise when there is an improvement in farm prices and the resistance of the public, which is reflected in the attitude of the Congress, toward any program which will improve our position and lead to an equitable return to the producers of the basic necessity for life itself and the majority of the new wealth which is created in this Nation.

So you see that we are impaled upon the horns of a dilemma. On the one hand is the elemental justice, which says that farm labor should have the same right to organize and bargain for the conditions which govern their employment as any other group of laborers, and on the other hand the certain knowledge that the increase of justice that is accorded to labor will at the same time increase the injustice to American agriculture, if it continues to be unable to pass its ever-increasing costs on to the users of their products.

This is further complicated for the NFO by the fact that as an organization we are committed to the principle of collective bargaining for the farmowners and operators.

We believe that we shall also improve our position when we have organized enough farmers and blocked together enough of their production that we can exert an upward pressure on the prices paid for farm commodities.

Already we have had some substantial successes in the field. We have seen the prices of meat animals, milk, potatoes, and food and feed grains improve, where the NFO principles of collective bargaining were applied, and when all other economic factors predicted a decline in these prices.

The simple fact that the NFO is now organized in all the States of the continental United States of America, that it is the fastest growing farm organization of the last decade, and that it probably has more "farmer" members than any other farm organization, says to the public that we believe in organization to promote collective bargaining.

As we look at the present situation regarding farm labor, we see some undeniable facts.

1. THERE IS NO LABOR PEACE

May I say that some of the people that talk about some types of legislation, or not having legislation because it would disturb the peace that already is in this field, are not looking at the same field I am looking at, because as the Scripture says, "Men shall cry peace, peace, but there is no peace."

Strikes have beset us from coast to coast. Secondary boycotts have adversely affected many producers who were not directly involved in the struggle.

Anarchy and peace are mutually self-exclusive.

2. NEED FOR REFERENDUMS

No effective method is now available to determine by referendum whether a labor union has enough support to become the bargaining agency. This is the primary reason for the long drawn out strike against the grape growers.

We note with approval that this impasse is at least being negotiated between the farmworkers and the 10 largest growers in California. Apparently the growers finally decided that the UFWOC did represent enough of their growers to become a responsible contracting party.

This issue could have been decided a long time ago, thereby preventing an enormous loss of salaries and earnings, had a method of determining jurisdiction been available.

3. ANTISTRIKE LAWS HAVE BEEN INEFFECTIVE

One of the greatest mistakes the people that talk about this field make is that they do not recognize that strikes cannot be prevented by law. This has been repeatedly demonstrated. The right to strike is an essential and constitutional right, and is thereby an ever-present element in collective bargaining.

I would point out that any kind of a bill which requires that someone work at a particular time of the year, even harvesttime, and this is of importance to us, too, without a binding contract, simply is a violation of our basic constitutional rights. It has never been upheld by the courts. When States have tried this type of legislation, with the exception of Calvin Coolidge, who became President because he did invoke this concept in Massachusetts, in the case of the police strike in Boston in the second decade of this century, the States have been notoriously unsuccessful in doing anything with this problem.

New York State, for instance, has a law prohibiting strikes of municipal and State workers, but that did not keep them from piling garbage up in New York City for 47 days.

4. NEED OF CONTRACTS

This is extremely important, in our judgment. The only protection against a strike, at harvesttime or any other time, is a valid contract between the employer and the employee. This is enforceable in the courts. Therefore, negotiations resulting in such a contract must be permitted, encouraged, and protected, if there is to be any peace and security on the land.

This implies also that this bargaining must be conducted in good faith.

Now, we have no sympathy with suggestions in some of the legislation before the committee that if the people get together and talk that they have fulfilled the purposes of some of this proposed legislation.

Getting together and talking is something like what is going on in Paris today, which is a long way from bargaining in good faith. The National Labor Relations Act requires this in labor-management disputes.

It should also be required in agriculture. There can be no answer to strikes, and no contract that is meaningful, until there is negotiation in good faith by both parties.

5. EXEMPTIONS

We believe the owner-operator farmer should be exempted from the organization, if not from the benefits which might accrue to his employees. This is not only a matter of economic justice based upon the

fact that he and his family furnish most of the labor needed on the farm, but also because it is probably administratively impossible to organize such widely and sparsely dispersed employees as are used by most "family" farms.

Incidentally, I don't see any inclination, or hear of any suggestion on the part of the labor unions that they think that they can organize all of the employees that work on the land, no more than they organize all the employees in American business, or the small industries. There is a minimum size under which becomes uneconomic to pursue this course.

6. CHEAP LABOR

The owner-operator should remember that the price paid for farm labor goes far toward determining his own income, and the compensation he and the members of his family receive for their labor. There is no real or permanent advantage in cheap labor.

7. ADVANTAGE TO FAMILY FARM

The unionization of the labor on large corporate farms can considerably reduce the advantage that they have over the so-called family farm. Some of their advantage has been the availability of capital, but much of it has been because of the ability to exploit their labor.

It should be remembered that when minimum-wage regulations were extended to agriculture, just a couple of years ago, that a number of dairy farms in this general area went out of business. They could not compete with the family farm when they had to pay minimum wages. How much less will be their advantage when they have to pay union wages? This could be the great equalizer, along with the abolition of some of the more glaring tax shelters they now enjoy.

8. EXPERIENCE IS SATISFACTORY

Not the least of the considerations for determining the advisability of a farmworkers' union is the rather successful and satisfactory experience where this has already been tried.

In Hawaii and in the dairy industry in California, there is not only labor peace, but increased efficiency. For one thing, the unions guarantee to supply the necessary labor.

When a milker in California becomes ill or indisposed, the farmer does not have to search around for help. The union sends out an experienced substitute.

The possibility of using this method in the harvesting of fruits and vegetables, with the responsibility of supplying experienced labor assured by a contract which is enforceable, could well eliminate one of the major headaches of the growers. At the present time, wages are not the most important factor. Wages are generally good. But the dependability of the harvester is a critical item.

My friends from California that are engaged out there in the fruit business tell me that one of the biggest problems they have is that after they go into town and recruit four or five people to work on these small farms, they come out and pick the best of the fruit that is available and where they can make the best money. Then, when the

job is half done, they may just pull out and go hunt some place where there is a little better picking opportunity.

Now, the construction industry had exactly the same problem, and they settled it by using a hiring hall. I rather think that the use of a hiring hall for the small operator who hires only one or two or three people, which eliminates the necessity of him leaving the work himself and going into San Jose or some other place and prowling around on the streets, trying to find a few workers, might be a much better answer for farmers than the system they are using at the present time.

9. KIND OF LABOR BOARD FOR AGRICULTURE

The solution to this problem will not be found in the appointment of a labor board that is profarmer.

Now, this may be hearsay, but I think this is reasonable. The labor board that is profarmer will only extend the argument.

Neither will it be solved by a prounion board.

What is needed is an experienced administrative agency which is fair and impartial. We are not like the fellow who said he wanted a fair decision, just as long as it was in his favor.

In its early years, the National Labor Relations Board was prolabor. However, the personnel of the Board has been changed many times during the 30 years of its existence. A careful scrutiny of the actions of the NLRB in the past few years indicates that its decisions, which are in favor of both the unions and the employers, as the circumstances of the case may dictate, are objective, fair, and well within the intent and spirit of the law.

Their decisions have been scrutinized by the Congress, the courts, and the public. They seem now to the dispensing justice with either hand. That is all the NFO wants and expects.

Incidentally, I don't think that the argument that the NLRB is not expert in agriculture has much validity. I doubt that they are expert in atomic bombs, and computers, and a number of highly sophisticated industrial products of today. What they are experienced in is the problems of labor and management, the problems of arriving at a contract, the problems of enforcing the provisions of the contract, and this is an experience that we want here.

The expertise that we need from a board is not expertise in farming. We need expertise in the field of labor-management relations.

10. IS AGRICULTURE SPECIAL?

Agriculture cannot expect too many special favors, nor should it. These have a habit of being counter-productive. The same public which extends to us exemptions from the general practices of our economy also then denies us the generally available awards of the economy. When we no longer have or need special exemptions under the law, then we can expect to be treated as the rest of the economy in our returns as well as our obligations and responsibilities.

11. SECONDARY BOYCOTTS

Secondary boycotts are a serious problem for the 95 percent of the farmers who probably would not come under the jurisdiction of this

law. We find no support for these among our membership, nor among farmers.

We would point out to the committee and those interested that the extension of the NLRA to farmworkers would also carry with it the prohibition against secondary boycotts contained in the Taft-Hartley amendments to the act.

I interject that to remind some of the folks that are trying to get secondary boycotts in new legislation that they already have in the existing legislation the very thing that they are asking for.

12. UNION SHOP

To those who oppose a union shop, and we do not, this is also prohibited in those States which so decide. This is the controversial section 14(b) of the act.

13. WILDCAT STRIKES AND LOCKOUTS

We recognize that there will be some irresponsible leaders of farm labor, but they are not created by the kind of legislation which is properly before this committee. In fact, they would be reduced and eliminated by the enforcement of the valid contracts between the unions and the growers. That is a function the courts can fulfill, as they have in the past.

I would note also there are a few irresponsible employers, lacking in both good will and good faith.

14. NEED FOR SPEEDY DECISIONS

It should also be pointed out that decisions at critical periods of the production year can be made most rapidly by a quasi-judicial agency such as the National Labor Relations Board, using the injunctive powers such as the 80-day cooling off period which are a part of the NLRA. Our Government has wisely left many of the enforcement procedures of our regulatory laws with such agencies. Thus, we have the ICC, the SEC, the FAA, and the CAB, the FPC, and the FTC, and others, all functioning in the public interest with fairness and dispatch.

However, their decisions are subject to judicial and legislative review, as a protection to the parties involved, and to the general public.

Such agencies can and do make rulings very quickly. The deliberative process so essential to our judicial system is always available, but by nature and necessity not as prompt.

We would therefore oppose any system which placed the primary decisions in this field exclusively in the hands of the courts. It would add impossible burdens to already overworked courts, and the inevitable delay could be disastrous. However, the availability of the courts as a refuge from injustice must be retained.

15. JURISDICTION

The major problem now facing growers and workers is the one concerning jurisdiction. A quick and fair answer to this problem must be made available to farmworkers, and to farm employers, also.

We would also point out that this item was not contained in S. 109, which had to do with collective bargaining for farmers, as approved last year. It will rise to haunt us one day, when farm-bargaining organizations vie for the right to represent producers.

Of course a referendum conducted by an impartial and official agency is the only answer. The NLRB provides this service, and to those who are certain that a particular union does or does not represent the workers, there is a method to confirm or refute their judgment.

Incidentally, some of the opponents to this legislation should remember that unions don't always win these elections.

16. CONCLUSION

The National Farmers' Organization does not want to be associated with reaction, but with progress. We do not relish an extended fight between growers and workers, such as plagued industry for so many years. We want to be a part of the answer, not a part of the problem.

If the objective consideration of the factors which must be considered in arriving at an objective decision about this legislation which is before this distinguished committee were not adequate, then we have an even better reason for our decision to support the passage of S. 8.

At its national convention last December in St. Louis, the 11,000 delegates gave overwhelming approval to the extension of the National Labor Relations Act to include agricultural labor. It is indeed a great personal satisfaction to this witness to be able to concur wholeheartedly in this decision.

We suggest that, if such legislation is approved, that the committee should advise the NLRB in the legislative history of the legislation that appropriate jurisdictional standards should be set. These could include a minimum amount of sales in interstate commerce.

If a $50,000 minimum was set, this legislation would cover only 3.5 percent of the farms and 45 percent of the farm labor of the Nation. Such standards are obviously subject to change as experience dictates.

The action of the National Farmers' Organization did authorize support for the right of labor unions to a union shop.

The NFO previously has testified in favor of the repeal of 14(b) as applied to all labor.

We have no instructions, though, that would indicate any support for the repeal of the secondary boycott.

We would add that this may make the attainment of labor's objectives more difficult, but not impossible. There is not quite the same situation today as faced labor in the 1930's. Labor and labor unions have become respectable and acceptable. Companies which fought unions in 1938 now depend upon them and could not do without them. Can you imagine General Motors negotiating the conditions of employment with each of its workers? Agriculture must mature in its attitude toward farm labor problems.

In closing, let me again remind the committee and our friends in the labor movement that we claim for agricultural producers the same rights to organize and to bargain collectively which we would extend to our employees.

The granting of the privileges contained in our basic labor laws only intensifies and underlines the urgency to assist the farm operators to get the basic equity which we so willingly wish for our friends.

There can be no economic justice in our society until its benefits are extended to all. There can be no peace between management and labor if you impose these additional economic burdens without also helping to lighten the load which we must carry. The day of reckoning between farmers and the public cannot be much longer postponed.

The NFO shall therefore continue to aggressively pursue the objective of equality for agriculture by organizing the producers and their production so that we may successfully bargain for a decent price for the products of our labor.

We see nothing to be gained by withholding the benefits which will accrue to farmworkers from their organization. We therefore support S. 8 as it is before this committee.

But again in conclusion, we cannot wait much longer for the answers to our own problems. The passage of this legislation further reduces the time left for the finding of an acceptable and equitable solution to the problems caused by inadequate prices and inadequate farm income.

We trust that you will support us in this attempt as we support our friends in labor in their present problems.

When all segments of American agriculture, the farmowner, the farm laborer, and the farm tenant, have attained an equitable return for their labor, their risk, their management, and their investment the basic factors of economic inputs into the production of food and fiber, then our American economic system will have justified the faith we have placed in it.

May the actions of this great body hasten that long expected day.

Senator WILLIAMS. Hear! hear!

We certainly appreciate your fine statement, Mr. Graham.

I will be very brief.

I note that this past December 1968 your organization gathered in convention in St. Louis.

Mr. GRAHAM. Right.

Senator WILLIAMS. 11,000 delegates. How was the St. Louis hospitality?

Senator EAGLETON. I spoke there.

Senator WILLIAMS. You had a good convention?

Mr. GRAHAM. Yes; we did. Senator Eagleton was one of the speakers, which helped make it a better one.

Senator WILLIAMS. Very good. I get some appreciation for the size of your organization from the fact that 11,000 delegates met in St. Louis. And there your expression of support for National Labor Relations Act coverage of farmworkers came about through discussion and resolution. Is that right?

Mr. GRAHAM. Oh, yes. They use the regular resolutions from the local organizations, the State organizations, and the committee system for consideration, and then bringing them to the floor for a vote, for open discussion on them, if anybody wants to.

It is a pretty deliberative and democratic process. The fact of the matter is occasionally it would seem to me they have leaned over pretty far to be sure that it was that way.

Senator WILLIAMS. How many members do you have in the organization, Mr. Graham?

Mr. GRAHAM. There you have asked the question I don't know.

Also by action of the delegates, each year they have reaffirmed that membership figures are not to be released. Part of the reason for doing this is because they are engaged in negotiations, and they are not going to tip their hand all the time. I don't even get these figures. So I cannot tell you.

Senator WILLIAMS. I see.

Mr. GRAHAM. I have got some good ideas but——

Senator WILLIAMS. Membership is not public. It is certainly no secret organization?

Mr. GRAHAM. No, no. Hardly. That is the understatement of the morning.

Senator WILLIAMS. Senator Eagleton.

Senator EAGLETON. Thank you, Mr. Chairman.

A couple of quick questions, if I may, Mr. Graham.

Now, specifically, I would like to redirect your attention to your statement about coverage of the family farmer, and who should be covered under this.

As I understand the present NLRA, by rule or custom, the NLRB, the Board, does not exercise jurisdiction unless there is $50,000 in interstate commerce, and I am wondering whether we should consider in this legislation writing into the legislation a specific coverage limit, and if we should what that specific coverage limit ought to be. Should it be in terms of dollars, or in terms of number of employees, or what?

Mr. GRAHAM. I think our feeling is that in determining the minimum number of employees to be covered is probably a situation where you have to take the place of God a little more than if you get at some kind of a figure that is generally accepted in terms of application of our other Federal laws, and that is the amount of produce that moves in interstate commerce.

If none of this was moving in interstate commerce, there could be a real question as to whether they have any right to organize, under this kind of legislation, and so, because it has been used as a determining yardstick in the NLRB, we threw it in here, with no feeling as to the sacredness of that particular figure.

What we are trying to say is there ought to be some way of doing it.

Maybe it should be on the kind of exemptions that were put in when minimum wages were applied to agriculture. This is a bit sticky to work out, too.

There is no real good way to do this and no foolproof way which does not raise some criticism, and what we were suggesting is that to write a determination into the legislation might be more difficult than to write into the legislative history the desire and the intention that the Board that administers this should arrive at some definition, and maybe do it in a particular way.

If you can arrive at it yourself, they are that much better off, but you may bog down quite a while on doing that one.

Senator EAGLETON. It just troubles me a little——

Mr. GRAHAM. It troubles me, too.

Senator EAGLETON (continuing). That if we cannot agree amongst ourselves, and come up with a good statutory definition of the juris-

diction that the NLRB should exercise in this regard, that we will just, in essence, turn it over to the NLRB and say, "Well, you exercise jurisdiction when you sort of think you maybe ought to sort of do."

To me, it is a rather vague, amorphous legislation, when it is done on that basis.

Mr. GRAHAM. Well, this thing gets awfully complicated when you go to thinking in terms of, on the one hand, a large organization that might have 500 employees, which would obviously come under this kind of legislation, and, on the other hand, where there is a lot of individual owner-operator farms—the difference between the west side of the Central Valley and the east side of the Central Valley in California is a good example—where the west side would be almost entirely organized, the east side would not. But supposing both the workers and the farm operators on that east side decided that they needed to follow a system something like a hiring hall, and none of them would by themselves have enough production or employ anybody enough man-days to permit the benefits of this act to accrue to them.

Now, how do you take care of that? This is the complication that was in the back of our minds when we tried not to get it in terms of man-days, because it is pretty hard to do, if you think of this being a growing situation. I think it will be.

The other reason I suggested putting it in the legislative history is that legislative histories are a little easier to interpret than legislative fiat, in terms of a law, although I remember one time, 3 or 4 years ago, when we had a bill introduced to change the legislative history of a bill in order to permit the Farmers Home Administration to do something that they could not do under the legislative history. So you cannot get out of it very easily in terms of legislative history.

It is just as binding as the other, but maybe just a little easier to write.

I am not being stubborn about this. I just don't know an overall good answer.

Senator EAGLETON. Well, finally this, on that subject. I don't know the answer, either, and you don't know the answer, and presumably, if all the members of this committee don't know the answer, how is the NLRB—if this becomes law, and they pick up this very short statute—how are they going to know the answer as to where to begin and to end jurisdiction?

Mr. GRAHAM. My guess is that we are going to learn that answer through some experience, that somebody is going to just pick a point out here somewhere, and say, "Well, this is it." Then, after a while we may get to arguing about this point, and one reason for not making it a part of the statutory law would be that there would probably be a little more flexibility when the experience would indicate what the results should be.

I think we are going to learn this from experience, to be honest about it.

Senator EAGLETON. Thank you, sir.

Thank you, Mr. Chairman.

Senator WILLIAMS. Senator Bellmon.

Senator BELLMON. Mr. Graham, I am interested in several of the comments in your statement.

You mentioned that the NFO has already had substantial successes in the field of getting better prices for farm commodities. You mentioned meat animals, milk, and potatoes.

How have you been able to achieve these successes? What are your methods?

Mr. GRAHAM. Basically it is blocking together enough production and setting a price on it, and holding it to the point that somebody is going to pay that price.

Incidentally, you don't have to tie up all the production in the country to improve prices. For instance, in meat, if you pull out of an area 20 percent of the animals that are going into a packinghouse, this in itself will make an inefficient operation out of that packinghouse, and another 25 cents or 5 cents a hundred is probably cheaper in the long term to them than to run an operation inefficiently.

This is it, basically—it varies a little with commodities—but it is the ability to block together and move these commodities from an area in which a regular market pattern has been developed into another area, and disrupt the market patterns.

That gets the job done. You don't have to hold it forever, incidentally, either.

Senator BELLMON. How do you manage to hold milk?

Mr. GRAHAM. Well, milk is a pretty difficult thing, as you well know. What has happened in the milk withholding actions, and they don't use "withholding." I have been in the NFO not so long but what I use the terms I have used before I went with them. I have not got all my language straightened out yet.

But two things were done with the milk. One is; it was diverted. Where it was fluid milk, it was diverted into manufacturing plants; and the other was, it was dumped.

Senator BELLMON. Dumped; you mean down the sewer?

Mr. GRAHAM. Yes. Well, most farmers don't have sewers. It was dumped somewhere on the farm, generally, although there was some dumping in the cities, where there were sewers.

Senator BELLMON. Do you feel that the Congress should write legislation that encourages, or allows, farmers to band together and destroy food in that way in order to get a better price?

Mr. GRAHAM. I don't see why not. That is what everybody else does. Why is it more pertinent that food be——

Here, again, you see, we get an exemption from the regular order of business. We have never created hunger. The food that has been withheld from the market has been offered to charity. We offered it for use in overseas relief a year ago, in terms of both milk and meat, and for private relief in charitable organizations.

The fact of the matter is, nobody had a method by which they could take advantage of the offer. If that was more readily available, I don't think there would be any question in which direction it would go. But who do you get to process this; how do you separate it from what somebody else has?

But why should food be held out differently than—well, for instance, air traffic? This is an important thing in our economy today, the ability to get back and forth, and we have airline strikes. We need automobiles, and yet we have automobile strikes. We go all down the line with what adversely affects the community.

And I know what you are thinking about, because I came up with this same morality, and that is, the destruction of food is per se basically wrong. But if it is wrong, then the destruction of other capital and its products is also basically wrong, but we apply this double standard to food that we would not apply to anything else.

I personally have trouble in my own thinking when this happens. I think a lot of the farmers are troubled by this also, and they are not doing this with a great deal of relish, but, on the other hand, sometimes they don't have many choices, either.

It is like the fellow that hit the mule with a 2 by 4 and knocked him down before he started to teach him anything. He had to get his attention. And part of this has been just simply that.

No, I don't think the Congress has to write a law to permit this. I don't think you can write a law that tells a farmer that he cannot pour his milk out on the ground if he wants to. I don't think you can write it and enforce it, unless you are going to nationalize the land, and nationalize the whole farming industry. Then you might be able to do it.

Senator BELLMON. You mention that a quick and fair answer to this problem, well, is one of jurisdiction, where you are talking about there will be one day when farm bargaining organizations vie for the right to represent producers, and you apparently are—at least my impression is that your feeling is that some day Congress may have to help settle this matter as to who will really bargain for farmers. Is this it?

Mr. GRAHAM. I think that the farmers are going to need the same method of determining who is their bargaining agent that labor needs.

I just don't see how we can avoid this one forever. What is happening is that we are putting it off until we have to do it, but I think it would have been wise if we would have provided for that contingency some kind of referendum, when we passed S. 109. It is one of the major flaws in the bill, in my judgment, and I think we are going to face it some day.

Senator BELLMON. In other words, you would like to see the bill, then, include not only—the term that we heard here earlier this morning was "industrialized agriculture"—but all agriculture?

Mr. GRAHAM. Sure. I am not so keen on this business of picking out one segment of agriculture. I think that they are different in the way they operate, but I think the same laws generally will work their way out.

I mean the problem will work itself out under equitable laws, without making specific laws to apply to the large conglomerate corporate type structure and another to apply to the owner-operator structure.

Where you draw this line is a very difficult thing, especially now, since you get corporations that are being formed by private families, and you know this problem, and the reasons for it—the valid, perfectly valid reasons for doing it. It is a matter of good business and good judgment, and so you cannot go all out against corporation farmers.

This thing has a way of being oversimplified, sometimes, which I don't think can be followed out in true practice.

Senator BELLMON. I certainly agree with you, Mr. Graham, that the problem is not simple, and also, there is a considerable degree

of emotion that becomes involved, which the Congress will feel, if we come to a time in this country when there is widespread withholding of food from the market, whether it is destroyed or whether there comes a time when there just is not any bread for sale, and our graineries are full of grain, and I think we have to recognize this as we are considering this sort of legislation.

Mr. GRAHAM. I don't think that in the final analysis that the farmer has any more right to really endanger the national welfare than anybody else has. Nothing that has been done in the withholding by the NFO, or other people who have done the same thing, has any ways near threatened the national welfare.

We have such an abundance of food that there is plenty of food here yet. Now, if the time should come—incidentally, I think that NLRA has some provisions there to take care of this. The 80-day cooling-off period would apply to both the producers and the employees, you see.

The injunctive process that could be used at the direction of the President would apply all the way across the board.

This is one reason we like this approach. It does give a broad application of general law, and in our judgment this is a much safer way of going than the specific pointing of fingers at small segments of this part of the economy and another part of the economy.

Senator BELLMON. Mr. Graham, is there any question in your mind that if this committee and the Congress approve the law which causes collective bargaining by farmworkers, that it would be only a matter of time until we will have farm producers also in the position of having to sell collectively?

In your opinion, does one lead to the other?

Mr. GRAHAM. Well, I think they are developing simultaneously. I don't think they depend on each other.

The amount of produce that the NFO is moving through its marketing division today indicates that we are moving about as fast as the organization of farmworkers is.

And I don't think they are interdependent at all. I think they are both inevitable. Because of the changing situation, in economics generally, in which we are living, such as the concentration of purchasing power in the hands of a very few consuming representing groups such as the supermarket, which handles so much of the produce. Where this is practiced, the price is dictated by the national company policy, and not by market factors, many times.

This is a part of the situation, when previously, in dairying, for instance, there were little cheese and cream plants, all over the country. Every town of 2,000 people had one. They are completely irrelevant to today's world.

And because we are dealing with national organizations, we almost have to develop a system of bargaining in which we can bargain on a nationwide basis in those commodities that are produced on a nationwide basis.

It is a thing we are being driven to, not being talked into, I think.

Senator BELLMON. Well, now, do you feel that ultimately it is going to be up to the Congress, or to the NLRB, or to some other board to decide whether or not 30-cent hogs are too high?

Mr. GRAHAM. No; I don't think this. It is not up to them to do that, no more than——

Senator BELLMON. If the NFO decides that no one will sell hogs until they get 30 cents——

Mr. GRAHAM. I don't think Congress has any more business setting that figure than it does setting a top figure per hour on what labor can get, and I don't think they are about to do that, or earnings that a corporation can make.

You get into a problem that is basic to our whole economic system when you start going this way. I think farmers, by the nature of their production and the nature of the market, have to stay within the realm of some kind of reason. They cannot get clear out of the ball park in what they demand, or they are out of business, too.

This is the protective device built into the system: that they simply cannot stay in business if they stop production. They cannot do it as well as a factory can, because when they shut down their selling, their costs continue.

For instance, when the farmers were dumping milk, it cost them just as much to run their farm while they were dumping milk as it did when we were selling it, and there is a practical limit beyond which they cannot go, and I think until we get a lot more information than we have at the present time, and a lot more experience, that there is no need to cross that bridge yet.

I just don't think that it can happen. It theoretically could. Practically, I don't think it is possible.

Senator BELLMON. So your feeling is, then, that insofar as the selective and selling aspect is concerned, that there is not really any need, or probably never will be any need, for Government to involve itself with this?

Mr. GRAHAM. Well, it is already involved, in the Robinson-Patman Act. We do have some basic farm legislation protecting the right to organize and to sell, and we have had it for many years. There are also provisions for protecting the general welfare. So they are involved in it now.

Senator BELLMON. Well, now, in S. 8, on page 2, and I know you don't have a copy, the language specifically limits itself to an employee, to employees, and my reason for asking these questions is whether or not we should amend the legislation so that it would also include the producers of agricultural products and allow them to band together for purposes of getting a fair price for the products they grow.

Mr. GRAHAM. We would not object to that. For the purpose of that kind of language, that was included in S. 109, last year, so I think it is superfluous.

Senator BELLMON. That is all, Mr. Chairman.

Thank you, Mr. Graham.

Senator WILLIAMS. Thank you vrey much, Mr. Graham. You have been most helpful.

Mr. GRAHAM. Thank you.

Senator WILLIAMS Our final witness this morning is Mr. Marvin Braiterman, counsel for the Commission on Social Action, Union of American Hebrew Congregations.

Mr. Braiterman.

STATEMENT OF MARVIN BRAITERMAN, COUNSEL, COMMISSION ON SOCIAL ACTION OF UNION OF AMERICAN HEBREW CONGREGATIONS

Mr. BRAITERMAN. Mr. Chairman, I prepared a very brief statement, so whatever time the committee has, you can ask me some questions about it.

I am Marvin Braiterman, counsel to the Commission on Social Action of Reform Judaism. The commission is a joint instrumentality of the Central Conference of American Rabbis and the Union of American Hebrew Congregation.

Other national agencies which are members of the commission on social action are the National Federation of Temple Sisterhoods, the National Federation of Temple Brotherhoods, and the National Federation of Temple Youth.

The commission and organizations affiliated with it have been before committees of Congress on a number of occasions with reference to problems of farm labor ever since the Union of American Hebrew Congregation adopted at its 46th general assembly of November 1961, a comprehensive resolution on problems of migratory farmworkers. A copy of that resolution is attached to this text.

Of all of the regional councils of American Reform Judaism which have been close to the problem, that in northern California has perhaps been closest.

In 1963 a resolution by the Northern California Council of the Union of American Hebrew Congregations was approved by the executive committee of the UAHC board of trustees. A copy of that item is also attached, covering a whole group of programs that we feel are necessary to achieve justice and equity for those who work in American agriculture.

But this situation cannot simply be left to legislation at the State or Federal levels. A real requirement of ultimate solution to the problem of the worker in agriculture raises the freedom and effectiveness of his association with his fellow workers to a level that will enable him to bargain fairly and compete on more nearly equal terms with those who employ him.

To that end, our office has testified in favor of extending the provisions of the National Labor Relations Act to farmworkers on two occasions in 1967, once before the House and once before the Senate. (Reference is made to the testimony of Rabbi Richard G. Hirsch in support of S. 8 and its companion measure, H.R. 4769, in the 90th Cong.)

Briefly, we see the situation this way:

1. Judaism has a traditional position favorable to the right and the value of associations of workers and equitable treatment of labor by employers.

2. In the context of the industrial and technological age, this requires the greatest possible encouragement and support of free collective bargaining.

3. Therefore, the exclusion of whole classes and categories of employees from the most widespread and thoroughgoing protection of collective bargaining rights and facilities should not be continued

unless the burden of proof that such exclusions are just and necessary is clear, virtually beyond any reasonable doubt.

4. As to agriculture, if it was ever just and necessary to exclude farmworkers from the coverage of the National Labor Relations Act—of which we have some doubt—it is clear to us that justice and necessity require that this exclusion be ended now.

We do not ask farmworkers why they should be covered. Rather, we ask those who oppose their inclusion why they should not be covered. So far, we have learned no satisfactory reason.

5. If the passage of time has had any effect on the answer to this question, the case for coverage of farmworkers under the National Labor Relations Act is stronger now, and becoming stronger with each passing year.

Greater concentrations of ownership commercialize agriculture more and more. Wider distribution of agricultural products makes Federal protection more and more appropriate.

Increasing technology in agriculture, which literally converts the farm into a farm factory, makes the farmworker a close counterpart of the industrial worker. The biggest difference remaining between them, that which makes working on the farm most special, is the archaic exclusion of such farmworkers from the coverage of many legislative programs which afford social protection to those who would otherwise be victims of an industrial society.

Among the most significant exclusions, the removal of which we think is a basic ingredient of a new social and economic bill of rights for the American farmworker, is the right and the encouragement of free collective bargaining, not unlike that afforded to others who work to produce the food, fiber, goods, and services of American society.

Senator WILLIAMS. Senator Bellmon, do you have some questions?

Well, we appreciate your statement very much, Mr. Braiterman.

Now, you have had an opportunity this morning to hear the testimony and the statements of Mr. Greene and Mr. Graham.

Coming to Mr. Greene's statement, particularly, even before Mr. Greene's statement, I am sure you appreciate the hearing record.

Mr. BRAITERMAN. Yes, I am fairly familiar with it, Senator.

Senator WILLIAMS. That antedates you, and we have, I think it could be stated, perhaps overly simplified, that we have basically three broad approaches here to the question of farmworkers and labor organizations for them.

We have S. 8, the bill that brings on these hearings, which would include farmworkers, not all farmworkers, but those that could be reached practically, under National Labor Relations Board guidelines, would include them under the National Labor Relations Act, and, of course, the act as amended, the act as it is today. That is one.

We have, at the other side of the spectrum, those who do oppose this, with some vague expressions of some kind of improvement of order in the disordered economy of agriculture.

And then we have another part of our spectrum, the advocacy of inclusion within the National Labor Relations Act, but, to be very simple, not as amended by Taft-Hartley and Landrum-Griffin.

Have you, in your thinking, come to any conclusions on the desirability of any of these particular approaches?

Mr. BRAITERMAN. Yes, sir; to this extent: There is a considerable amount of sympathy in our constituency for the repeal of section 14(b) of the Taft-Hartley Act.

As a matter of fact, again referring to a prior record on the subject, Rabbi Hirsch testified on behalf of the Central Conference of American Rabbis in favor of the repeal of section 14(b).

We would obviously not oppose the enactment of S. 8 in terms of the old Wagner Act, without the 14(b) provision, since we don't like the 14(b) provision, generally speaking, anyhow.

On the other hand, we have not reached the point of despair, where we are prepared to say that S. 8 should not be enacted unless it can be enacted in terms of the old Wagner Act, before the days of Taft-Hartley and Landrum-Griffin.

It seems to us, particularly with reference to the matter of 14(b), that 14(b) does not enact the Federal right-to-work law, that farmworkers would achieve a considerable amount of improvement in their status under S. 8.

We have some doubt that 14(b) type right-to-work laws could be enacted in the States where farmworkers would need the protection of S. 8, so that perhaps 14(b) is symbolic of the judgment of some people who support this legislation as a tremendous obstacle. We would hope that it is not.

Our judgment is that it would be a very nice thing if S. 8 could be enacted in terms of the days of labor relations before the enactment of 14(b), but we are not prepared to say that the Congress should not enact S. 8 unless it can take on the additional baggage of a battle over 14(b).

With reference to some of the other matters in Taft-Hartley and Landrum-Griffin, we feel somewhat the same. There are provisions in Taft-Hartley and Landrum-Griffin which perhaps it would be nice, from the point of view of the developing organization of the farmworkers' community, if they were not there, but recognizing the political realities, we think that the farmworkers would probably be well advised to have S. 8 as it is presently before the Congress rather than to have this chaotic condition that is now in existence.

Senator WILLIAMS. I appreciate that very much.

I can only speak for myself. Personally, out of an announcement I heard, and did not read, but it came to me over a radio report on Sunday, I had hoped that there would be meaningful negotiations and discussions in collective bargaining circles in the California grape strike and boycott.

I gather that the early hope was not founded on the situation as it in fact was, but there are some encouraging early developments, I understand, that there has been the UFWOC acceptance of the idea that Federal mediators be brought to the scene, to come to the scene and offer their good offices, help in trying to work the situation for discussions.

It seems to me the intelligent way, and the way that many of the growers there now look at their particular economically wasteful situation.

I don't know where we are going on that. I thought that this would be some evidence that what we are trying to do here is to create an

orderly framework for labor-management in the heretofore overlooked agricultural industry.

Mr. BRAITERMAN. Yes, sir. It seems to us that the wine grape producers, for example, lost a fortune, and then, inevitably, the inevitable happened, and the wine grape growers entered into collective bargaining arrangements, and the table grape growers will eventually inevitably do the same thing.

This kind of knee jerk reaction to collective bargaining arrangements authorized legislatively in an orderly and efficient and equitable procedure is materially costly to growers, and to food processors, and to consumers, and to other parts of the community, not just farmworkers. We have maintained, both with reference to this specific legislation and in the area generally, that as the farm begins to take on the character of industrial society, those things that industrial society clearly has demonstrated a need for, such as collective bargaining procedures, are the best solution for all parts of that industrial society—employers, employees, consumers, et cetera.

I got some stories, too, out of California, more recently than Sunday, to the effect that there might be some movement toward a resolution of that, at least of the initial stages of the bargaining procedure, with reference to the grape situation. Once it happens, would it not have been better for it to have happened 6 months ago, or 2 years ago, than to have had all of that loss and bitterness, and considerable dislocation in the industry, and on the farm, that has resulted from a situation where nobody had a legal leg to stand on, and the law of the jungle, in effect, was what was being utilized?

Eventually, the jungle becomes civilized, and we see S. 8 as a way of doing that.

Our regional organization out there in San Francisco has met with the growers and other people connected with the situation from time to time, over the last several years.

We know the growers, for example, talk about seasonality. Well, there are other seasonal businesses that could not do without the protection of regularized collective bargaining arrangements.

I think of the business of longshoremen operating the handling of ships for stevedoring companies. Those contracts, and regularization of those contracts, are terribly important in the stevedoring industry.

Labor contracts in areas of special transportation, highly seasonal, refrigerated transportation, heated transportation, what-have-you—labor contracts are terribly important to the regular and efficient management of those businesses.

Getting closer to agriculture, the regularization of collective-bargaining arrangements in the food-processing businesses are very important. Food processing is probably nearly as seasonal as agriculture itself. It is only one step away from the tree.

Finally, if seasonality presents such a terrible crisis to the employer of farm labor, we have to recognize that seasonality presents a terrible crisis to the unorganized farmworker, too, because without regularized collective-bargaining arrangements, he only has a brief moment when he has any bargaining power. But at that time, he is also the victim of the impact of seasonality.

The prices that are paid to him for his labor can be suddenly cut, and he cannot do anything about it, because he depends on the picking

season, or the planting season, as the only time when he can make a few dollars, until the period of time passes.

If it is true that seasonality raises any special problem on the farm, it speaks as well for the enactment of S. 8 as anything else. It certainly should not be an argument against S. 8.

Senator WILLIAMS. Well, I am glad that you did bring up that seasonality argument used against the legislative approach, and included some areas of seasonality that we have not discussed.

I was thinking of one this morning, and I had forgotten to raise it, one that has not been raised in these hearings, the seasonality of vacation resort industries.

Mr. BRAITERMAN. The hotel and restaurant and entertainment industry and vacation resorts are a highly seasonal business.

Senator WILLIAMS. And highly organized.

Mr. BRAITERMAN. And highly organized; and, incidentally, only recently highly organized, and until that organization began to reach down to levels of less and less skilled labor, one of the most underpaid and perhaps one of the most unrepresented areas of the labor force.

Now here I am talking about the unskilled labor in hotels, kitchens, and that sort of thing.

Senator WILLIAMS. Yes.

Mr. BRAITERMAN. You had asked a question earlier, Senator, why farmworkers were excluded from New Deal social legislation. That is, I said something in my statement to the effect that we were not sure that they ever should have been. That was probably a mistake, but nevertheless, historically, I think it is pretty clear.

The New Deal social legislation, and the legislation that was enacted in the States—all the New Deal period legislation was not Federal—the legislation that took place in the States during the 1930's and in the several decades of the 20th century before that, when it was directed toward the farm, was directed toward the farm in the nature of a small, independent agricultural operation. Social legislation with reference to the farm concerned itself, and perhaps quite properly, with areas of prices, with areas of credit and banking, with areas of rural development, and that sort of thing, treating the American agricultural population as if it were a poverty-stricken owner and operator of a farm, which to a great degree was the character of the American agricultural population in the early decades of the 20th century.

But that left them out of a lot of other legislation that was essentially designed for an industrial society. It has been mentioned here—wages and hours, workmen's compensation, certain kinds of safety legislation, certain kinds of legislation pertaining to the employment of children and women, certain kinds of legislation pertaining, eventually, as codified by the Wagner Act, to collective bargaining in industry.

Agriculture was not thought of as an industrial sector of our society. Perhaps it should have been, because even by the 1930's there was starting to be visible a whole section of society that could be considered to have been victimized by some of these same problems.

You had sharecroppers, you had tenant farmers, you had migratory workers, you had casual employment, and all of those other factors,

so that you had a considerable amount of employer-employee relationships in the 1930's and before, but they were excluded because the farm problem was essentially thought of as a problem involving small owners and operators of farms.

But now, we still have small owners and operators of farms, but they increasingly represent a smaller and smaller amount of American agricultural production, both for consumption in the United States and around the world. Increasingly, a greater and greater percentage of production is the result of the addition of capital and machinery, which has an industrial connotation to it, on the farm, the conglomeration of larger and larger economic units on the farm, and the use, where physical and human labor is necessary, of production by employees rather than operators.

So my reaction to your question this morning was that we probably overlooked a substantial segment of the American agricultural population because we had a kind of a fantasy as to what the American farm community was like then.

But by this time, we should not have any fantasies about it any longer, and that is the reason for applying what are in part industrial solutions to social problems on the farm, and why they were not applied 30 and 40 and 50 years ago.

Senator WILLIAMS. I am glad you make that statement.

The folklore of the family farm has given way in substantial degree to the large, organized agri-industry that you described. That is fact.

I mean, that is fact, and can be documented, for example, documented to the point where we do know that if the legislation S. 8 should pass, and if the National Labor Relations Board should use, and we are advised if they would use present jurisdictional guidelines of $50,000 in the gross of a farm, as the jurisdictional cutoff, then only 3.5 percent of the farms would come under the test for Board coverage, and yet that would represent employment of about 50 percent of the farmworkers.

Mr. BRAITERMAN. And it would represent far more than 3.5 percent of the agricultural production in the United States. It would be 3.5 percent of the farms, which produce a tremendous percentage of farm produce.

Senator WILLIAMS. That is a statistic I did not include, I don't have, and that is one that we should include in the record, and I appreciate your observation.

Then the statistical fact of the size that the farm has grown to would be made quite clear.

Mr. BRAITERMAN. Exactly.

Senator WILLIAMS. Well, it has been a very, very helpful morning. You fellows were sharp, even though you did not have bill opponents here to further sharpen your discussions against, but I think you do know, you have indicated you all know how the opposition forces range, and have considered that.

That is all for the record, except for this, that a number of technical questions have arisen during the hearings as to how the National Labor Relations Board might administer the act with respect to farmworkers, and these questions were fully, and in my judgment authoritatively answered by Mr. Ogden Fields, executive secretary to the Board, during hearings on the legislation in the last Congress.

Rather than ask Mr. Fields to come again and plow the same ground, without objection, his earlier statement will be incorporathed in the record at this point.

Following Mr. Fields' statement I order printed the statements of those who could not attend and other pertinent material submitted for the record.

(The material referred to follows:)

PREPARED STATEMENT OF OGDEN W. FIELDS, EXECUTIVE SECRETARY, NATIONAL LABOR RELATIONS BOARD

My name is Ogden W. Fields. I have been employed by the National Labor Relations Board since 1941. Since 1960 I have served as its Executive Secretary. I feel honored to respond to the Committee's invitation to appear and testify concerning the technical problems that may be anticipated by my agency in administering the proposed amendment.

More specifically I am here to discuss from a technical standpoint whether or not it is practicable for the Board to conduct elections in seasonal and migratory industries and what particular administrative problems may be foreseen in extending collective bargaining to agricultural workers in the event S. 8 is enacted by Congress. I am here as a so-called "expert witness," if you please, not on the policy question of whether the Act should be amended to cover agricultural employees—that is a matter for the Congress to decide—but on the question of whether the Board can do the job if Congress decides to give it to us.

My simple answer is that we can.

As you know, in addition to removing the agricultural exemption from Section 2(3)) (National Labor Relations Act, as amended), the rider attached to our appropriations annually since 1946, precluding the use of Board funds in connection with agricultural labor, would also have to be removed if the Board is to exercise jurisdiction.[1]

Other legislative amendments appear necessary only if the Congress itself wishes to determine the standard for the Board's assertion of jurisdiction over agricultural employers and to broaden the scope of bargaining units beyond single-employer units into multi-employer or production or marketing area units.

Most of the problems that may be reasonably anticipated if S. 8 is enacted can, and should without too much difficulty, be solved through the administrative process rather than by legislation.

The Board has had a wealth of experience in exercising jurisdiction over seasonal and migratory industries. Over many years it has built up in these industries a substantial body of case law and procedural practices that have won the approval and support of the Circuit Courts of Appeal and the Supreme Court.[2] And much of this experience was developed in industries directly and immediately related to agriculture, such as the packing, canning, and food-processing industries. Definition and content was given to the term "agricultural laborer" by the Board and the Courts in a number of representation and unfair labor practice cases. The tests were practical, evolved from the character of the work performed as modified by custom.[3]

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[1] Since the establishment of the National Labor Relations Act in 1935, agricultural labor has been excluded from the coverage of the Act and thus from its benefits and protection as well as from the responsibilities the Act imposes. The definition of employee, under Section 2(3) of the Wagner Act, specifically excludes ". . . any individual employed as an agricultural laborer . . ." This identical language was retained in the Taft-Hartley and Landrum-Griffin amendments of the Wagner Act.

In addition to this statutory exclusion, since 1946 Congress has added a rider to the Board's annual appropriation act which provides that no part of its funds shall be used in connection with bargaining units of agricultural laborers. However, unlike the statute which does not define or otherwise clarify the term "agriculture laborer," the appropriation rider defines the term as found in Section 3(f) of the Fair Labor Standards Act. Appendix A.

[2] *North Whittier Heights Citrus Ass'n.* v. *N.L.R.B.* 109 F. 2d 76 (9th Cir. 1940), cert. den. 310 U.S. 632; *N.L.R.B.* v. *Tovrea Packing Co.*, 111 F. 2d 626 (9th Cir. 1940), cert. den. 311 U.S. 669; *Idaho Potato Growers, Inc.* v. *N.L.R.B.*, 144 F. 2d 295 (9th Cir. 1944), cert. den. 323 U.S. 769; *N.L.R.B.* v. *Edinburg Citrus Association, Inc.*, 147 F. 2d 353 (5th Cir. 1945); *Bowie* v. *Gonzales*, 117 F. 2d 11 (1st Cir. 1941).

[3] See cases cited in footnote 2.

The seasonal need for large numbers of temporary employees to handle lightly perishable products is not unique to agriculture. Nor is the fact that some employees are migratory. These characteristics exist in fruit and vegetable packing, canning, and freezing, sugar processing, cotton ginning, production of alfalfa meal, fertilizer, potato warehousing, nursery stock warehousing, etc.[4]

The Board has also gained much experience from other industries where employment is seasonal or of brief duration and the employees migratory or mobile, such as the fishing and construction industries, in addition to a miscellany of non-food seasonal industries, such as toy manufacturing, lawn mowers, recreation, soft drink, gift packing, greeting cards, etc.[5] The Board has decided representation issues and conducted elections successfully in thousands of cases in these industries.

Accordingly, in my opinion, many of the principles, procedural practices, and techniques in these related or analogous industries would be readily applicable to agricultural employees now excluded from the Act.

There would, of course, still be some difficult and complicated problems. And the degree to which Board policies and practices evolved for other industries may be successfully transmuted to agricultural labor, to solve such problems, varies. Let us try to anticipate some of the problems that might arise and see if existing policies or principles apply or whether new solutions need be found by the Board or be provided by legislation.

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[4] (1) Packing: *American Fruit Growers*, 10 NLRB 316 (1938) (lettuce packing sheds in Salt River Valley, Airzona); *North Whittier Heights Citrus Association*, 10 NLRB 1269 (packing citrus); *Grower-Shipper Vegetable Association of Central California*, 15 NLRB 322 (1939) (packing lettuce); *John W. Campbell, Inc.*, 58 NLRB 1153 (1944) (packing tomatoes); *J. J. Crosetti Co.*, 98 NLRB 268 (1952); *Antile Carrots, Inc.*, 110 NLRB 741 (1954) (packing carrots); and *C. A. Glass Company, Inc.*, 111 NLRB 1366 (1955) (packing carrots and corn); *Bodine Produce Co.*, 147 NLRB 832 (melon packing shed); *Garin Co.*, 148 NLRB 1499 (asparagus packing house); *H. H. Zimmerli*, 133 NLRB 1217 (potato packing shed); *Norton & McElray Produce*, 133 NLRB 104 (preparation of lettuce & trucking); *Stockbridge Vegetable Producers, Inc.*, 131 NLRB 1395 (lettuce warehouse);

(2) Canning: *H. J. Heinz Company*, 49 NLRB 573 (1943) (tomato catsup, chili sauce, tomato juice, etc); *Wm. P. McDonald Corporation*, 83 NLRB 427 (1949) (canning citrus fruits and juices); *Stokely-Van Camp, Inc.*, 102 NLRB 1259 (1953) (canning peas, lima beans, potatoes, etc.); *G. L. Webster*, 133 NLRB 440 (1961) (canning asparagus, tomatoes, etc);

(3) Processing sugar: *Franklin County Sugar Company*, 92 NLRB 1341 (1951); *Evan Hall Sugar Cooperative, Inc.*, 97 NLRB 1258 (1952);

(4) Processing green alfalfa into alfalfa meal: *Archer-Daniels-Midland Company*, 97 NLRB 1463 (1952);

(5) Ginning cotton: *J. G. Boswell Company*, 107 NLRB 360 (1953);

(6) Processing turkeys: *Nephi Processing Plant, Inc.*, 107 NLRB 647 (1953);

(7) Freezing vegetables: *Oregon Frozen Foods Company*, 108 NLRB 1668 (1954);

(8) Warehousing potatoes: *The Great Atlantic & Pacific Tea Company*, 113 NLRB 865 (1955);

(9) Seafood packing: *Coubourne & Jewett*, 59 NLRB 176 (1944);

(10) Milk processing: *Alta-Dena Dairy*, 150 NLRB 1537; *Shoenberg Farms*, 129 NLRB 966;

(11) Egg and poultry processing: *Strain Poultry Farms*, 160 NLRB No. 22;

(12) Feed mills: *Samuel B. Gass*, 154 NLRB 728; *Empire Mining Co.*, 117 NLRB 1782;

(13) Rice drying: *Sweetlake Land & Oil Co.*, 138 NLRB 155;

(14) Mushroom processing: *Oxford Royal Mushroom Products*, 139 NLRB 1015;

(15) Nursery stock: *Kelly Bros. Nurseries*, 140 NLRB 82.

[5] Fishing: *Alaska Salmon Industry, Inc.*, 110 NLRB 900, 81 NLRB 1335, 82 NLRB 1056; *Southern Shell Fish Company, Inc.*, 95 NLRB 957; *Seafood Producers Association of New Bedford, Inc.*, 95 NLRB 1137; *F. Alioto Company, et al.*, 129 NLRB 27; *Boat Serafina II, Inc.*, 155 NLRB 910; *Casebeer & Foland*, 149 NLRB 742 (whaling); *Krist Gradis, et al.*, 121 NLRB 601; *Monterey-Sardine Industries, Inc.*, 26 NLRB 731; *Fisherman's Cooperative Association, et al.*, 128 NLRB 62.

(2) Construction: *Plumbing Contractors Association of Baltimore, Maryland, Inc.*, 93 NLRB 1081; *Daniel Construction Co.*, 133 NLRB 264; *Trammell Construction Company, Inc.*, 126 NLRB 1365; *Broomall Construction Company*, 127 NLRB 344; *Greene Construction Company*, 133 NLRB 152; *Sioux Falls Builders Association*, 143 NLRB 27; *Delmont Construction Company*, 150 NLRB 85; *R. B. Butler, Inc.*, 160 NLRB No. 131.

(3) Miscellaneous: *Musgrave Mfg. Co.*, 124 NLRB 258 (lawn mowers); *Aspen Skiing Corp.*, 143 NLRB 707 (ski facility); *Coney Island*, 140 NLRB 77 (amusement park and concessions); *Sprecher Drilling Corporation*, 139 NLRB 1009 (oil well drilling); *Trade Winds Drilling Co.*, 139 NLRB 1012 (oil well drilling); *Baugh Chemical Co.*, 150 NLRB 1034 (fertilizer plant); *Micro Metalizing Company, Inc.*, 134 NLRB 293 (metal plating plant); *Pepsi Cola Bottling Co. of Chattanooga*, 132 NLRB 1441 (soft drink bottling); *The F. A. Bartlett Tree Expert Co.*, 137 NLRB 501 (foliage spraying); *Lilliston Implement Co.*, 121 NLRB 868 (farm implements); *Mission Pak. Co.*, 127 NLRB 1097 (gift packing plant); *Freeman Loader Corp.*, 127 NLRB 514 (farm tractor); *The Great Atlantic and Pacific Tea Company*, 116 NLRB 1463 (holiday season); *Root Dry Goods Co.*, 126 NLRB 953 (retail department store); *F. W. Woolworth Co.*, 119 NLRB 480 (retail store); *Brown Cigar Co.*, 124 NLRB 1435 (wholesale cigars).

JURISDICTION

Although the Board's statutory jurisdiction extends to all employers whose operations affect commerce, the Board has, with Congressional approval, limited the exercise of its power to those enterprises whose effect on commerce is substantial. It has done this by setting up monetary jurisdictional standards for different kinds of enterprises stated in terms of total dollar volume of business. In setting standards it seeks to exercise jurisdiction over that part of an industry which exerts a substantial impact on commerce, without unduly burdening the Board's processes by involving it in a multitude of cases whose total economic significance is slight.

Since 1958 the standard for nonretail enterprises has been that the Board will assert jurisdiction over all nonretail operations which have an outflow or inflow across state lines of at least $50,000 a year, whether such outflow or inflow be direct or indirect.[6]

This is the standard applied to the packing, canning, and food-processing industries as well as to all manufacture.

In the event agricultural employees were brought under the Act, the Board would very likely adopt some similar jurisdictional test for this industry if Congress had made no provision in the legislation for a standard.

The standard would be set only after full inquiry into the pertinent facts, special needs and problems of agriculture.[7] Most probably the Board would hold oral argument on the question to which interested labor unions and employer organizations and associations, in addition to the parties, would be invited to participate.

UNFAIR LABOR PRACTICE CASES

The administration of the unfair labor practice provisions of the Act, Sections 8(a) and 8(b), do not appear to involve any particular problems which the Agency has not already experienced where employment is seasonal and the employees migratory.

REPRESENTATION ELECTIONS

Scope of Bargaining Unit

Section 9(b) of the Act provides that "The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof . . ." Thus, the basic unit is the single-employer unit.

Under current law, the Board will not establish multi-employer units unless it finds that the employers have voluntarily formed an association for the purpose of collective bargaining and the union has agreed to bargain on that basis. These

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[6] Siemons Mailing Service, 122 NLRB 81.

The other jurisdictional standards are as follows:

Retail enterprises: $500,000 gross volume of business. *Carolina Supplies and Cement Co.*, 122 NLRB 88.

Office Buildings: Gross revenue of $100,000, of which $25,000 or more must be derived from organizations which meet any of the Board's standards other than the *indirect* standard for nonretail operations. *Mistletoe Operating Company*, 122 NLRB 1534.

Instrumentalities, links, and channels of interstate commerce: $50,000 from interstate (or linkage) part of enterprise, or from services performed for employers which meet any of the Board's standards other than the *indirect* standard for nonretail operations. *HPO Service, Inc.*, 122 NLRB 394.

Public utilities: $250,000 gross volume, or meet standard for nonretail. *Sioux Empire Electric Assn.*, 122 NLRB 92.

Transit systems: $250,000 gross volume. *Charleston Transit Co.*, 123 NLRB 1296 (Except taxicabs, to which the retail test ($500 gross volume of business) shall apply). *Carolina Supplies and Cement Co.*, 122 NLRB 88.

Radio, television, telegraph, and telephone: $100,000 gross volume. *Raritan Valley Broadcasting Co., Inc.*, 122 NLRB 90.

Newspaper enterprise: $200,000 gross volume. *Belleville Employing Printers*, 122 NLRB 350.

National defense: Substantial impact on national defense. *Ready Mixed Concrete & Materials, Inc.*, 122 NLRB 318.

Business in the Territories and District of Columbia: D.C.—Plenary. *M. S. Ginn & Company*, 114 NLRB 112 Territories—Standards apply. *Sixto Ortega d/b/a Sixto*, 110 NLRB 1917.

Association: Regarded as a single employer in that the annual business of all members is totaled to determine whether any of the standards will apply. *Laundry Owners' Association of Greater Cincinnati*, 123 NLRB 543.

[7] The question of jurisdictional standards should also be considered in relation to labor contractors. See page 19 for a discussion of this.

requirements of consent of the parties for purposes of establishing multi-employer bargaining units apply equally to seasonal industry.[8] Thus, if in a given area a number of growers employing their workers from a common labor pool insisted on single-employer units but the union wanted a multi-employer unit, under present law single units would be found appropriate and elections held accordingly. Were the positions reversed the results would be the same.

Consent is the key to the continuance of multi-employer units as well as to their creation. Where an association-wide unit has been voluntarily established, an employer member may, with due notice at an appropriate time, withdraw from the board unit and thereafter bargain on a single-employer basis.[9] Likewise, a union may serve notice at an appropriate time of its intent to cease bargaining on a multi-employer basis, and thereafter bargain in single-employer units.[10]

Units broader than single employers may be particularly appropriate to certain phases of agriculture and the parties may well agree since it would be in their mutual interest. In the unlikely event that they do not the Committee might wish to explore the possibility of permitting the Board to formulate bargaining units in the field of agriculture on a broader and different basis from those which the present Act allows, such as multi-employer units, other than those obtained by consent of the parties or production or marketing area units.

COMPOSITION OF BARGAINING UNIT

The composition of an appropriate unit for collective-bargaining purposes is an issue in many representation cases. The history of the collective bargaining, if any, in a particular situation has always been an important factor in determining the composition and scope of the unit. Likewise, the patterns of bargaining in the industry have also been a factor. In agriculture, with collective-bargaining history still to be made and patterns of bargaining not yet developed, these factors are not present. Many analogies to related or similar industries exist, however, that may assist the Board in establishing appropriate units.

In general, the Board seeks to include in the unit employees who share common interests, similarity of skills and working conditions, etc. In seasonal industries, including those related to agriculture, the Board has established units taking into account the special attributes of those industries. In such industries, the factors most important to determining the inclusion of employees in the unit are (1) the expectancy of reemployment in the future and (2) the extent to which the interests of the seasonal employees are similar to nonseasonals in the unit.

Thus, where the employer draws from the same labor force each season,[11] or where former employees are given preference in rehiring or recall,[12] the Board finds that the community of interest with the permanent employees is sufficient to warrant inclusion of the seasonal employees in the unit.

In order to determine questions relating to likelihood of return of employees from season to season, the Board routinely takes evidence on this subject in these cases. For example, in *California Vegetable Concentrates, Inc.*, 137 NLRB 1779 (processing of vegetables), the Company operated on a year-round basis with a permanent complement of between 240 and 290 employees. Also, seasonal employees were regularly employed each year from August to November, with peak employment of about 600 seasonals usually occurring in October. The employer did not maintain a recall list of seasonals but it did give hiring preference to former seasonal employees who were known to be reliable workers; between 20 and 50 seasonals became permanent employees each year. Of 270 seasonals on the September 1961 payroll, over 50 percent had worked during the 1960 season. The Board included the seasonal employees in the unit in accordance with its usual practice in this industry.

The inter-relation or inter-action of the working conditions and pay of seasonal and nonseasonal employees makes it obvious that for the bargaining to be effective for either, the bargaining unit should, if possible, include both.

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[8] *Strathmore District Orange Association, et al.*, 85 NLRB 1029.

[9] *Retail Associates*, 120 NLRB 388.

[10] *Evening News Association*, 154 NLRB 1494. See also, *Evening News Association*, 154 NLRB 1482.

[11] *Kelly Bros. Nurseries, Inc.*, 140 NLRB 82 (growing and sale of nursery stock); *Carol Management Corp.*, 133 NLRB 1126 (ownership and management of residential properties-gardeners).

[12] *Aspen Skiing Corp.*, 143 NLRB 707 (operation of skiing facilities); *Brown Cigar Co.*, 124 NLRB 1435 (cigar wholesaler-summer employees); *Knouse Food Co-operative*, 131 NLRB 801 (processing of fruits).

SHOWING OF INTEREST

Before the Board will conduct an election in a year round or nonseasonal industry with relative regularity of employment, it is the Board's normal policy to require the petitioning union to make a "30% showing of interest"—i.e., to produce evidence (usually in the form of signed authorization or membership cards) to show that at least 30% of the employees in the unit wish to be represented by the union for purposes of collective bargaining. The purpose of this rule is to avoid spending the taxpayers' money on running an election unless there is a reasonable ground to believe that a substantial number of employees are interested.[13] However, where an employer files a petition for an election following a claim of majority representation by a union, no showing of interest is required.

The Board does not apply this same rule in seasonal-industry cases. In such cases it is the Board's long-established policy to require a showing only among those employed in the unit at the time the petition is filed. This policy recognizes the practical, special problems incident to the conduct of elections in seasonal industries, where the Board seeks to have the election conducted at the peak of the season in order to allow a maximum number of employees in the unit to vote. Accordingly, if a cannery began its operations in May with 100 employees, built up to a peak of 500 employees in September, and the union filed its petition in May, the Board would require a 30% showing among the 100 employees employed at the time the petition was filed. This would allow time for a hearing to be held, in the event the parties did not consent to an election, and an election to be directed among the 500 employees working during the peak of the season in September.

Another type of question is reflected by the Board's decision involving an apple cannery in California. *Sebastopol Co-operative Cannery*, 111 NLRB 530. "The employer contends, however, that (1) the seasonal nature of its operation and the high rate of labor turnover in its plant make it improper to conduct an election among next season's employees; and (2) that for the same reason, the petitioner's present showing of interest is inadequate to warrant a direction of election among next season employees. We find these contentions without merit.

It is clear, as to the employer's first contention, if the Board were to adopt the employer's reasoning the Board would be precluded from conducting an election in any seasonal industry where, as is often the case, there is high turnover of labor from one season to another. *Franklin County Sugar Company*, 97 NLRB 936. As to its second contention, . . . it is well established that, in seasonal industries, it is the Board's policy to require a showing only among those employed in the unit at the time the petition is filed. *Nephi Processing Plant, Inc.*, 107 NLRB 647; *J. J. Crossetti Co.*, 98 NLRB 268.

ELIGIBILITY TO VOTE

The general rule governing eligibility to vote in seasonal industries is to vote those employees employed during the payroll period immediately preceding the date of issuance of the notice of election and who are employed on the date of the election. This includes those who did not work during the designated payroll period because they were ill or on vacation or temporarily laid off.

The application of this practice to agricultural workers would have to be carefully examined to be sure that it does not disenfranchise significant numbers of employees. For example, the peak of the season for the harvesting of the crop of a large grower may occur in the last half of August. The eligible payroll period may be set for the third week in August with the election to be held on August 30. Accordingly, to be eligible to vote under present policy a worker's name must appear on that payroll. Thus, if a migratory worker during the designated payroll period was not employed by this grower because he was engaged in the same area in winding up the harvesting of another crop or was migrating from another area he would not be eligible to vote even though he began work during the next payroll period and was employed on election day and remained at work several days to finish the crop. It would appear that if there were a number of true migratory workers in this category that the Board would have to accommodate its eligibility policies to such circumstances. On the other hand the Board would want to know whether or not this eligibility rule would give a vote to those who may not have a common interest in the work. Therefore, the status

[13] *O. D. Jennings*, 68 NLRB 516.

of part-time and casual employees as distinguished from seasonal workers in agriculture will also have to be studied.

Where there is no significant difference between the work of seasonal and nonseasonal workers and they have other interests in common, both groups may be joined into a single bargaining unit.[14] Foreign Nationals recruited under intergovernment agreements for temporary agricultural work are not eligible to vote.[15] However, this is no longer significant.

TIMING OF ELECTION

Consistent with the Board's policy of enfranchising a maximum number of employees, the present rule in seasonal industries is to conduct the election at the peak of the season.[16] The date of election is selected by the Regional Director in consultation with the parties and usually with their agreement.[17] Timing the election at the harvest peak is also based on the assumption that the seasonal employees are genuinely interested in the conditions of their employment even though any benefit derived from collective bargaining may not be realized until the following season, and on a recognition that a proportion of the workers will not return to the cannery or shed the next season. A study of each crop in order to determine the point of highest employment will have to be made. Likewise, consideration must be given to the effect of the varying season and work force for different crops of the same employer.

Where, of course, there is virtually year round employment or where the diversification of crops reduces the fluctuations in employment the timing of elections is not significant.

CONDUCT OF ELECTIONS

The actual, physical conduct of secret-ballot elections among agricultural employees would present no insuperable problems. The Board has conducted more than 200,000 elections among more than 25,000,000 voters since 1935. Board agents have taken the voting booth and ballot box to employees in units ranging from two to many thousands, and have conducted elections ranging in length from 15 minutes to 112 days (the latter one in the maritime industry where it was necessary to vote each of twenty ships three times due to crew changes in various ports). Polling places have been set up in factories and mills, of course, but also aboard ships and fishing vessels, in shacks or railroad boxcars, borrowed schoolrooms or empty stores, and even, when necessary, in the Board agent's car or a rented tent. Election notices have been posted in many languages, including Spanish, Italian, Polish, German, Russian, Chinese, Tagalog, Greek, Portuguese, Hungarian, Ukrainian, Yugoslavian, French, and probably others. Men working along hundreds of miles of pipelines or in isolated logging camps or in shrimping and fishing fleets have been voted. Board agents have hitchhiked to inaccessible Alaskan salmon canneries by fishing vessel and single-motor pontoon plane. In 1945, 2,200 Board agents (experienced regulars augmented by temporary employees) voted, in 22 hours, more than 300,000 employees at more than 2,000 mines in 31 states.

This is not to brag. It but recites experience that promises resourcefulness in new fields.

POSTELECTION PROCEDURES

New, speedier procedures also may have to be devised to deal with challenged ballots and objections to the election. The normal pace of investigation or hearing, reports, and appeals may have to be quickened so that objections may be resolved and, if necessary, a second election held before the season is over and most of the employees in the unit move on to other work.

CONTRACT BAR

An accommodation of Board policy governing contract bars to elections may have to be made in agriculture. A contract bar is an existing contract held by an incumbent union that constitutes a bar to an election petition by a rival union until the incumbent's contract is about to expire.

There are so few existing contracts covering agricultural employees that any

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[14] *Libby, McNeil and Libby, et al.*, 90 NLRB 279.
[15] *Stokely-Van Camp., et al.*, 107 NLRB 1137.
[16] *Arena Norton, Inc.*, 93 NLRB 375.
[17] *Wade and Paxton*, 90 NLRB 1227.

discussion of contract bar seems academic. Contracts made following a peak of season election would be made to apply to the next season. Thus, in an organized operation an election would have to take place at a time when an incumbent union has an existing contract. This fact may require an exception to the Board's usual "contract bar" rule of refusing to conduct an election during the life of an outstanding contract. This in turn will require consideration of the status of an incumbent union and its contract when it loses an election to another union during the life of its contract.

CERTIFICATION PERIOD

Likewise, the normal length of the certification period may have to be extended where a union has been chosen but the execution of a contract is delayed because of the seasonal nature of agriculture. The usual rule is that a certification bars an election for one year. But, where a union is certified during one season and a contract is not agreed upon by the end of the season or during the off season, the certification year may be up before a contract is achieved. To avoid this problem the certification year may have to run through the next season. Whether a petition from a rival union should be entertained that is filed during the season following certification of the incumbent union must also be studied.

LABOR CONTRACTORS

Apparently a great variety of employment and economic practices exist in agriculture as in other industries. A farm may be leased by a cannery which will employ help directly to harvest the crops, or workers may be hired directly by growers, or obtained through labor contractors, or through farm association or cooperative channels. The methods or techniques of employment are flexible and vary geographically and by crop. Thus, who the employer is, who exercises control, varies with the facts. It may range from a grower who turns his crop over to a cannery for harvesting and goes on a vacation, clearly making the cannery the employer, to a grower who enters into an arrangement whereby a crew leader is himself the employer with every sort of control or combination of control in between.

One employment practice that warrants added comment is the recruitment of migratory farm workers through "labor contractors" or "crew leaders." The crew leaders usually provide transportation, loan money, pay wages, keep books, handle contracts with growers, supervise workers on the job, and sometimes pay OASI taxes.[18] In 1961, the Secretary of Labor estimated that there were about 8,000 migratory "crew leaders" with 200,000 workers.[19] There appears to be little question but that crew leaders will present a problem in the administration of the proposed legislation. The Board will be required to determine the status of crew leaders as employees, independent subcontractors, joint employers, or employers; and such determination will critically affect appropriate units, the bargaining duty, and whether employees will be covered by the Act in terms of such jurisdictional standards as may be applied.

In determining the status of independent contractors, the Act requires the application of the "right of control" test.[20] Where the person for whom the services are performed retains the right of control and the means by which the result is to be accomplished, the relationship is one of employment, but where control is reserved only as to the result sought, it is that of independent contractor. The resolution of this question depends on the facts of each case, and any one factor alone is not determinative. Factors to be considered are, for example, the right to hire and discharge, the extent of capital investment, the risk of loss, the opportunity for making a profit, and the freedom to terminate the relationship.[21]

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[18] Hearings before the Subcommittee on Migratory Labor, U.S. Senate, prepared statement of Secretary of Labor Goldberg, April 1961, pp. 38–39.

[19] *Golden Age Dayton Corp.*, 124 NLRB 916; *C. J. Patterson d/b/a Serv-Us Bakers of Oklahoma*, 121 NLRB 84; *Albert Lea Cooperative Creamery Assn.*, 119 NLRB 817.

[20] *Buffalo Courier-Express, Inc.*, 129 NLRB 932; *American Broadcasting Co., et al.*, 117 NLRB 13, 17–18; *Squirt-Nesbitt Bottling Corp.*, 130 NLRB 24; *Citizen-News Co., Inc.*, 97 NLRB 428, 433–434; *Nu-Carriers, Inc.*, 189 F. 2d 756, 759; *Clark Oil & Refining Corp.*, 129 NLRB 750; *Keystone Floors, Inc.*, 130 NLRB 4; *Whiting Lumber Co.*, 97 NLRB 265; *Southern Shellfish Co., Inc.*, 95 NLRB 957.

[21] Under the Farm Labor Contractor Registration Act, P.L. 88–582, "crew leaders" are required to apply for a certificate of registration through the Department of Labor or, in certain States, at the offices of the State labor commissioner. Their treatment of employees is, to an extent, regulated by the Act. See 1966 Report of the Committee on Labor and Public Welfare, U.S. Senate, *The Migratory Farm Labor Problem in the United States*, Report No. 1549, 1966.

The relationship of crew leaders and farm operators may be construed, in some situations, as that of "joint employers." In cases of this kind, the degree of control exercised, the relative dependence of the contractor on his principal, the degree of physical and functional integration of the two, and the joint use of personnel and equipment for common purposes, are among the factors to be considered.[22]

On the other hand, if the labor contractor serving a number of farm owners is found to be an employer, the problem of a broader unit including agricultural employees working on a number of farms may be resolved by a finding of a single-employer (labor contractor) unit embracing a larger pool of employees.

The numerous labor contractors or crew leaders in agriculture, and the variety of employment arrangements under which they may operate, constitute a very real potential for the removal of large numbers of agricultural employees from the jurisdiction of the Act if the proposed legislation is enacted without special consideration being given to this problem.

SUBSTITUTE AGRICULTURAL "EMPLOYEES" FOR LABORERS

Finally, I have noted that the proposed legislation before the Committee in S. 8 contains the term "agricultural laborers" in extending the application of Section 8(f) to agriculture. In view of the fact that there are categories of employees whose skills take them out of the "laborer" classification, this language may result in rulings inconsistent with the Committee's apparent intention to apply the Act to semi-skilled and skilled agricultural employees as well as to "laborers." If the Committee seeks the broader coverage, it may wish to substitute "employees" for "laborers."

The *Dictionary of Occupational Titles, 1965, Vol. II*, lists almost 750 different job classifications in agriculture. (At pp. 531–533). Among these are many which describe the operation of complex, sophisticated equipment or the maintenance thereof. For example, Bean Harvesting Machine Operator, Combine Operator, Cotton Picking Machine Operator, Peanut-Digger-Shaker Operator, etc., appear from the descriptions of their functions, to be of significantly higher skills than that of farm laborer". These men, among other duties, prepare the harvesting equipment by adjusting speeds of cutters, blowers, and conveyors and the height of cutting head or depth of digging blades according to the type, height, weight, and condition of the crop being harvested and the contour of the terrain, and they operate the same. In addition, there are, of course, tractor, lift fork, and truck drivers. Farm Equipment Mechanics are responsible for maintaining, repairing, and overhauling farm equipment and vehicles such as those described above.

Irrigation occupations run the vital irrigation systems and the usual building construction trades such as electricians, carpenters, plumbers, operating engineers, etc., maintain farm electrical systems, refrigeration, plumbing systems, buildings, etc.

Cursory review of the functions of these employees, among many others similarly occupied, may create doubt as to their coverage by the term "agricultural laborers."

CONCLUSION

Novel and unexpected problems that are new to the Board's experience will arise, of course, in any new undertaking no matter how much time is spent trying to anticipate them. For 32 years now the Board has proved that it has the needed flexibility and resourcefulness to cope with the uncertainties of our dynamic and ever-changing labor relations scene.

It is for the Congress to determine now whether to extend the Act to cover agricultural employees. If this be done, experience teaches that the Board can find workable solutions both for the problems anticipated and for those not yet foreseen.

APPENDIX A

NLRB APPROPRIATION BILL RIDER

79 Stat. 609, Title III National Labor Relations Board, Salaries and Expenses

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended

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[22] *Freda Redmond and Sir James*, 147 NLRB 1025 *Checker Cab Co.*, 141 NLRB 583; *Spartan Dept. Stores*, 140 NLRB 608; *Panther Coal Co., Inc.*, 128 NLRB 409; *Dayton Coal and Iron Corp.*, 208 F. 2d 394 (C.A. 6).

(29 U.S.C. 141–167), and other laws, $28,165,000 (1967) : *Provided*, that no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

FAIR LABOR STANDARDS ACT, SECTION (3B), SECTION 3(F) FLSA (AGRICULTURE)

"Agriculture" includes farming in all the branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

JOHNNY APPLESEED LAND

INDIANA FRUIT GROWERS CO-OP • R. R. 1 • Bedford, Indiana 47421 • Phone 275-7917

DAVID BYERS, EXECUTIVE SECRETARY-TREASURER



SUBCOMMITTEE ON

April 7, 1969

REC APR 9 RECD VED

LABOR

Honorable Harrison A. Williams, Jr.
United States Senate
Washington, D.C. 20510

Dear Senator Williams:

I being Executive Secretary-Treasurer of the Indiana Fruit Growers Co-op, I'm writing this letter in behalf of our 55 grower members. Our membership represents about 75% of the total apple and peach acreage in Indiana. Being a fruit grower myself, we all are very concerned about all bills concerning labor and particularly H.R. 1004 in the House Education and Labor Committee and S-8 in the Senate Labor and Public Welfare Committee.

It is true, the agricultural employees have their rights to good working conditions and the right for bargaining in certain situations. Employees are entitled to respectable housing under sanitary conditions. They are entitled to a good wage and the right for a reasonable number of hours per day or week. We're not against the rights of employees as some were mentioned previous. We are against these rights being governed under Federal Law if controlled by the NLRB under the NLRA. The agricultural industry being quite different from the industrial industry, we feel some other kind of employee-employer relationship is necessary. Maybe a middle person or persons is necessary to help settle specific items but we should have a separate go-between, not the NLRB. We're against employees belonging to unions because employees could strike during harvest and the employer has no protection against wildcat strikes or other forms of unfair striking. We as fruit growers are against employees belonging to unions because we are handling a very perishable product. It's a product that has to be harvested when ready, not when the employees are ready. Unions control the employees as to when to work and when to strike and, in effect, control the employer as to when he can or can't produce his product. If this same type of unionization of employees is applied to agriculture, many farmers will be put out of business. Since the farmer doesn't have control of the pricing of his product, such as car manufactures, we are at the mercy of the wholesalers and retailers. With the unionization of agricultural employees, the volume of food produced in the U.S. will go down. The quality of our product will also go down because employees will be controlled by the unions, not by the demand of the product.

Local Members of:
National Apple Institute
National Peach Council
National Apple Week Association

JOHNNY APPLESEED LAND

INDIANA FRUIT GROWERS CO-OP • R. R. 1 • Bedford, Indiana 47421 • Phone 275-7917

DAVID BYERS, EXECUTIVE SECRETARY-TREASURER



In summary, we agree that agricultural employees do have their rights and should be protected against certain situations. In the last 5 years, agricultural employees working and living conditions and wages have been greatly improved. Their wages and other conditions should continue to improve as the nation's economy grows. If agricultural employees are put under the NLRA, all agriculture will be thrown into chaos. We feel the agricultural employee should be handled differently than through the unions and the NLRB so he will have protection, as well as the employer.

Respectfully,

David Byers

David Byers, Sec'y-Treas.

Copies to:
Senate Labor and Public Welfare Committee
House Education and Labor Committee
Indiana Senators
Indiana Representatives

Local Members of:
National Apple Institute
National Peach Council
National Apple Week Association

NEW YORK & NEW ENGLAND

Apple Institute, inc.

McINTOSH COUNTRY

Federated With National Apple Institute

Rockwood N. Berry, Exec. V.P. Ralph J. Baldasaro, Prom. Mgr.

Box 320, Main Line Park
Westfield, Mass. 01085
Tel.: (413) 568-2331

SUBCOMMITTEE ON

REC APR 9 RECD VED

MIGRATORY LABOR

April 8, 1969

Honorable Harrison A. Williams
United States Senator
Senate Office Building
Washington, D.C. 20510

Dear Senator Williams: RE: S. 8 and Equivalent Bills

This is to register our deep concern and objection to legislation which would place agriculture under the arm of the National Labor Relations Act.

Briefly, here are our reasons: (1) The National Labor Relations Act was designed for non-agricultural industry; (2) Unlike most industry, agricultural management is faced with uncontrollable factors such as weather, season and perishability. Work stoppages at harvest time cannot be tolerated; and (3) The best interest of agricultural employees who are diversified in skills, and employed in seasonal harvests in large numbers may not be adequately served by a "carte-blanche" application of the powers vested in the National Labor Relations Board.

In the public interest and for the good of agriculture, more adequate and appropriate alternatives must be found (1) to deal with the unionization of farm labor, (2) to outline effective collective bargaining procedures, (3) to protect the public food supply against strikes and work stoppages at harvest time, and (4) to protect the rights of workers in respect to union demands, as well as to safeguard the rights of workers in management decisions.

I am certain new legislative proposals will be forth coming which will deal with these matters. I urge you to investigate all of the intents and consequences of legislation in respect to agricultural labor before supporting amendments in this field.

Sincerely,

Rockwood N. Berry

Rockwood N. Berry
Executive Vice President

RNB:eb
cc: Fred Corey

OFFICERS: President Alfred Zimmerman; Vice Presidents William Lievens, Charles Baldwin; Secretary Silvio Chaissan, Highland, N. Y.; Treasurer Nathan Chandler

The OHIO APPLE INSTITUTE Inc.

P. O. BOX 666
NEW PHILADELPHIA, OHIO 44663
DIAL (216) 343-8412



April 16, 1969

The Honorable Harrison A. Williams, Jr.
Chairman, Senate Sub-Committee on Labor
New Senate Office Building
Washington, D. C., 20510

Dear Senator Williams:

Members of The Ohio Apple Institute and other apple growers in Ohio and other states express their vigorous opposition to S. 8, which would amend the National Labor Relations Act to include agricultural workers.

The bill fails to recognize the unique problems of agriculture. Among the many reasons for its unreasonableness and unworkability for agriculture are:

1. Provisions for "no holds barred" strikes at any time by organized labor.

2. Provisions for recognition and organization strikes, work stoppages, picketing, membership solicitation, inter-union competition for representation, hiring halls, etc., before, during and after farm workers are included, as proposed, under the jurisdiction of the National Labor Relations Act.

There are many other impractical provisions and/or the absence of employer and public interest safeguards, but most of them add up to a "stacked deck" against agricultural employers and workers, and in many respects, the public interest.

A labor dispute involving the apple grower and/or farmer could be totally disastrous for his highly perishable commodity, and could result in a total loss of his crop after all expenditures excepting the harvest cost have been made.

We urge your further consideration and hope you will work for the defeat of this unfair bill, S. 8.

Sincerely yours,

Norman M. Witherspoon

Norman M. Witherspoon
MANAGER

NMW:ar
cc: Hon. William B. Saxbe, Hon. Jacob K. Javits,
Fred Corey, NAI; Geo. Downes, K. Varian, OAI,
File

Iowa Council of Churches

418 7th Street Des Moines, Iowa 50309
221 Securities Bldg. Tele. 244-2253

RECEIVED
JUL 15 1969
SENATE LABOR
SUBCOMMITTEE

July 11, 1969

Dr. Robert H. French
President

Rev. Paul H. King
Executive Secretary

Rev. Gerald D. Brown
Rev. Harold E. Butz
Associate Secretaries

The Honorable Harrison A. Williams, Jr.
United States Senate
Washington, D. C. 20510

Dear Senator Williams:

The enclosed Interfaith Resolution on agricultural workers and the National Labor Relation's Act was adopted in January 1967 by the General Assembly of the Iowa Council of Churches. It supports inclusion of agricultural workers under provisions of the National Labor Relations Act.

We seek provisions in law that encourage mutual association of agricultural workers in labor unions that can bargain collectively with their employers. We believe that the National Relation's Act provisions should regulate bargaining relationships between farm worker organizations and growers.

We do not support amendments that would outlaw consumer boycotts or strikes.

Sincerely,

Harold E. Butz

Harold E. Butz
Associate Secretary

HEB/jas
Enclosure

African Methodist Episcopal Church American Baptist Convention Church of the Brethren Disciples of Christ
Lutheran Church in America National Baptist Convention, Inc. Protestant Episcopal Church Reformed Church in America
United Church of Christ United Methodist Church United Presbyterian Church, USA Yearly Meeting of Friends

INTERFAITH RESOLUTION

Adopted by the General Assembly of the Iowa Council of Churches
and
The Board of Directors of the Iowa Catholic Conference
and
The National Catholic Rural Life Conference

WHEREAS: We believe that mutual association with others to achieve legitimate ends is a basic need and right of all in a free society. This applies to agricultural workers equally with other economic groups. Forms of organization for democratic and self-determining participation in economic, political, civic and other areas of life and work, by which farm workers seek responsibility to advance their status will be encouraged. Specifically included within the general right of association is the right to organize into labor unions and bargain collectively with employers. Laws and other public policies which have been established to regulate this relationship between employers and employees to establish justice, and to protect all the parties involved should be extended to include agricultural wage workers. The National Labor Relations Act was enacted in 1935 to regulate this relationship, but agricultural labor has been specifically excluded from the law's provisions.

WHEREAS: We support the efforts of all farm workers to achieve recognition of collective bargaining rights, recognizing that their efforts call attention to a nationwide problem, and that the success of their efforts will have far-reaching implications for the plight of all agricultural and migrant workers, including those in Iowa.

WHEREAS: We are convinced that application of the provisions of the National Labor Relations Act to agricultural workers will serve the best interests of growers and the public at large. In the absence of orderly worker-grower bargaining procedures, strikes, boycotts, confusion and bitterness often occur. Bringing the services of the National Labor Relations Board to both growers and workers will protect the just interests of both parties and assure a minimum of injury to the common good.

THEREFORE:

1. We recommend that the church bodies in Iowa go on record in support of amending the National Labor Relations Act, so as to make its provisions applicable to agricultural labor in collective bargaining.

2. We recommend that churches support the efforts of such workers' peaceful and non-violent struggle, and that they prayerfully consider their responsibilities in light of this situation, and extend all possible aid with gifts of food, money, and personal involvement.

3. We recommend that churches and church members communicate their concerns in these matters to their senators and representatives in the United States Congress.

Adopted by General Assembly, Iowa Council of Churches 1/20/67

Michigan Migrant Ministry, Inc.
205 W. Saginaw, P. O. Box 206
Lansing, Michigan 48901



July 9, 1969

Senator Harrison A. Williams, Jr.
Chairman, Senate Sub-Committee on Labor
Room G-237, New Senate Office Building
Washington, D. C. 20510

Dear Senator Williams:

Enclosed with this you will find a copy of the resolution which was passed by the Grand Rapids Council of Churches, Grand Rapids, Michigan, on June 6, 1969 concerning the National Labor Relations Act and Farm Workers. This resolution came out of a great deal of debate within the Board of the Council. Grand Rapids is an area dominated by fruit growers and the Council has received a great deal of criticism as a result of their action. It is important to add this support to the denominational statements and statements of councils of churches already sent to your office from Michigan this year and in years past.

In June of 1967 the Michigan Council of Churches passed a resolution on collective bargaining for farm workers which reads as follows:

> "Whereas we recognize that mutual association with others to achieve legitimate ends is a basic need and right of all in a free society, this applies to agricultural workers equally with other economic groups, such as farmers cooperative bargaining associations. Farms of organization for democratic and self determining participation in economic, political, and civic and other areas of life and work, our rich farm workers seek responsibility to advance their status will be encouraged. Specifically included within the general right of association is the right to organize into labor unions and to bargain collectively with employers. Therefore: (1) We support the efforts of the National Farm Workers Association of California and other worker oriented organizations to achieve recognition of collective bargaining rights. (2) We urge that the provisions of the National Labor Relations Act be extended to include farm labor. (3) We recommend to local Migrant Ministry committees, local churches, and other interested groups, the endorsement of the objective of securing collective bargaining for agricultural workers which is recognized by law and further recommends support for this by providing funds where needs arise."

I hope that these will be of value to you in the approaching debate on Senate Bill 8.

Very truly yours,

William G. Benallack

William G. Benallack
State Director, MMM

Michigan Council of Chu
JUN 10 1969
Box 206 Lansing, Mich.

At the meeting of the Board of Directors of the Grand Rapids Area Council of Churches, on June 6, 1969, after due deliberation and considerable discussion, the following resolution was passed:

> Whereas, farm workers are excluded from deliberations and mediation of the National Labor Relations Board, we, therefore, go on record as supporting the right of resident farm workers and migratory farm workers to organize. We also go on record as favoring, as suitable, peaceful and non-destructive methods to support the right of all workers, domestic, as well as farm workers, to organize, including the present grape boycott.
>
> We urge churches and church members to support those merchants who cooperate in this boycott. We recognize that in any such venture, whose focal point is in some distant place, that we do not have all the facts. However, both Christian concern and basic citizenship require us to take a stand against the discrimination involved in labor practices which exclude from due process of commonly accepted labor law those who lack the ability to protect themselves.

the church federation / *of greater chicago*

executive director • edgar h. s. chandler

116 south michigan avenue
chicago, illinois 60603
phone (312) 372-2427

July 14, 1969

Senator Harrison A. Williams, Jr., Chairman
Senate Subcommittee on Labor
Room G-237
New Senate Oggice Building
Washington, D. C. 20510

Dear Senator Williams:

I am enclosing a statement concerning bargaining rights and the farm worker made by a migrant ministry conference of the metropolitan Chicago area, May 17, 1969. This conference was participated in by local citizens involved in migrant work, denominational representatives, and staff persons representing local agencies working with migrant people.

This statement is one of intent and is not designed to be a conclusive stand. It recognizes that all areas of concern are not covered. Rather, its purpose is to call for the strongest possible legislation to insure that farm workers be granted bargaining rights, but also that these rights be granted with justice.

Since this statement has bearing on S. 8, it is offered for the consideration of the Stnate Subcommittee on Labor. We request that this statement be inserted in the record of the hearings.

Thank you for your continued involvement in this crucial issue.

Sincerely,

Neal MacPherson

Neal MacPherson
Migrant Ministry Staff
The Church Federation of Greater Chicago



STATEMENT BY THE MIGRANT MINISTRY CONFERENCE OF THE METROPOLITAN CHICAGO AREA

May 17, 1969

At this time, those supportive of the efforts of migrants to gain economic security are faced with various legislative proposals concerning the inclusion of farm workers under the National Labor Relations Act. It is becoming evident that there is growing support for legislation which would grant bargaining rights to farm worker unions. Even the American Farm Bureau and President Nixon have publicly called for inclusion of farm workers under national legislation. However, lest those involved in migrant work feel that a battle has been finally won, it is important to point out a crucial area of disagreement between those proposals set forth by agricultural interests and the requests set forth by the United Farm Workers Organizing Committee.

Agribusiness wants to give farm workers bargaining rights under an Agricultural Employee Relations Board, under the Department of Agriculture. At the same time, however, they want farm worker unions to be subject to the restrictions in the National Labor Relations Act and its amendments against the tactic of secondary boycott. Without this power of secondary boycott, bargaining rights extended to the United Farm Workers would be very detrimental; in fact, it would probably increase the power of the growers and virtually eliminate the only economic power which the United Farm Workers now possess. In addition, farm worker unions under the amendments of the National Labor Relations Act would be subject to state "right-to-work" laws, which again would be detrimental to the survival of farm worker unions. Further, there needs to be strong legislation to prohibit non-resident greencard holders from breaking strikes.

This migrant ministry conference therefore takes the following stand. Farm workers should be covered under the terms of the National Labor Relations Act, but with the following exemptions from amendments:

1) that farm workers and their unions be exempt for a period of twelve years from the amendments restricting organizational picketing and the use of secondary boycott, and

2) that farm worker unions be exempt from section 14 (b) which makes operative state "right-to-work" laws.

In addition, this migrant ministry conference urges the passage of effective legislation prohibiting the breaking of strikes by non-resident greencard holders and illegal entrants.

TELEPHONE 682-1111 • P. O. BOX 89 • LAKELAND, FLORIDA

APRIL 30, 1969

MR. ROBERT NAGLE
ASSOCIATE COUNSEL
SUBCOMMITTEE ON LABOR
OF THE COMMITTEE ON LABOR & PUBLIC WELFARE
U.S. SENATE
WASHINGTON, D. C.

DEAR MR. NAGLE:

△ON AUGUST 6, 1968 IN A LETTER ADDRESSED TO SENATOR SPESSARD L. HOLLAND WE PRESENTED OUR ARGUMENTS IN OPPOSITION TO THE ENACTMENT OF SENATE BILL 8, WHICH IS DESIGNED TO BRING AGRICULTURAL LABOR UNDER THE PROVISIONS OF THE NATIONAL LABOR RELATIONS ACT.

△THIS LETTER WAS PUBLISHED IN APPENDIX III PRINTED FOR THE USE OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE.

△THE PURPOSE OF THIS PRESENT COMMUNICATION IS TO UPDATE AND TO FURTHER CLARIFY THE POSITION OF THE MORE THAN 15,200 FLORIDA CITRUS PRODUCERS WHO ARE MEMBERS OF FLORIDA CITRUS MUTUAL.

△AS A MATTER OF INFORMATION, THIS SEASON, THE FLORIDA CITRUS INDUSTRY IS PRODUCING MORE THAN 180 MILLION BOXES (1-3/5 BUSHEL CONTENT) OF CITRUS FRUIT. THE IMPORTANCE OF THIS INDUSTRY TO THE ECONOMY OF THE STATE AND NATION IS AMPLY ILLUSTRATED BY THIS FIGURE.

△IT IS A MATTER OF RECORD, OF COURSE, THAT THE FLORIDA CITRUS INDUSTRY UTILIZES, DURING ITS HARVESTING SEASON, A SUBSTANTIAL NUMBER OF MIGRANT LABORERS IN THE HARVESTING OF ITS CITRUS CROPS. OUR INDUSTRY HAS CARRIED OUT MASSIVE PROGRAMS OF RECRUITMENT AND TRAINING AND MORE IMPORTANT, HAS SPENT VERY SUBSTANTIAL SUMS OF MONEY IN EFFORTS TO IMPROVE THE ECONOMIC STATUS OF THE MIGRANT LABORER AND HAVE MADE VERY SUBSTANTIAL PROGRESS IN SUPPLYING LIVABLE HOUSING

and other facilities. It is my conviction that our industry has gone beyond the requirements for minimum standards of health, safety and sanitation in relation to its migrant labor force. Records will show that the average earnings of these migrant workers, employed in citrus harvesting operations, exceed minimum wage requirements by a very substantial margin. This labor force of migrant laborers is supplemental to the thousands of farm workers who maintain year-round residency in Florida.

△We pride ourselves on the fact that labor-management relations with our migrant farm labor force have been excellent, indeed, through the years. Just as many other segments of the agricultural enterprise, the citrus grower is extremely vulnerable to strikes or labor disputes. The harvesting of our perishable crops cannot be postponed or shut down while we are engaged in negotiations incident to the collective bargaining concepts.

△The opposition of our industry to the enactment of legislation designed to bring agriculture under the National Labor Relations Act is based on conclusions that appear to us to be totally valid. In our industry, the migrant worker has the opportunity to earn wages equal to those paid in some manufacturing enterprises. For illustration, the harvesting of this season's Florida citrus crop will involve a total expenditure of monies equal to about 1/3 of the on-tree revenues received by citrus producers. We submit that this division of gross revenues between migrant labor and the citrus producer is more than equitable.

△It is a fact that the economic status of citrus growers is now adversely affected by the "cost-price squeeze". Increased costs of production and of all elements of marketing and distribution for our citrus producers have brought about a competitive situation favoring the continued inroad of synthetics as against our natural food commodity. Currently and for the foreseeable future, the mere possibility of a strike or inability to get labor at time of harvest could result in irreparable losses to citrus producers.

△The Florida citrus industry does not care to dictate to its farm workers the organizations to which they may belong. However, we are completely opposed to farm workers being forced to belong to a union in order to obtain work.

△It is our conviction that the enactment of this legislation will bring about great difficulties in adapting labor union membership to a migratory work force which moves from crop to crop, state to state, and would result in enormous administrative problems in relation to union membership. It is basic that citrus production and harvesting is concerned with a perishable that waits for no human being. We are hopeful that the Congress will continue to recognize the rightful

position of agriculture and, instead of restricted legislation, support by other ways programs that will improve the economic status of the migratory labor force.

Most cordially,

Robert W. Rutledge
Executive Vice President

RWR:mlt

cc: Mr. William Amory Underhill

STATEMENT BY

JOHN W. SCOTT

MASTER OF THE NATIONAL GRANGE

before the

SUBCOMMITTEE ON LABOR

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

April 28, 1969

Re: S. 8 - Amendment to National
Labor Relations Act and
S. 1808 - Child Labor

Mr. Chairman and Members of the Subcommittee:

The National Grange is greatly concerned with some of the proposed labor legislation and the effect it will have on family farm operations.

There are times during the production and harvesting of agricultural crops, especially fruit and vegetables, when agricultural laborers are needed immediately. The ability of an organization to withhold the workers from the fields or orchards could have the effect of bringing about a total loss of a season's crop. This could happen within the span of a very few days if a strike were called at a critical time during the harvest or, in some cases, even at planting season.

A catastrophe of this kind would have an adverse economic effect on thousands of Americans who work in the entire agribusiness industry. It could also create a scarcity of a food item and subsequently raise the price to the consumer far beyond reasonable levels.

I therefore wish to inform you and the members of your honorable Committee that the National Grange can not lend its support to the amendment to the National Labor Relations Act as provided in S. 8. It is our hope that it will be the decision of your Committee not to report S. 8 for Senate action unless it is amended to provide the urgently necessary protection for the agricultural industry from the possibility of strikes during the critical harvest periods.

We support the right of workers to bargain with their employer in the same spirit that we support the farmer's right to bargain in the marketplaces for his fair share of the consumer's dollar.

To do otherwise would be inconsistent with the worker's right of free choice. However, as there are safeguards in the laws pertaining to farmer bargaining authority, thereby protecting consumers from unfair and unreasonable prices, there should also be provisions in the labor law that gives the farm worker the right to bargain, that protect the farmer from unfair labor practices and strikes at critical times in the chronological development of the crop.

The National Grange will not oppose labor legislation for agricultural workers if the legislation contains safeguards that will protect the producer from a loss of his crop that can have the effect of bankrupting the farm operation as a result of a single labor dispute.

The National Grange is pleased to report that it is in general agreement with the objectives of S. 1808, introduced by the distinguished Chairman of this Subcommittee, Senator Harrison A. Williams, Jr.

However, we do not agree that labor in agriculture of children between the ages of 10 and 14 is harmful to the extent that the Chairman outlined when he introduced the bill. We quote:

> "First, a child early in life must grow and gain weight. Farm labor such as the thinning, pulling, and topping of beets or the picking of strawberries or cotton requires constant bending, stooping, and frequent lifting. This excessive muscular activity expends the child's energy which should be used in the natural process of growth. Consequently, children who engage in arduous labor become undernourished and undersized. Second, chronic fatigue lowers a child's resistance to disease and

infection and also interferes with his educational progress. Only one of every three farm wage workers has completed more than 8 years of schooling and only one in six has graduated from high school. One-fourth of our Nation's farmworkers have either never attended school or have not completed more than 4 years of schooling."

We would like to point out to the Committee that it is not the work that is harmful, but the fact that the children are in the fields and not in school and that their migratory nature leads to their health and education problems. It is not the honest work in the open air of America's farms that has led to these deficiencies.

We believe strict enforcement of present laws regarding child labor would do much to correct this problem and urge this Committee to see that such enforcement is carried out by those responsible for enforcing the Act.

We do, however, support S. 1808 in hopes that it may bring some health and education improvement to the children of migrant workers, whom we believe the Chairman was referring to in his introductory remarks and to whom the main thrust of the bill is directed.

I appreciate this opportunity to express the Grange's view on this important legislation and will appreciate this statement being made a part of the hearing record.

unitarian universalist association
OF CHURCHES AND FELLOWSHIPS IN NORTH AMERICA

WASHINGTON OFFICE
ROBERT E. JONES
Director

DIVISION OF
SOCIAL RESPONSIBILITY
HOMER A. JACK
Director

DANA E. KLOTZLE
U. N. Office

245 SECOND STREET, N. E.
WASHINGTON, D. C. 20002
202 547-0254

August 28, 1969

The Honorable Harrison A. Williams, Jr.
Chairman, Subcommittee on Labor
Senate Committee on Labor and Public Welfare
4230 New Senate Office Building
Washington, D.C.

Dear Senator Williams:

I wish to call to your attention the General Resolution on the GRAPE BOYCOTT adopted by the Eighth General Assembly of the Unitarian Universalist Association, held recently in Boston.

You will note that the Resolution supports the "right of farm workers to organize and bargain collectively," while also urging Unitarian Universalists throughout the country to continue the boycott on all American table grapes.

The Resolution on the GRAPE BOYCOTT was adopted by a near unanimous vote of the over 1,000 delegates from the United States and Canada present at the General Assembly.

Knowing of your concern with these issues, we submit this Resolution for your consideration.

Yours very truly,

Robert E. Jones

Robert E. Jones, Director
Washington Office

REJ:lr

ENCLOSURE

THE PROGRAMS
AND SERVICES OF THE
UNITARIAN UNIVERSALIST
ASSOCIATION
ARE SUPPORTED BY
THE ANNUAL FUND

GRAPE BOYCOTT

(General Resolution adopted by the Eighth General Assembly of the Unitarian Universalist Association of Churches and Fellowships at Boston, July 18, 1969)

BE IT RESOLVED: That the 1969 General Assembly of the Unitarian Universalist Association:

1. Supports the right of farm workers to organize and bargain collectively, without fear of discharge, intimidation or coercion for their involvement in union activity.

2. Urges Unitarian Universalists throughout the continent to boycott all American table grapes, and request their local store managers to remove them from their shelves.

3. Affirms the right of dignity and justice for all men, and supports Mexican-Americans, Chicanos, and Spanish-speaking Americans in their fight to secure their inalienable human rights.

National Catholic Conference for Interracial Justice

1307 S. Wabash Avenue • Chicago, Illinois 60605 • 312-341-1530

Southern Field Service
New Orleans, La.

JUL 10 1969
SENATE LABOR SUBCOMMITTEE

July 8, 1969

Statement on Agricultural Democracy

The following is an official statement by James T. Harris, Jr., executive director of the National Catholic Conference for Interracial Justice:

Perhaps the most tragic aspect of this statement is that it has to be made at all. That is, at a date in the final third of the 20th Century, the Congress of the United States should still be debating the issue of granting collective bargaining and other union rights to agricultural workers.

It is a moral outrage that economic rights long ago granted to most workers in our society remain out of the grasp of any single group. It is apparent that only the strongest possible federal legislation can begin to redress this injustice.

For this process to begin, and in order to bring about new power for the powerless in our nation, this legislation must be free of the restrictive encumbrances of the Taft-Hartley and Landrum-Griffin laws that have served as a braking action on the original Wagner Act of three decades ago.

A quick look at history demonstrates that in the long run, the most conservative -- in the classic sense -- kind of legislation is that variety which permits the excluded portions of our society to enter its mainstream.

Justice must be served through the granting of full and equal collective bargaining rights to democratically formed labor unions of industrialized agricultural workers.

The past decade has been occupied by legislation aimed at helping the oppressed, the excluded, the poor to realize a tiny portion of the American dream. Those laws -- to the extent that they have been enforced -- still offer only the smallest beginning.

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EXECUTIVE DIRECTOR
James T. Harris

Yet farm workers still have not had the benefit of even such comparable rudimentary legislation as the 1964 Civil Rights Act and 1965 Voting Rights Act.

This nation has created an official underclass in agricultural workers who must suffer in ways clearly comparable to the racial and ethnic minorities that comprise our undercaste. Often the farm worker himself is a member of another minority, which redoubles his social victimization.

It is time that we begin to unshackle the last of our second-class working-people by equipping them with the kind of enabling legislation that will help them fulfill their own destinies and achieve self-determination as Americans.

###

MICHIGAN SYNOD OF THE LUTHERAN CHURCH IN AMERICA
19711 GREENFIELD ROAD — DETROIT, MICHIGAN 48235 — PHONE 273-3650

July 8, 1969

The Honorable Harrison A. Williams
United States Senate
New Senate Office Building, Room G-237
Washington, D. C. 20510

Dear Senator Williams:

I received a call today from the Rev. William G. Benallack, the executive director of the Michigan Migrant Ministry, requesting me to send to you a copy of a resolution adopted by the Convention of the Michigan Synod on May 21, 1969. A copy of this resolution is enclosed.

Although the resolution which is directed to the work of the Michigan Migrant Ministry does not speak directly to the current legislation before the congress regarding the inclusion of farm workers under the National Labor Relations Act, the Synod's action is clearly in favor of the right of farm workers to organize and bargain collectively. Thus the basic legal guarantees that S. 8 and H. R. 9954 will provide do parallel the intent of our Synod's action.

Sincerely yours,

Alan W. Kamens

Alan W. Kamens
Assistant to the President

AWK/pap
Enclosure

cc: Rev. William G. Benallack



THE REV. FRANK P. MADSEN, D. D., President - THE REV. HOWARD A. CHRISTENSEN, Administrative Assistant
Assistants: THE REV. ALAN W. KAMENS - THE REV. JOHN W. MILLER - MR. HAROLD A. NIELSEN

WHEREAS, the Church must recognize that its reconciling purpose is inclusive of all persons in society, and

WHEREAS, modern chemical and technological advancements as well as economic developments are indicative of increased mechanization of farms and the creation of large agricultural businesses, and

WHEREAS, such developments are having an adverse effect economically on the small family farmer and the farm worker, and

WHEREAS, the struggle of farm workers for economic justice is just cause and long overdue to overcome the inequities they have suffered, and

WHEREAS, the small farmer is beset with circumstances beyond his control due to the technological and economic developments of a modern age, and

WHEREAS, the conflict emerging and already present between the farmers and farm workers are unfortunately inevitable but hopefully open to solution,

THEREFORE, BE IT RESOLVED. That we, the Michigan Synod of the Lutheran Church in America, commend the Michigan Migrant Ministry for its sensitive work in its past history, and call upon the Board of the Michigan Migrant Ministry to shape its ministry

a) to the urgent needs of the farm workers enabling them to organize and bargain collectively;

b) to the urgent concerns of the small family farmers assisting them to discover creative ways to meet their dificulties,

c) to the necessity of maintaining open communication between all parties involved in agricultural problems and farm labor disputes to the end that such difficulties can be resolved peacefully and with justice.

THE AMERICAN LUTHERAN CHURCH / DIVISION OF AMERICAN MISSIONS

422 SOUTH FIFTH STREET
MINNEAPOLIS, MINN. 55415
PHONE (612) 338-3821

June 24, 1969



Senator Harrison A. Williams, Jr.
Chairman, Senate Subcommittee on Labor
Room G-237
New Senate Office Building
Washington, D. C. 20510

RE: S. 8 - Farm Labor

Dear Senator

We are living in a society of "power blocks". To ask any segment of our society to operate without the ability or right to bargain collectively is unrealistic and places them at a disadvantage which will necessarily result in their being deprived of many of their just rights.

At this time we urge you to give favorable consideration to legislation which will make it possible for union organization and good faith collective bargaining in industrialized agriculture. We advocate the passage of the strongest possible legislation suitable to the achievement of that goal. We have confidence that you have the ability to write such legislation and therefore do not suggest its specifics.

Of equal importance is legislation which will provide an acceptable and equitable solution to the problems caused by inadequate prices and inadequate farm income. We urge that at the appropriate time you support legislation which will solve these problems for the farmer as well. Only at such time as both workers and farmers have been given full rights to organize and to bargain collectively can we have justice in the field of agriculture.

Sincerely yours,

Russell B. Helgesen

RBH:np
cc: Dr. Fredrik A. Schiotz
Dr. R. D. Lechleitner
The Reverend Eugene L. Boutilier

R. D. LECHLEITNER
Executive Director

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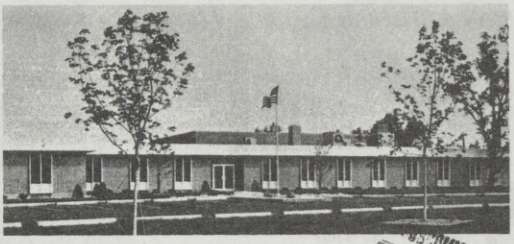
FORD LOCAL 600

UAW



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U.S. COMMITTEE ON LABOR
RECEIVED
MAY 19 1969

May 8, 1969

Honorable Harrison Williams, Chairman
Sub-Committee of Senate Labor and Public
Welfare Committee
305 Old Senate Building
Washington, D. C.

Dear Senator Williams:

Our Local Union joins with many other organizations throughout the nation urging that your Committee recommend the enactment of legislation which will provide that farm workers shall have the right to organize and receive the protection of the Federal Government, including the National Labor Relations Board, just as other workers in this country have been receiving this protection for many years.

As an example of the intense desire of farm workers to be provided with the legal protection of federal legislation and the NLRB, we, as well as many other citizens throughout the country, have watched with great interest the strike which the grape workers have been conducting in California in an effort to obtain union recognition and collective bargaining rights.

We believe that the time has long passed for the enactment of the above-stated legislation and we strongly urge your Committee, in the interests of true democracy and equal opportunity, to recommend such legislation. We sincerely feel that if your committee does so, you will be making a real contribution to this country as a whole by extending to the farm workers the rights which workers in other fields have received many years ago and have benefited from ever since.

Thanking you in advance for your favorable action on this request, I am,

Very sincerely yours,

James L. O'Rourke

James L. O'Rourke, 1st Vice-President
FORD LOCAL #600, UAW
(For and in behalf of the Local Officers and Executive Board)

JLO'R:mo'c/opeiu42afl-cio
cc. To all members of Sub-Comm.

Federal Bar Council

LAURENCE VOGEL
President

SUBCOMMITTEE ON LABOR
RECEIVED
MAY

May 12, 1969

The Honorable Harrison A. Williams, Jr.
Senate Office Building
Washington, D. C.

Dear Senator:

Enclosed are copies of a report by the Committee on Labor Law of the Federal Bar Association of New York, New Jersey and Connecticut, predecessor of the Federal Bar Council, calling for extension of the National Labor Relations Act to farm workers.

We would be grateful if you could arrange for the inclusion of this report in the record of the hearings being conducted under your chairmanship on S. 8 and S. 1808, and hope that the report will prove helpful to you.

It would also be most helpful if you could send us a copy of the recent proposals made by the Secretary of Labor in this area.

With thanks,

Richard A. Givens

Richard A. Givens
Chairman, Committee on Labor Law

Encls.

26 WEST 56th STREET, NEW YORK, N. Y. 10019 • (212) 247-7190

32-615 O - 70 - 19

Report on Migratory Farm Labor

Reprinted from the April, 1967 Issue of
LABOR LAW JOURNAL
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Report on Migratory Farm Labor

The Committee on Labor Law, of the Federal Bar Association of New York, New Jersey and Connecticut submitted this Report, recommending, among other things, a new federally sponsored organization to act as middleman in assuring steady jobs to migrant workers.

THE PLIGHT of our nation's migratory farm workers has been documented many times,[1] perhaps most graphically in a CBS documentary film entitled *Harvest of Shame* broadcast November 25, 1960. The migrants generally work long hours in return for low wages. They lack protection under our most basic federal labor legislation, the National Labor Relations Act,[2] and can be discharged or blacklisted for seeking to organize or bargain collectively with no recourse under any of our national labor laws. Their children are deprived educationally because of the necessity to move frequently[3] and their housing, health and nutrition are substandard. Generally because they are outside the scope of such social legislation as workmen's compensation and ineligible for relief or other aid because of residence requirements, these citizens have benefited little from the social advances of the twentieth century. Migrants are even deprived of the basic political right to vote because of residence requirements and this absence of political power is in part responsible for their economic woe.

---

* This Report was submitted by Richard A. Givens in behalf of the Committee on Labor Law, Federal Bar Association of New York, New Jersey and Connecticut. The Committee includes: Ralph P. Katz, chairman, Robert Silagi, co-chairman, Sherwin Shapiro, secretary, Ira Blue, Evelyn S. Brand, Harold I. Cammer, Nathan Cohen, Jack Davis, Max Doner, Richard A. Givens, Herbert Halberg, Lawrence G. Marshall, Max J. Miller, Frederick Pope, Jr., Sidney O. Raphael, Leonard Rovins, Irving Rozen, Henry Schuman, I. Philip Sipser, Philip J. Zichello and Burton A. Zorn.

[1] See S. Rept. 155, 89th Cong., 1st Sess. (1965); Report on Migratory Labor, 20 *Record of New York City Bar Association* 518 (1965); 4 Reports of Committees of NYCBA Concerned with Federal Legislation 108 (1965); 111 *Congressional Record* 12,853, June 11, 1965; Moore, "Slaves for Rent," 215 *Atlantic Monthly* 109, May 1965.

[2] 61 Stat. 137 (1947), 29 U. S. C. Sec. 152(3) (1964) provides: "The term 'employee' . . . shall not include any individual employed as an agricultural laborer. . . ."

Possible arguments concerning the validity of this exclusion are discussed in Givens, "Legal Disadvantages of Migratory Workers," 16 LABOR LAW JOURNAL 584, September, 1965.

[3] See Sutton, *Knowing and Teaching the Migrant Child* (1962); Greene, *The Education of Migrant Children* (1954).

Background

In the past few years public recognition of the plight of the migrants has led to the first beginnings of action to ease their lot. In 1964 Congress enacted a law seeking to regulate abuses by crew leaders and farm labor contractors.[4] Migrants may also benefit from programs under the Economic Opportunity Act. Special programs for migrants are authorized under 42 U. S. C. Section 2861, but these are limited to "housing, sanitation, education and day care of children." In 1966, Congress also eliminated the previous absolute exclusion of farm laborers from the protections of the Fair Labor Standards Act and substituted a complex system of specific exclusions and exemptions in that field permitting coverage of some migratory workers on larger farms in certain types of work for the first time.[5] No action has been taken to extend to these employees any of the protections of the NLRA.

In our view, because of the disenfranchisement of the migrants and the absence of normal political restraints[6] against discrimination adverse to them in the determination of coverage in our basic social legislation, a circumstance which has obviously worked to the detriment of the migrants in the past, we have a special obligation to urge strong measures to ameliorate their plight.

Recommendations

This requires, as a minimum, extention to agricultural workers of the basic protections of the NLRA which guarantee employees the right to organize, seek mutual aid and protection, and bargain collectively.[7] Such extension has been recommended by the Subcommittee on Migratory Labor of the Senate Labor Committee and by a unanimous report of the Committee on Labor and Social Security Legislation of the Association of the Bar of the City of New York.[8] This should be done regardless of whether workable means can be found to provide for certification of bargaining agents in the normal manner where the employees of a particular employer may not remain long enough to permit determination of an appropriate bargaining unit and the holding of a meaningful representation election.[9] To withhold all protection under the Act because of difficulties in extending all aspects of its coverage serves no useful purpose and denies needed protection of basic rights to disenfranchised employees.

We also recommend extension of the coverage of farm workers under the Fair Labor Standards Act beyond that provided by the 1966 amendments. We find no rational justification, for example, in the arbitrary exclusion of such categories as the following from the protections of the Act:

". . . any employee engaged in ginning of cotton for market, in any place of employment located in a county where cotton is grown in commercial quantities, or in the process-

[4] 78 Stat. 920 (1964), 7 U. S. C. Sec. 2041 et seq. (1964).

[5] 80 Stat. 831 (1966), amending 29 U. S. C. A. Sec. 203.

[6] See *Edwards v. California,* 314 U. S. 160, 174 (1941); cf. *Wesberry v. Sanders,* 376 U. S. 1, 17 (1964); *Williamson v. Lee Optical, Inc.* 348 U. S. 483, 488 (1955), quoting *Munn v. Illinois,* 94 U. S. 113, 134 (1876); *Southern Pacific Co. v. Arizona,* 325 U. S. 761, 767-68 n. 2 (1945); *United States v. Carolene Products Co.,* 304 U. S. 144, 152-53 n. 4 (1938); *McCulloch v. Maryland,* 17 U. S. (4 Wheat.) 316, 433-34 (1819); Dowling, "The Methods of Mr. Justice Stone in Constitutional Cases," 41 *Columbia Law Review* 1160 (1941).

[7] National Labor Relations Act, Secs. 7 and 8(a)(1), 8(a)(2) and 8(a)(4), 61 Stat. 140 (1947), 29 U. S. C. Secs. 157, 158(a)(1), (a)(2) and (a)(4) (1964).

[8] See footnote 1.

[9] NLRA, Secs. 8(a)(3), 8(a)(5) and 9, among others would be related to this question.

ing of sugar beets, sugar-beet molasses, sugarcane, or maple sap, into sugar . . . or syrup. . . .

". . . any employee engaged (A) in the transportation and preparation for transportation of fruits or vegetables . . . from the farm to a place of first processing or first marketing within the same State, or (B) in transportation . . . between the farm and any point within the same State of persons employed or to be employed in the harvesting of fruits or vegetables."[10]

In addition, longer-range remedies are needed. It may well be beyond the ability of the individual employer (except in the case of the larger corporate farms) to provide conditions, such as should be expected in the 20th century, for farm workers if he must act alone and seek to carry the entire burden by himself. Accordingly, we recommend further study of the possibility of establishing a voluntary federally sponsored organization which could employ migratory workers for an entire year or season and arrange for their transportation, offering to farmers a definitive source of labor when needed and offering steadier employment to the laborer than he now has. Much of the heartbreak of the farm laborer arises from not knowing what jobs are available or will be filled, and much tragedy for the farmer arises from not knowing whether employees will be available to harvest crops when they are ripe. This gap is only partially filled by farm labor contractors and crew leaders, now regulated by federal law, who attempt to act as middlemen between the farmer and the worker.

We also believe that migratory workers who are citizens of the United States should be entitled to vote for federal officers in the state where they reside for more time than in any other state during the year, or in which they are located at the time an election is held. To permit them to vote for local officials primarily concerned with local issues might be inappropriate, but in our opinion their total disenfranchisement in federal elections is an injustice so grave that its remedy more than justifies any dilution of local voters' preferences in voting for federal officers which might result from permitting migrants to vote to this extent.[11]

In respect of their coverage under much of our social legislation, migratory farm workers are still living in a prior century. They have little or no part in giving the active "consent of the governed" from which alone governments take their "just powers." Indeed they would frequently feel justified in believing that they lived on George Orwell's *Animal Farm* where it was said that "some are more equal than others." Today we are striving to eliminate unjust inequalities based upon arbitrary and invidious distinctions from our national life in many areas. Those efforts must and should extend to one of our most disadvantaged and disenfranchised groups. We believe that immediate extension of the basic protections of the NLRA to these employees and further broadening of coverage of the Fair Labor Standards Act are vital to this end, and that longer-range solutions through such means as providing longer-term employment, workmen's compensation and disability benefits, and extending the franchise, must also be sought and gained in order to remove the root causes of the continuing and desperate plight of these Americans.

[The End]

[10] 80 Stat. 835 (1966), amending 29 U. S. C. A. Sec. 213.

[11] See "Uniform Act for Voting by New Residents in Presidential Elections," discussed in 77 *Harvard Law Review* 574 (1964); Givens, cited at footnote 2.



Federal Bar Council

LAURENCE VOGEL
President

July 7, 1969

Robert E. Nagle, Esq.,
Associate Counsel,
Subcommittee on Labor,
Committee on Labor & Public
Welfare,
Senate Office Building,
Washington, D.C. 20510.

Dear Mr. Nagle:

The Chairman of our Committee, Mr. Richard Givens, asked me to forward to you the enclosed copy of the report of the Federal Bar Council, Committee on Labor Law, dealing with proposed legislation to extend the labor relations law to agricultural employees.

Referring to your letter of June 2, 1969 to Mr. Givens, we request that our new report accompany the 1966 report which you are already including in the record, preferably with our new report being inserted in front of the 1966 report in the record.

Very truly yours,

A. X. Bader, Jr.

Albert X. Bader, Jr.

(Enc.)

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FEDERAL BAR COUNCIL

Committee on Labor Law

Recommendations Concerning Legislation on Labor Relations of Farm Employees

Background

So far as we are aware there is little acknowledged opposition to the principle that agricultural employees, no less than the rest of mankind, are entitled, if they choose, to organize and bargain collectively through representatives of their own choosing.[1] Thus, we cut little new ground by reiterating[2] our endorsement of that principle and stating quite bluntly that we believe that the immediate recognition of that principle in the labor relations laws of the United States and of the states is an essential first step which justice and decency require.

The problem then, as we see it, is not whether the National Labor Relations Act--and similar state

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[1] We discuss the major arguments of what opposition there has been below, but it seems that such opposition is fading.

[2] See, e.g., this Committee's Report on Migratory Farm Labor reprinted in Labor Law Journal, April 1967, pp. 246-248; and the Report on Migratory Farm Labor of the Committee on Labor and Social Security Legislation of the Association of the Bar of the City of New York, 20 Record of NYCBA 518 (1965).

legislation--ought to be extended to agricultural labor, but how the right to collective bargaining for such people can be made effective and whether there are any special characteristics to the agricultural industry which justify special safeguards around the full exercise of those rights and the undoubted power such exercise creates.[3]

While it might be assumed that a simple deletion of the exclusionary language of Section 2(3) of the NLRA would have been acceptable to farm labor organizers a few years ago, the current position of their most effective spokesman, Cesar Chavez (on behalf of the Farm Workers Organizing Committee), is that such a measure would "not give us the needed economic power and it would take away what little we have". He looks instead for a form of legislation modelled more or less on the original Wagner Act, in order to preserve for farm labor unions their weapon of product boycotts, which Chavez considers their most effective organizing tool. (BNA Daily Labor Report, April 16, 1969, pp. 1 AA-1, G-1.)

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[3]There is a subsidiary question of how far the federal statute should extend, not in terms of the constitutional sweep of the commerce power (presumably, Wickard v. Filburn, 317 U.S. 111 (1942) provides the answer to that), but in terms of practical judgments as to the work load of the NLRB, the appropriate division of federal and state responsibility and the preservation of "family farms". This is also discussed below.

Chavez' proposal, entitled the National Agricultural Bargaining Act of 1969, would also prohibit an employer from hiring replacements for economic strikers.

Prior to Mr. Chavez' statement, the major farm labor bill introduced in the 91st Congress was Senator Williams' bill (S.8) which he introduced on behalf of himself and 19 other Senators, including Senators Brooke, Case, Hart, Javits, Kennedy, McCarthy, McGovern and Muskie.[4] This bill simply deletes the exemption of "agricultural laborer" from Section 2(3) of the NLRA and extends the current treatment of construction workers under Section 8(f) of the NLRA to agricultural workers, thereby modifying the "union shop" scheme to permit compulsory membership agreements for such employees to be made in pre-hire contracts and to begin seven days, rather than 30 days, after employment or the execution of a contract.

This bill is somewhat simpler than the measure (H.R. 16014) introduced in the 2nd Session of the 90th Congress, which was favorably reported in H.Rep. 1274, 90th Cong., 2nd Sess., but died. H.R. 16014 modified the "agricultural laborer" exception in Section 2(3) of

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[4] Apparently identical measures were introduced in the House as H.R. 1004, 5555, 55963, 8177, 9954, 9955 and 9956.

the NLRA so as to extend coverage of the Act to agricultural laborers whose employer had more than 12 employees at any time during the preceding year and had labor costs of $10,000 or more during the same period. Rather than modify Section 8(f) of the present Act, it accomplished a somewhat similar end by a new Section 8(g) which permitted a union shop agreement to be compulsory after seven days, and also permitted the parties to give priority in hiring to those with seniority with the employer, in the industry or in a particular geographical area.[5] The Report suggests that the limitations contained in amended Section 2(3) would confine its impact to 30,000 large farms, roughly .9% of all American farms, but the farms employ perhaps as many as 60% of all farm labor. Opponents of the bill thought its sweep much broader and supported an amendment proposed by Congressman Quie which would have modified the exclusion to limit NLRA jurisdiction to farms with gross volume of sales of $250,000 or more and total employment of 500 man days, the standard used in the FLSA.[5a]

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[5]This bill did not contain the provision permitting prehire contracts that appears in Section 8(f) of the Act, and also omitted provisions similar to 8(f)(3) and 8(f)(4), which probably have little current relevance to agriculture.

[5a]Secretary Schultz' proposal, more fully discussed below, also uses the FLSA standard. It is estimated to cover 2 per cent of the farms and 48 per cent of the farm workers, or about 500,000 employees.

In the course of hearings before the Senate Labor Committee in April 1969, the American Farm Bureau Federation proposed a bill which would permit elections among farm laborers, conducted by the U. S. Department of Agriculture, with unfair labor practice charges tried before the federal courts. Harvest-time strikes would be banned. In the same hearings, as already noted, the farm workers union spokesmen indicated that they would have a bill of their own, but one modelled after the Wagner Act rather than Taft-Hartley.

Early in May, 1969, Secretary of Labor Schultz introduced the Administration's proposal--in essence adopting the substantive scheme of the Taft-Hartley Act, but creating a new agency, a Farm Labor Relations Board, to administer it. The Administration proposal requires ten days advance notice of agricultural strikes (or lock-outs) and gives the farm employer the right to a thirty-day no strike period (in order to protect his harvest) if during that time he agrees to submit the issues to fact-finding and recommendations, and agrees to be bound by those recommendations if the union accepts them. The Schultz proposal will include certain special prohibitions on secondary boycotts in the agriculture area. (BNA Daily Labor Report, May 6, 1969, pp. 1, A-1, E-1; see Editorial, N.Y. Times, May 12, 1969.)

Analysis

We leave to other places a consideration of the general merits vel non of proposals to modify the major provisions of the present Taft-Hartley Act, by moving back toward the Wagner Act framework or in other directions, such as to a labor court. Our sole concern in this Report is the status of farm labor under the federal labor relations statutes--and this, in our view, is a matter which ought not to wait--or be sidetracked--by broader issues of labor relations law reform.

We reiterate our view that the present exemption of agricultural laborers should be repealed. We do not have any strong view on the various proposals to define the ambit of federal jurisdiction. In the absence of a statutory definition, there seems little doubt that the NLRB will develop jurisdictional standards of its own which will generally leave the truly small farm exempt from direct federal regulation. If a statutory definition of the limits of federal jurisdiction is deemed desirable, we would endorse the approach of H. R. 16014. It may be that this formula will not reach a significantly more important segment of the agricultural industry than the amendment proposed by Congressman Quie, but we suspect that the Quie amendment may omit a good number of migratory workers which H.R. 16014

covers[7]--and, if this be true, we deem that an important reason to favor the definition of H. R. 16014 over the approach of the Quie amendment (and the jurisdictional test in Secretary Schultz's proposal.)

At this point, it seems appropriate to discuss certain of the objections asserted against any change in the labor law relating to farm labor (we save for a later point discussions of questions which relate to the special character of the agricultural industry). Aside from questions of constitutionality--which we believe to be meritless even in the context of a complete repeal of Section 2(3) of the Act[8]--it is claimed that such a measure would (1) increase costs to the consumer; (2) impinge on the American way of life; and (3) adversely affect the interests of the farm laborers, i.e., destroy

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[7]Unfortunately, the data on farm employment--in terms of number of employees or man days of work per farm is apparently not very reliable. However, the principal argument offered by the supporters of the Quie amendment was that it would exempt a farmer who only used a relatively large force during a harvest season, while H. R. 16014 would not.

[8]We gravely doubt that under the rationale of Wickard v. Filburn, 317 U.S. 111, any farm is beyond the reach of the commerce power. See also Mandeville Island Farms v. American Crystal Sugar Co., 334 U.S. 219 (1948). Assuming arguendo there were narrower limits on the reach of the commerce power, this would be a question that could--and would under existing NLRB procedure--be tried out in the administrative proceeding. Such a case-by-case testing of the Act would seem the most that the Constitution requires.

their employment opportunities by driving agricultural industry elsewhere.

The first criticism would, we suggest, be irrelevant if true. To suggest that human beings, to say nothing of citizens, should forego the rights enjoyed by all others in order that others (while enjoying those rights) may enjoy greater bounty may have some merit as a suggestion of voluntary restraint; it can have no merit as a reason to deny those rights by fiat. But even on its merits, the argument has little to support it. The cost of agricultural products at the farm is a relatively small element of the cost of finished agricultural products to the consumer, and agricultural labor is a relatively minor element even in the cost of agricultural products as they come off the farm. One estimate is that agricultural labor represents 7% of the final cost of agricultural products.

The second argument--premised on the "American way of life"--uses what in this context we find almost a shibboleth to defend one of the most distressing divergences between those values which in our view constitute the very kernel of the American way of life--including equality under the law--and the current American scene. We reject the

notion that a desire to preserve cultural museum pieces justifies incarcerating the inmates. Moreover, the measure we endorse hardly threatens the disaster envisioned; we can see no sensible probability that the extension of federal agency jurisdiction will reach the small farmer.

The third argument--that given the right to organize, the farm laborer will obtain higher wages and thereby drive away his job--is more serious. Indeed, if such an argument were made by the farm laborer rather than by those who represent his employers, we might find it reason for greater pause. Certainly, the possibility must be faced that increased wages will create pressures on farm operators to diminish costs by moving farm operations or by increasing mechanization.[9] Yet both of these phenomena have been taking place for years--and it is not at all clear to us that they are in themselves undesirable. Arguably, such developments bring about a significantly better allocation of resources, including human resources,

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[9]While it might seem that this problem would be less in agriculture than in other businesses, because the land is obviously not portable, we suspect that this factor is more important with respect to the small farmer than is the case with large farm operators. In many cases, these operators lease rather than own land--and in any case, other cost elements probably tend to outweigh land in agricultural economics. On the other hand, we are not clear whether the element of labor cost in the production of agricultural goods is of such magnitude that it will

within the nation and throughout the world economy; certainly, they have not decreased total domestic agricultural production, whether measured in terms of quantity or value. Moreover, the experience with imposition of minimum agricultural wages and with the ban on importation of braceros does not appear to support the dire consequences predicted. Finally, this argument is one which has been made repeatedly by almost every industry which has been subjected to reorganization by statute--and by most companies which face an initial organizing drive. Whatever merit such contentions may have, it seems to us that they should be addressed to the workers deciding how to exercise the organization rights we endorse, rather than to the question whether such rights should be recognized by law.

* * *

While we have little hesitation about endorsing the principle of extending organizing rights to agricultural workers, we are less clear about the fashion in which those rights may best be exercised.

Initially, we are inclined to favor--because it is simplest and therefore least likely to generate

(footnote continued)

outweigh factors such as climate, proximity of markets and sources of seed and fertilizers, and problems of import and quarantine restrictions or what the result of the interplay of all these factors will be.

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irrelevant controversy--simply removing the exclusion in Section 2(3) of the NLRA, thereby extending to agriculture the full reach of Taft-Hartley. Given the brevity of much agricultural employment with a given farm operator, we are persuaded that it would be appropriate to extend to agricultural labor provisions similar to those provided for construction workers in Section 8(f) of the present Act. In our view, this is done more clearly by the language of proposed Section 8(g) of H.R. 16014 than by incorporating provisions regarding agriculture in present Section 8(f), the scheme used in S.8.

Thus, we are not persuaded that it is necessary to deal with agricultural labor outside the context of the NLRA--and the NLRB. We make this judgment for three reasons--(1) the NLRB has a fairly well-developed body of law and experience in conducting representation and unfair labor practice proceedings; it seems more economical of time and less pregnant with possibilities of conflict and inconsistency to use this existing machinery; (2) there is some just basis for regarding the Agriculture Department as historically more orientated toward farm owners and operators than otherwise; while the NLRB has not been immune from accusations of bias, the fact that it regulates large and powerful adversaries seems to us a more reliable way to assure relative neutrality (in both

directions) than would exist in the case of a special jurisdiction, such as that suggested for the Department of Agriculture; and (3) we believe that any proposal to create a special jurisdiction for agricultural labor, particularly one like the Farm Bureau's, which would involve the federal courts in agricultural unfair labor practices, will almost certainly embroil this subject in all of the general labor reform debate--and thus postpone it indefinitely.

We are also not persuaded that we should exempt agricultural labor unions and agricultural labor from the proscriptions of Section 8(b)--and particularly from Section 8(b)(4) and 8(b)(7)'s regulation of secondary pressures and certain organizing tactics. It is our conclusion that before embarking on a program which permits conduct in agriculture which Congress has found unacceptable elsewhere, we should at least see how far collective organization can be meaningful in agriculture under the same rules that obtain in other industry. We also, and for similar reasons, are not persuaded by the Farm Bureau's proposals that look to create special regulations in agriculture which may seem favorable to management. We do not mean to suggest that we are convinced that the fact that packinghouses and other industries have coped more or less successfully with their problem of working

with perishables under existing labor relations laws necessarily means that farmers will have a similar experience; although the emergency strike procedures in present law provide some protection against catastrophic strikes of broad scope, they furnish little comfort to minor segments of an industry and none to the individual farmer who is chosen as an example. It may be that special protections will prove necessary for agriculture--and, if they are, Secretary Schultz's proposals for a thirty-day cooling off period seem relatively modest and, in fact highly inventive.[10] We simply say we can see no reason yet to conclude that they are needful.

* * *

As is our common experience, legislation follows social change. Organization of farm labor is a phenomenon which is already with us, and is with us in a form which is chaotic and largely without any statutory framework.

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[10] We assume that a case might be made for safeguards like that proposed by Secretary Schultz, based on an analysis balancing the (perhaps modest) effects of such safeguards upon farm labor organizers and the (perhaps grave) consequences of harvest-time strikes for farmers and public alike. If there is such a case, it is not to be found in the arguments heretofore made by the farmers' representatives--and time is growing short.

We believe that it is urgent--in the interest of the farm workers, the farmer, the merchant and the public--to enact laws which recognize the organizational rights of agricultural workers and which provide a mechanism whereby they can exercise their rights effectively, meaningfully and peaceably, without violence and without injury to the rights of others. And that is why we make the recommendations we do--namely, that Congress should proceed promptly to enact legislation generally along the lines of the present Senate Bill No. 8, but adding a new section 8(g) for agricultural workers rather than including them in present section 8(f).

INTERNATIONAL APPLE ASSOCIATION, INC.

OFFICE OF THE EXECUTIVE VICE PRESIDENT

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April 24, 1969

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The Honorable Jacob K. Javits
United States Senate
Washington, D. C.

Dear Senator Javits:

You will recall that at the hearings on S. 8 on April 17, you challenged Mr. Shuman, President of the American Farm Bureau, when he emphasized the fact in his statement that a farmer could not take a strike at harvest time. In your "challenge" you emphasized the vulnerability and seasonality of the garment industry in New York City, and noted that they had been able to survive under the NLRA and NLRB.

I was the next witness following the Farm Bureau representative, and I had hoped to demonstrate to you the "difference" between a fruit grower and a garment manufacturer in New York City. Unfortunately, you were forced to leave before I testified; and therefore, I did not have the opportunity of directly discussing this point with you.

Subsequently I have received the enclosed letter on this matter from one of our members in the Northwest. It is an excellent statement on why a fruit grower could easily suffer economic bankruptcy if faced with a strike at harvest time and presents logical reasoning concerning the difference between the garment industry and the fruit industry. Further, it comes from a man who "has his money where his mouth is" - namely, from a fruit grower and fruit packer who invests a very sizeable amount of capital each year in the producing, packing and selling of apples and pears. I firmly believe that facts from the "grassroots" are much more valuable and pertinent than anything I could relay to you. Hence, I call your attention to the enclosed letter.

.../

Also enclosed is a copy of my formal statement on S. 8 for your consideration and files. We, too, have emphasized the vulnerability of the fruit grower relative to a strike at harvest time. Further, we have stressed the untenable position the grower would be in if S. 8 were enacted concerning labor referrals from the U. S. Employment Service. On this point we specifically refer you to page two of our statement. If S. 8 were the law of the land, a union could sign up just one or two harvest workers out of a small fruit grower's harvest labor force of 20 to 25 workers and then demand that the farmer bargain with the union. If the farmer refused, the union could claim a labor dispute, and as you well know, the U. S. Employment Service will not refer farm labor to a grower where a "labor dispute" exists.

I would be happy to meet with you or your Legislative Assistant at any time to discuss this matter.

Sincerely,

Fred W. Burrows
Executive Vice President

FWB/jc
Enclosures

cc - The Honorable Harrison A. Williams, Jr.
The Honorable Walter F. Mondale
Mr. Charles B. Shuman

P.S. I am also enclosing a copy of an article that appeared in The Packer (a weekly industry publication) concerning negotiations between farmers and union representatives in Ohio. I particularly call your attention to the last paragraph in the article which indicates that the situation might result in reduced tomato plantings. This, of course, will not only affect the workers, but also many other employees in canning plants, package plants, etc. I would further emphasize that the fruit grower is not in the same position as the tomato grower. He (the fruit grower) cannot make his mind up each year whether or not to plant. He has the trees and the capital investment in the ground and must proceed to produce and protect the crop on the trees or lose his substantial investment. (FWB)

April 21, 1969

Mr. Fred W. Burrows, Executive Vice President
International Apple Association, Inc.
1302 - 18th Street, N. W.
Washington, D. C. 20036

Dear Fred:

A couple things in connection with Senate Bill 8. I know we must testify in opposition to it, but really do not believe we are going to avoid keeping agriculture labor away from so-called benefits given other types of labor by our government indefinitely. In otherwords, I think we are defeated if we just give negative testimony on S.8. I like the positive type of testimony the Farm Bureau is giving. It is offering a substitute for S.8 we can live with rather than just offering total opposition, which of course is the way we really feel.

The other point I wanted to make with you is regarding an item I read two or three days ago in which Senator Javits challenged the President of the Farm Bureau when he said a farmer could not take a strike at harvest time. The Senator said he did not go along with that type of thinking at all because the garment manufacturers in his New York City were just as vulnerable to a strike when they had new clothes ready to sell, clothes which would be valueless a short time later because out of style. He says in spite of that the garment manufacturers seemed to survive all right. The article I read did not indicate that anyone challenged the Senator on this type of reasoning and I hope if you get a chance you will do so.

An apple grower begins about November 1st to grow the next year's crop and by the following October, almost one year later, he has completed harvesting that crop getting ready for his one paycheck per year. Prior to collecting that annual paycheck most apple growers have invested all the money they have in the world in that growing crop and borrowed a lot besides. If he does not harvest that one apple crop in October each year, he has not only lost all the money he has, but seriously injured his chances of borrowing money to grow another crop. And if the reason he did not harvest his crop in October was a law permitting strikes at harvest time, under NLRB procedure, he would be totally lacking in an opportunity to borrow money to grow another crop. No bank would loan money to an apple grower under those conditions, and neither would the Senator.

I hope that point can be put over to him because he apparently does not have the picture in spite of the fact he must have a lot of apple growers in his State of New York who should have access to the Senator's office. I am sure his comparison with the garment manufacturer is false, although I don't know much about garment manufacturing. I would think the garment manufacturer in effect harvests four crops a year against the apple grower's one. I assume he manufactures garments for each of the four seasons: spring, summer, fall and winter. A strike when one of his four season's garments are ready would hurt him, but with three more seasons coming up in the same year, the blow could not be so harmful.

Also a garment manufacturer has a chance to budget his costs against a budgeted sales price which his experience has lead him to feel he has a good chance of getting. He can get credit based on his proven ability to budget income and expenses for each of his four seasons. A farmer gets credit to earn his one paycheck a year based on a lot of things, but above all his ability to harvest his one crop a year. Without the assurance he can go into the labor market and get harvest labor on the basis of supply and demand, he would not be entitled to borrow money to grow his one crop a year. Applying NLRB labor negotiation procedures to apple growing would quickly discourage that farmer and his banker. This is a point the Senator should understand, and apple growers in his state should get over this point to him.

Talks on Wages Broken Off Between Ohio Farmers And Union Representatives

TOLEDO, O. — Talks have broken off between representatives of 22 eastern Lucas county farmers and the Farm Labor Organizing Committee (FLOC), as efforts to come up with a new contract for the approaching tomato season faltered.

Baldemar Velasquez, leader of FLOC, and Ralph Boggs, an attorney representing the farmers, said the two-week-old negotiations ended with both sides still far apart on economics and other issues.

FLOC achieved a "first" last year when the farmers signed an agreement, after a three-day strike, which recognized the committee as bargaining agent for the migrant workers.

Velasquez said FLOC's original demands include an increase in pay from 16.5 cents for each hamper of tomatoes picked to 24.5 cents per hamper, while the farmers have offered the same as last year, 16.5 cents.

He said FLOC's negotiating team was willing to compromise but never got the chance. Boggs agreed the sides are eight cents apart on wages, but denied the farmers broke off the talks.

"It was mutually apparent to both sides that we were too far apart," Boggs said. He said the farmers are unable to better their pay per hamper of last year because they will be getting less for their tomatoes.

No new meetings are scheduled, but Velasquez said if a contract is not reached by planting time, he will bring his workers to Ohio early, "and there won't be any tomatoes planted."

Boggs said however, that tomatoes are a question mark anyway for many of the farmers and they might decide not to plant the crop this year if that action seemed likely.

Utah Wool Growers

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April 16, 1969

REC APR 21 RECEIVED

Honorable Harrison A. Williams, Jr.
Chairman - Labor Subcommittee
Senate Committee on Labor and Public Welfare
Senate Office Building
Washington, D.C.

Dear Mr. Chairman and Subcommittee Members:

We note with much concern the progress of Senate Bill No. 8 which would legalize agreements between agriculture employees and labor organizations covering agricultural employees. We are likewise aware of the forthcoming hearings scheduled for April 16 & 17, 1969. This Association represents the sheep industry of the State of Utah and is the spokesman of the entire membership.

Much thought and study has been given to the proposal to unionize agriculture and particularly to the effect it will have on operating and managing labor in the sheep and wool production business. We are strongly opposed to any effort to unionize any part of our labor force. This can only result in added cost of production to an industry already plagued with ever-increasing costs and income from our products at levels no better than twenty-five years ago. This move cannot bring security to our industry, but will further deplete our ranks by the continuing decline of sheepmen and numbers.

This association strongly protests the proposed legislation and can see no strength to the industry coming from it. Qualified labor in all segments of agriculture comes from years of experience and a built-in desire to work at agricultural pursuits. There is plenty of competition with other industry for laborers. We can only compete so far, then the choice is to do without labor. The facts are just plain economics. There are easier ways of making a living for our families than where there is little or no margin to work on.

We oppose the legislation and support the position statement presented by the National Wool Growers at the hearings on April 16 and 17, 1969 before your committee.

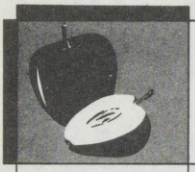
Respectfully yours,

UTAH WOOL GROWERS ASSOCIATION

Marcellus Palmer

Executive Secretary

MP:rae



national apple institute *the apple growers of america*

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Member Organizations

Arkansas State Horticultural Society
California Apple Advisory Board
Colorado Apple Association
Delaware State Apple Commission
Georgia Apple Commission and Council
Idaho State Apple Commission
Illinois Fruit Council
Indiana Fruit Growers Cooperative Association, Inc.
Iowa Fruit Growers Association
Kansas Fruit Growers Association
Kentucky Apple Growers Association
Maryland State Apple Commission
Michigan Apple Committee
Minnesota Fruit Growers Association
Missouri State Horticultural Society
New Jersey Apple Industry Council
New Mexico Apple Council
New York—New England Apple Institute, Inc.
North Carolina Apple Growers Association
The Ohio Apple Institute, Inc.
Pennsylvania Apple Marketing Advisory Board
South Carolina Apple Growers Association
Utah State Horticultural Society
Virginia State Apple Commission
Western New York Apple Growers Association, Inc.
West Virginia Horticultural Society
Wisconsin Apple and Horticultural Council

March 31, 1969

COMMITTEE ON
APR 3 RECEIVED
MIGRATORY LABOR

The Honorable Harrison A. Williams, Jr.
United States Senate
Washington, D. C. 20510

My dear Senator Williams:

So much has been said pro and con on the subject of the application of the National Labor Relations Act to agricultural farm workers, in the course of your efforts in this area and particularly your sponsorship of S-8, that we hesitate to say more lest we only appear to be redundant.

We do, however, want to again express our concern and studied opposition to the enactment of S-8, as now drafted, and to ask that this letter be made a part of the record of the upcoming hearings on this legislation.

Should S-8 be inacted, the tragedy of its impact will, over a period of a few years, exceed many times over the tragedy of the impact of the low incomes and other accompanying inadequacies for those persons in the agricultural work force, mostly a portion of seasonal farm workers, who are not now receiving wages and other working accomodations and benefits comparable to others of their fellow workers in agriculture, and comparable to workers in many vocations of non-agricultural labor. This is equally true, of course, of their employers, vis-a-vis the agricultural industry versus most non-agricultural industries.

We say that the impact of the application of the National Labor Relations Act to agricultural workers would be tragic. We cannot know how tragic, or if as serious as our greatest fears convince us it would be, because it has not been applicable to agricultural workers.

Nor is the factual existing situation with the affected portion of seasonal farm workers as tragic as you so eloquently, though damningly and mis-leadingly, present it in your most recent report, "1969 Report of The Committee on Labor and Public Welfare...Pursuant to S. Res. 22", February 19, 1969.

This is not to say that the present inadequacies and hardships and very serious problems, largely social but also economic, for those seasonal workers affected, are not tragic. They are, and they must be eleviated and eliminated.

We share your concern for the problems. We respect your persistance in seeking solutions. We disagree with you relative to the numbers of workers so affected and particularly with your exaggerated implications that a major portion of the American agricultural labor force is employed under conditions of poverty, misuse and slavery.

We appreciate that a part of this is to dramatize and make more forceful your proposals for solutions. This, however, also has the affect of persuading us that your objectives are not so much sincere solutions for the real problems, however many or few workers may be involved, as they are political objectives in response to the desires of organized labor leadership which has objectives not nearly so much a concern for the welfare of the less advantaged agricultural workers as for the unionization of all farm workers and the monetary gains to be achieved.

These latter objectives are perfectly valid objectives and your legislative effort in their behalf is certainly a valid and proper effort. Our concern, however, is that issues and objectives are being confused and the less advantaged workers are really being exploited to achieve objectives which may well never accrue to their benefit.

We submit that the application of the National Labor Relations Act to agricultural farm workers would have tragic impact on agricultural workers and employers and the consuming public, and is neither necessary or a desirable or a practical, workable and accomplishable means to enabling and achieving the unionization of agricultural farm workers.

Even assuming that covering farm workers under the provisions of the National Labor Relations Act could ultimately resolve some of the low income and associated problems, probably, for the most part, by eliminating many of the workers themselves by eliminating many of their employers and/or the production in the United States of the commodities for which the workers were employed, and accelerating mechanization for others, such provision would generate other equally serious problems generating equally tragic situations. For example: the accelerated demise of smaller farm units and a further compounding of the problem of displaced farmers and farm workers, and increased social problems and retraining problems; accelerated welfare costs for displaced workers not assimulated elsewhere into the labor force; demoralization of the human values of incentive and self-attainment; increased tax revenue losses from displaced businesses; allied industry losses and job losses for those servicing displaced farm businesses; community income and employment losses to those community businesses which serviced the displaced farm businesses and farmers; more rapidly accelerating food costs; a further shift/the production of the displaced agricultural commodities to foreign production and the further weakening of our balance of payments, and compounded price and wage pressures on the remaining producers of these commodities in the United States.

The foregoing are some of the cause and effect factors which would be compounded over a period of a few years with the application of the National Labor Relations Act to agricultural workers and attempts to operate agriculture under the same union organization patterns and proceedures as are historic in many non-agricultural industries.

But this would not occur, you may say...or you may simply dismiss it as a compounded problem for others to adjust and resolve.

As you are well aware, farmer employers are themselves caught up in a cost-price squeeze which operates, with few exceptions, particularly for the smaller and medium sized farm operations, to provide an ever narrower margin of return to producers, inclusive of the producers of the farm commodities which would be most affected by the application of National Labor Relations Act to farm workers.

Something has to give as the objectives of conventional and traditional union organization and operation are pursued. The history of the development and growth of the labor movement is filled with great and proud chapters and with some very unsavory and unproud chapters as well. In agriculture the reprocussions would be felt in many ways. We've cited some of them.

We have stated that the unionization of farm workers can be achieved without the application of the National Labor Relations Act. Indeed it can be better achieved, and with far less chaos and bitterness and loss of goods and services and loss of employers and employment, outside the industrially oriented National Labor Relations Act.

There are very sound reasons that agriculture has not here-to-fore been under the National Labor Relations Act, and they have not been simply political or because agricultural employers had the power to prevent it.

Agriculture does differ greatly from most non-agricultural industries. It has factors of perishability, seasonality, weather, diversity of commodity; very small permanent worker staffs per unit and many part time seasonal employees. It has a unique economic structure which has made it an extremely perplexing one for which to achieve equitability of profitability...witness the efforts of government, for example, over decades to try to eleviate and correct many of these inequities.

Now, this does not mean that agriculture's employees should not have and exercise the right of unionization. It does, however, suggest that a different set of rules needs to be developed to achieve this, to foster it and to protect its workers, its owners and employers and the public at large. It does mean that the provisions of the National Labor Relations Act and the union organizing and operating proceedures which have been applicable to non-agricultural industry may well not be applicable for agriculture. We submit that they are not and that any attempt to force an industry so uniquely different from non-agricultural industry into the same mold for union operation, can only result in tragic consequences.

Up to the present time, two unrelenting forces have been at an empasse on this whole issue: organized labor and its governmental supporters have, on the one hand, insisted that agriculture must conform to the same laws, rules and proceedures in union organization and operation as non-agricultural industry. Agriculture, on the other hand, knowing that this cannot effectively work, but not being able or willing to seek suitable alternatives, has insisted on no unionization for farm workers.

Now this impasse is changing, and you have been an important influence in changing it. In part through your efforts to apply the provisions of the National Labor Relations Act to agriculture as the only known means of forcing unionization of farm workers, workable alternatives are being proposed.

Certainly, organized labor leadership will not at first find the proposed alternatives to National Labor Relations Act acceptable. But if they, and you, are sincerely interested in providing workable legislation designed to implement the unionization of farm workers, we strongly urge you to give serious consideration to the alternative legislation being proposed.

It is not illogical that labor-management relationships and collective bargaining may need different proceedural laws and regulations to best adapt it to fundamentally different types of industries and services. Agriculture is a prime example.

And it could well be too that out of objective and understandingly conceived legislation to direct collective bargaining for agricultural workers may come guidelines for collective bargaining for certain other industries and public services which today, under the provisions of the National Labor Relations Act, threatens to discredit and wreck the entire structure of collective bargaining.

We apologize for the length of this letter but the issue of the application of the National Labor Relations Act to agricultural workers is such that no brief letter can explain the reasons for our concern and opposition.

Sincerely,

Fred P. Corey
Executive Vice President

FPC:mg

cc: Labor and Welfare Committees of
Senate and House of Representatives

Billy Rogers *Farms*

GROWERS OF FANCY WINTER VEGETABLES

P. O. BOX 70
SOUTH BAY, FLORIDA 33493

Telephones: Belle Glade WYman 6-3051 — 6-3052

April 14, 1969

SUBCOMMITTEE ON
REC APR 15 REC'D VED
MIGRATORY LABOR

The Honorable Harrison A. Williams, Jr.,
The United States Senate
Washington, D. C.

Dear Sir:

I am writing this letter to express my views on the up coming hearing on Senate Bill 8 which will begin on the 16th of this month and I ask that my thoughts be read into the hearing record and made a part thereof for the future deliberations by the Senate Labor Sub-Committee and the Congress.

I have farmed in this area since 1942 and I have also worked many thousands of workers that S. 8 is designed to help. I am not anti labor unions, as such, they serve a good purpose but for the leaders of our Country to pass a law which will in effect give one union or union leader the weapon with which to bankrupt one or thousands of farmers throughout our land, is simply outrageous. Here are my reasons for this strong feeling. First the crops that I grow are all highly perishable and there has been nothing --- developed that a farmer can spray his crops that are ready for harvest and delay them while he negotiates a contract or settles a strike. A strike at the right time and highly organized could bankrupt the strongest of some of our farmers. Imagine, if you will, the role of a celery farmer of which I am one, First I line up my borrowed capital of which I have no control over the interest rate, then there is always equipment to replace, of which I have no control over the price,

then I make arrangements for fertilizer, insecticides and fungicides and other supplies which I have no control over the price I agree to pay, then I start growing celery, I am then subject to the whims of the weather, insects, blight and everything else that nature can throw at you and after 6 months and an obligation to pay costs that run from 800 to 1000 dollars per acre, I am ready to harvest celery, then I am subject to one of the most highly sensitive laws of supply and demand that exists and, if S. 8 is passed into law, I shudder to think of the added consequences of this. I ask you, is it not better to concern yourselves with ways to help us help the people who you may think we as farmers have exploited. Is it not good from a workers level, community level, county level, state level and finally a national level for me as a farmer to maintain some semblance of economic stability. I mentioned earlier that over the years that I had worked thousands of farm workers and with this have learned to describe their pattern of life in simple phrases. Most of them, and there are many exceptions to this, set their own standard of living and they work only the number of days or hours that it takes to maintain this standard. I would hope that this Committee would divert some of the effort spent on S. 8 in past years to devise some means of motivating these farm workers to utilize their time in productivity, instead of devising laws that could bankrupt entire farm communities all over the nation. Another point that I want to make is that the farm workers in our community do not want to be unionized as they know that the work is here and the pay is right---all they have to do is want to work.

In closing, I would ask that we as farmers and payroll makers be given our due considerations, the same as some of the other proponents of this proposed legislation.

Sincerely yours,

Billy Rogers

Billy Rogers

32-615 O - 70 - 21

• W. L. THORNTON, PRESIDENT (Pres., Florida East Coast Railway, St. Augustine)
• THURMAN SENSING, EXECUTIVE VICE-PRESIDENT
• J. SCOTT GRIGSBY, JR., SECRETARY & TREASURER
• HARMON L. ELDER, WASHINGTON REPRESENTATIVE (1900 L St., N. W., Washington, D. C.)

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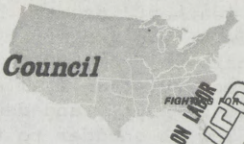

Southern States Industrial Council

FIGHTING FOR FREE ENTERPRISE . . . SINCE 1933



April 28, 1969

Honorable Harrison A. Williams, Jr., Chairman
Senate Subcommittee on Labor, G-237
New Senate Office Building
Washington, D. C. 20510

Dear Senator Williams:

The Southern States Industrial Council respectfully requests that the attached statement be included in the printed record of hearings before your Subcommittee on S. 8. The statement is submitted in accordance with my telephone conversation with Mr. Bob Nagle of the Subcommittee staff, who stated that although time did not permit a personal appearance by the Council at the hearings, the Subcommittee would include our statement for the record.

Sincerely,

J. Scott Grigsby, Jr.

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STATEMENT OF THE
SOUTHERN STATES INDUSTRIAL COUNCIL
TO THE SENATE SUBCOMMITTEE ON LABOR ON S. 8,
BRINGING AGRICULTURAL WORKERS UNDER THE NLRB

The Southern States Industrial Council is an organization representing more than 3,000 business and industrial firms, with headquarters in Nashville, Tennessee. Because of the importance of agriculture, or agri-business, to the economy of the 16 Southern states in which the largest percentage of SSIC members are located, the Council has a substantial interest in S. 8, a bill that would place agricultural workers under the National Labor Relations Act and require farmers to bargain with unions over the employment of farm workers. Some SSIC members are directly engaged in agricultural production. A large percentage are involved as suppliers of goods and services used in agriculture and in the transporting, processing and manufacturing of agricultural commodities.

The Council wishes to be placed on record as strongly opposing the enactment of S. 8.

Conditions in agriculture differ in many respects from conditions prevailing in businesses and industries in which procedures and regulations have been set up for collective bargaining under the National Labor Relations Act. In many forms of agriculture, crops are highly perishable and require a large, seasonal labor force for rapid harvesting to prevent losses. Seasonal harvest employees are required to supplement permanent year-round employees. This presents two problems which make collective bargaining as followed in manufacturing and other industries impracticable for agriculture:

1) Farmers would be at the mercy of labor unions when faced with the necessity of quickly harvesting perishable crops. Unions of agricultural workers could make the most unreasonable demands, backed by strike threats, in a situation where bargaining power would be weighted so heavily in favor of the employees and against the employer.

2) The migrant nature of a large part of the work force would not permit the kind of collective bargaining procedure in which both employer and union communicate their views to employees, and if a sufficient number of employees petition for a union, an election is held under supervision of the NLRB.

For agricultural workers, S. 8 would circumvent the kind of organizing campaigns and elections that take place in manufacturing by permitting labor unions to enter into collective bargaining agreements with agricultural employers with no requirement that the majority status of the union be determined in advance. S. 8 would authorize "pre-hire" agreements and maintenance of union hiring halls for farm workers. This represents one of the very worst forms of compulsory unionism. It would force farm workers to go to a union hiring hall to get jobs and to join the union within seven days to be permitted to work, without having been afforded any opportunity to express themselves on whether they wanted a union to represent them or not.

We already have seen, in the effort of the United Farm Workers Organizing Committee (AFL-CIO) backed with millions of dollars from the treasuries of international unions, to bring about a consumer boycott of table grapes, an example of

the union tactics that would be used to browbeat agricultural producers. If unions are given the powers they seek in S. 8, it is not difficult to envisage the pressures and coercion to which the producers of food and fibre in this country will be subjected.

There is no evidence of widespread demand among the millions of agricultural workers for unionization. In fact, the evidence is clear from the failure of the UFWOC that agricultural workers do not desire union representation and will not join unions unless they are driven into them by legislation such as S. 8 depriving them of a free choice in the matter.

The Southern States Industrial Council opposes extending the authority of the National Labor Relations Board to any other group. In hearings before the Subcommittee on Separation of Powers of the Senate Judiciary Committee during the 90th Congress on the NLRB, a great mass of evidence was produced that the NLRB has far exceeded the powers Congress intended it to have. The NLRB was shown to be blatantly pro-union and anti-employer, with little regard for rank and file workers' rights but great concern for union officials' powers. It should not be given any additional powers over agricultural employers and employees.

SSIC believes agricultural workers should be paid fair wages and provided with good working conditions. Keen competition among agricultural producers for the available supply of farm workers is taking care of this. However, shortage of farm labor and rising labor costs are forcing agricultural employers to turn more and more to mechanization, including new mechanical harvesting devices. If unions are

given power to force wages for agricultural workers to artificially high levels, the result will be to further speed up farm mechanization. People fitted for and desiring agricultural work will be deprived of employment opportunities. New problems of unemployment and poverty will be created in many areas.

S. 8 would place complete control of the agricultural labor supply in the hands of unions. It would, in fact, result in a complete take-over of the agricultural industry by union officials, who would be in a position to dictate to employers and employees alike.

For all the foregoing reasons, the Southern States Industrial Council urges the Subcommittee on Labor to recommend against passage of S. 8.

National Wool Growers Association

600 CRANDALL BUILDING • SALT LAKE CITY, UTAH 84101

Telephone: (801) 363-4483

April 25, 1969

SUBCOMMITTEE ON LABOR
RECEIVED
APR 30 1969

Hon. Harrison A. Williams, Jr.
Chairman, Labor Subcommittee
Senate Committee on Labor & Public Welfare
Senate Office Building
Washington, D.C.

Re: S. 8

Dear Senator Williams:

This letter sets forth the views of the National Wool Growers Association on S. 8 and we will appreciate it very much if you will have it included in the record of the hearings held on this bill.

The National Wool Growers Association is opposed to this bill because employment on farms and ranches generally does not lend itself to union labor organization. This is especially true in range livestock production.

The difficulty of applying minimum wage legislation to range livestock employees has already been recognized and, before passage of the minimum wage bill in 1966, Congress amended it to exempt range livestock employees from the provisions of the bill. The same factors which make it extremely difficult to apply the minimum wage law to range livestock employees would also make it equally difficult to apply the provisions of S. 8 to our industry.

Sheepherders and cowboys are good examples of the rather unusual and specialized type of existence on the range that would not lend itself to unionization and to agreements between agricultural employers and labor unions covering agricultural employees. In most instances these workers are now getting above the minimum wage for actual hours worked, especially when you consider the fact that most of their needs -- food, lodging, clothing, etc. -- are furnished in addition to their monthly salary.

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While it is true that a sheepherder, for example, might be called on in the middle of the night to defend his flock from predatory animals, theft, or for other reasons, it is also true that there would be many hours in a week, throughout the day, when he would not be working. One day he might work 12 hours while the next he might not even have to work for two hours. How can anyone determine, keep records or even estimate the actual hours in this type of endeavor? A herder may be high in the hills with his camp wagon and perhaps may be seen only once a week when his groceries and other needs are replenished. It would be extremely difficult to organize this type of labor into a union shop and under a union contract.

The same holds true for much of agriculture where both work hours and non-work hours vary and are difficult to determine.

Furthermore, S. 8 would extend to the agricultural industry the provisions of the National Labor Relations Act. This Act was written to fit problems of industrial firms and their employees. It does not fit agriculture because it was not designed for agriculture. Its concept simply is not consistent with the unique problems of agriculture and agricultural employment.

Also, while agricultural wage rates have increased substantially in the last 20 years, mandatory wage increases through union contracts, if beyond the ability of agricultural producers to pay, could force these producers out of business. Agricultural producers, unlike industrial firms, can not pass on to the purchasers of their products their added costs of increased wages and increased employee benefits negotiated by unions. The steel industry, for example, can announce new price increases following increases in wages negotiated through steel unions, but the agricultural producers are still at the mercy of the marketplace. If buyers offer the agricultural producers less, they either have to take less or not sell their products.

S. 8 also makes no provisions as to limitations in coverage. In other words, are all farmers, regardless of the size of their operation, covered under this bill or would those farmers with, for example, not less than 500 man-hours of employment be covered?

In view of the factors we have set forth above, we are strongly opposed to S. 8 and urge that it not be reported favorably by your subcommittee. Again, we would appreciate your including this letter in the hearing record.

Sincerely,

James L. Powell

JLP:bc

James L. Powell
President

SUBCOMMITTEE ON LABOR
RECEIVED
APR 29 1969

American Association of Nurserymen, Inc.

SUBCOMMITTEE ON LABOR
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April 28, 1969

The Honorable Harrison A. Williams, Jr., Chairman
Senate Subcommittee on Labor
Senate Committee on Labor and Public Welfare
United States Senate
Washington, D. C.

Dear Senator Williams:

The American Association of Nurserymen wishes to take the opportunity once again to express its views on S - 8, which would make provisions of the National Labor Relations Act as amended applicable to agricultural workers. We believe that this bill does not take into consideration the nature and the special requirements of agriculture, which include an extremely limited period of time to harvest crops. Farmers, including nurserymen, must harvest perishable crops when the combination of maturity and weather make it possible. If the crop is not harvested at that time, the nursery farmer may well lose his investment of many years and suffer loss of income for the coming years. Such losses could indeed bankrupt many nurseries. Products of nurseries may be handled only during limited times each year. A strike during these times would put the farmer in jeopardy of catastrophic losses.

It seems clear that farmers are the most vulnerable employers in the world. In the industrial and commercial world a strike may reduce profits, but it is rare for one to destroy a business. The situation in agriculture is quite different. We believe that the enactment of S - 8 would subject the nursery grower to an injustice not inflicted on any other type of employer simply because he cannot close down his farm and, after a strike is settled, pick up where he left off.

This Association believes that passage of S - 8 would result in unnecessary conflict between agricultural employers and workers. Enactment of this bill would, without a doubt, accelerate the mechanization of nursery operations. Unfortunately, those who would become unemployed because of mechanization are those who are least equipped to find an alternate job opportunity.
The nursery industry feels that the factors mentioned above are adequate justifications to oppose enactment of this bill.

We respectfully request that this letter be made a part of the record of hearings before your Subcommittee.

Sincerely yours,

Robert F. Lederer

Robert F. Lederer
Executive Vice President

NATIONAL COUNCIL OF FARMER COOPERATIVES, 1200 SEVENTEENTH STREET, N.W., WASHINGTON D.C. 20036, TELEPHONE (202) 659-1525



SUBCOMMITTEE ON
REC APR 8 RECD VED
MIGRATORY LABOR

April 7, 1969

Office of the Secretary
RICHARD T. O'CONNELL

The Hon. Harrison A. Williams
Chairman
Subcommittee on Labor
Committee on Labor and Public Welfare
United States Senate
Washington, D.C.

Dear Senator Williams:

We respectfully request this letter be made part of the record on S.8.

If legislation is needed to provide equity in agricultural employer-employee relations, we believe the following principles should be included in any approved statutory provisions.

1. We believe agricultural workers should have the right to join, or refrain from joining, organizations for their economic betterment, as do farmers when joining or not joining farmer cooperatives.

2. We believe agricultural workers should be protected against discrimination, coercion or intimidation for joining, or not joining, any organization for their economic betterment, the same protection farmers are given under the Agricultural Fair Practices Act of 1967. (P.L. 90-288)

3. We believe an agency within the U. S. Department of Agriculture should be established to administer statutory provisions involving agricultural employer-employee relations, in the same way that the Farmer Cooperative Service is responsible for the enforcement of the Agricultural Fair Practices Act of 1967.

4. We believe adjudication of alleged unfair labor practices should be assigned to the federal courts as are alleged violations of farmers rights under the Agricultural Fair Practices Act of 1967.

5. We believe that a majority of agricultural workers, voting only in a secret ballot election in any proposed bargaining unit vote, for representation by a union, should have a right to bargain for wages and working conditions for all similarly defined agricultural workers in that unit, as is the authority granted under the Agricultural Marketing Act of 1937 where farmers and handlers wishing to establish marketing orders for any single commodity in agriculture may agree to do so by the vote of 2/3 of the farmers

eligible, both by number and volume of products produced, and by a majority of handlers, both by number and volume of products handled.

6. We believe it is in the public interest for a continuous flow of high quality food, at reasonable prices, be available to the consumer. It is imperative that nothing should impede this flow including actions resulting in spoilage or deterioration and those defined as "secondary boycotts," "secondary picketing" or "stranger picketing."

We recommend these principles be involved in separate legislation, in lieu of removing the agricultural exemption from the National Labor Relations Act.

We appreciate this opportunity to express our views.

Sincerely,

Richard T. O'Connell

RTO:fms

cc: Senate Committee on Labor and Public Welfare

STATEMENT BY

JOHN W. SCOTT

MASTER OF THE NATIONAL GRANGE

before the

SUBCOMMITTEE ON LABOR

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

April 28, 1969

Re: S. 8 - Amendment to National Labor Relations Act and
S. 1808 - Child Labor

Mr. Chairman and Members of the Subcommittee:

The National Grange is greatly concerned with some of the proposed labor legislation and the effect it will have on family farm operations.

There are times during the production and harvesting of agricultural crops, especially fruit and vegetables, when agricultural laborers are needed immediately. The ability of an organization to withhold the workers from the fields or orchards could have the effect of bringing about a total loss of a season's crop. This could happen within the span of a very few days if a strike were called at a critical time during the harvest or, in some cases, even at planting season.

A catastrophe of this kind would have an adverse economic effect on thousands of Americans who work in the entire agribusiness industry. It could also create a scarcity of a food item and subsequently raise the price to the consumer far beyond reasonable levels.

I therefore wish to inform you and the members of your honorable Committee that the National Grange can not lend its support to the amendment to the National Labor Relations Act as provided in S. 8. It is our hope that it will be the decision of your Committee not to report S. 8 for Senate action unless it is amended to provide the urgently necessary protection for the agricultural industry from the possibility of strikes during the critical harvest periods.

We support the right of workers to bargain with their employer in the same spirit that we support the farmer's right to bargain in the marketplaces for his fair share of the consumer's dollar.

To do otherwise would be inconsistent with the worker's right of free choice. However, as there are safeguards in the laws pertaining to farmer bargaining authority, thereby protecting consumers from unfair and unreasonable prices, there should also be provisions in the labor law that gives the farm worker the right to bargain, that protect the farmer from unfair labor practices and strikes at critical times in the chronological development of the crop.

The National Grange will not oppose labor legislation for agricultural workers if the legislation contains safeguards that will protect the producer from a loss of his crop that can have the effect of bankrupting the farm operation as a result of a single labor dispute.

The National Grange is pleased to report that it is in general agreement with the objectives of S. 1808, introduced by the distinguished Chairman of this Subcommittee, Senator Harrison A. Williams, Jr.

However, we do not agree that labor in agriculture of children between the ages of 10 and 14 is harmful to the extent that the Chairman outlined when he introduced the bill. We quote:

> "First, a child early in life must grow and gain weight. Farm labor such as the thinning, pulling, and topping of beets or the picking of strawberries or cotton requires constant bending, stooping, and frequent lifting. This excessive muscular activity expends the child's energy which should be used in the natural process of growth. Consequently, children who engage in arduous labor become undernourished and undersized. Second, chronic fatigue lowers a child's resistance to disease and

infection and also interferes with his educational progress. Only one of every three farm wage workers has completed more than 8 years of schooling and only one in six has graduated from high school. One-fourth of our Nation's farmworkers have either never attended school or have not completed more than 4 years of schooling."

We would like to point out to the Committee that it is not tne work that is harmful, but the fact that the children are in the fields and not in school and that their migratory nature leads to their health and education problems. It is not the honest work in the open air of America's farms that has led to these deficiencies.

We believe strict enforcement of present laws regarding child labor would do much to correct this problem and urge this Committee to see that such enforcement is carried out by those responsible for enforcing the Act.

We do, however, support S. 1808 in hopes that it may bring some health and education improvement to the children of migrant workers, whom we believe the Chairman was referring to in his introductory remarks and to whom the main thrust of the bill is directed.

I appreciate this opportunity to express the Grange's view on this important legislation and will appreciate this statement being made a part of the hearing record.

STATEMENT ON BEHALF OF
AGRICULTURAL PRODUCERS LABOR COMMITTEE
J. J. Miller, Executive Vice President

TO

THE MIGRATORY LABOR SUBCOMMITTEE

OF

THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE

Senator Walter F. Mondale
Subcommittee Chairman

IN OPPOSITION TO S-8

April 10, 1969

My name is J. J. Miller. I am Executive Vice President of the Agricultural Producers Labor Committee. This Committee is presenting this statement on behalf of approximately 12,000 citrus and avocado growers and establishments where citrus and avocado fruit is prepared for market in the states of California and Arizona.

AGAINST PUBLIC POLICY

Summarized, this Bill compels compulsory unionization of agricultural labor with membership in the union required after seven days and with a hiring hall through which the farmer must procure his labor in the first instance.

Looking to the purposes of this Bill, this would give to the unions a monopoly over agricultural labor so that the unions could effectively control the food supply of the nation through control of the labor which produces this supply. This, in our opinion, is against public policy.

32-615 O - 70 - 22

DESTROYS COLLECTIVE BARGAINING

Owing to the nature of agriculture and the need to harvest the crops at certain periods, there is already inequality of bargaining power between the farmers and the unions. To give to unions these additional powers would destroy any semblance of collective bargaining.

UNCONSTITUTIONAL

The National Labor Relations Act has been held constitutional on the ground that it involves the production of goods for interstate commerce.

It has been the accepted legal concept that production of goods for commerce reaches only the handling of the product after harvest and does not reach the production, harvesting on the farm, and transportation of the product from the farm to the establishment where it is prepared for market.

This statute seeks to have the Federal Government take over all the well-established intrastate activity of farming.

We do not believe that the courts of the United States are willing to destroy the Constitution in this manner.

Any regulation of labor relations covering farm labor should be done under state law so that a state board can properly handle the multitude of local problems involved in production of farm crops.

UNWORKABLE IN AGRICULTURE

While this type of statute might be effective in the construction industry where supplies can be acquired as needed, which is not seasonal and deals largely with non-perishable products, and the labor cost can be passed on to the owner who is paying for the construction, such a setup is not workable for agriculture.

It is true that work in construction involves changing occasionally from one project to another; still, the work in relation to the various projects is more or less permanent and continuous. The factors involved in the work - planning, starting time, building supplies, labor and internal costs, methods of operations, and the like - can be adequately anticipated and controlled. This is not true in agriculture.

The time when a crop is harvested depends upon maturity and weather conditions, over which the farmer has no control.

The farmer's work for the entire year may be tied up in this crop. He is not in a position to bargain at that time because a strike or other coercive activity would destroy his entire year's efforts.

Except in cases of acute shortages, the farmer is not in a position to pass on added costs to the consumer.

He must take what the market will pay for his product in competition with other agricultural products produced in his own area, as well as in other states or in foreign countries.

His wage structure must be held within the limits of the funds he receives from his products and cost of operation. Otherwise, it is impossible for the farmer to stay in business and offer jobs to workers.

The wage structures in industry cannot be automatically applied to agriculture, as would be the tendency if industrial unions should gain control of the labor supply of agriculture.

Before any effort is made to bring agriculture under the National Labor Relations Act, a thorough study should be made of the economic factors involved in each crop in each area of each state, as there is a great difference in the production, preparation for market, and marketing of these crops, and any method that would substantially interfere with these processes would tend to cut down production and increase costs to the consumer.

AGRICULTURE BEING HINDERED

Already increased production costs are driving agricultural production out of the United States into foreign countries.

A bill of this kind would add impetus to the trend of agriculture to leave the United States and go to where land costs and taxes are less and labor is more plentiful. This bill would thus not be in the interest of either labor or the consumer.

Agriculture has repeatedly warned that proposals such as S-8 and those of the previous administration (Secretary of

Labor's criteria wage) encouraged by organized labor can only result in the ever-increasing exodus of U. S. production to foreign countries. Our warnings have obviously gone unheeded and our predictions, sadly enough, are proving accurate.

Our competition is active and aggressive. For example: Some of you already realize the impact which Mexico is beginning to have in this area. Frozen strawberry imports into the United States from Mexico zoomed to a record high of over 82 million pounds in recent years, a whopping 60 percent increase in less than five years. Just a few years ago, frozen strawberry imports from this source totaled only 14 million pounds. Fresh market strawberry imports from Mexico more than doubled those of the previous year. A similar story can be told about exports of vegetables to the United States from Mexico where the production costs are low.

Pole tomato acreage has continued the sharp upward trend of recent years. Production from such acreage is several times that of other type plantings.

Mexico could substantially knock United States grown farm products out of competition. This, it seems to me, is something not often considered. Mexican imports of farm products into the United States are directly competitive with many crops.

Citrus in Mexico is being planted with the aid of loans by the Mexican government. One of the prime purposes is to export to the U. S. market.

Already increased price competition from foreign producers is cutting into agricultural sales, particularly in relation to canned goods, and canners constitute a market for a substantial portion of agricultural production in California.

For example, in peaches exports account for 15 to 20 percent of the production, and this product is in competition with products from such sources as Australia and South Africa, where the production is highly subsidized, and whose exports are their main sales outlets.

Asparagus from Formosa is in competition with United States products in appearance and at a lower cost.

Owing to the elimination of the supplemental labor program and with attendant increased labor costs, some major packing companies have been required to raise prices on cans of fruits and vegetables more than 20 percent, and the farmer is not getting a commensurate increase in the price paid to him.

The Wall Street Journal says, "American manufacturers are eagerly joining a new kind of 'bracero' program that uses cheap Mexican labor to assemble U. S. products for the American market." The entire article is copied and included herewith. Among other things, this revealing article says, "Sarkes Tarzian and Transitron are among more than a score of U. S.-affiliated companies that have started operations just over the border since the Mexican government, without fanfare, began encouraging such ventures a year or so ago. Among other well-known manufacturers

that have started operations on the border are Litton Industries, Inc., Fairchild Camera & Instrument Corp., Raytheon Co., Hughes Aircraft Co., and Catalina Division of Kayser-Roth Corp."

The question might well be asked -- "Why does organized labor do such a disservice to their members and other workers by supporting programs that remove jobs from this country?"

We submit that the proposal being considered (S-8) and encouraged by organized labor can only result in an adverse effect upon the working people in agriculture and encourage industry and agriculture to look elsewhere for their production.

While canners to some extent can designate a price for their product, the farmers and the handlers of fresh fruits and vegetables do not have that advantage, primarily because their production must be moved to market as it is harvested and packed, and in most instances, a market glut exists at that time so that the farmer must take what the market demand indicates.

CONSUMER PRICES UP

If a monopoly is given to unions over agricultural labor, there would tend to be a standardization of farm labor rates closely related to industrial rates.

This would fail to take into consideration the economic differences between industry and agriculture and the wide variation in growing conditions in the different areas and at different seasons, which bears upon wage rates, hours of work and working conditions.

To raise wages and hours of work in line with the areas most capable of paying these added costs would undoubtedly destroy production of perishable commodities in numerous places throughout the United States, shorten the available supply and thus increase consumer prices.

UNION WOULD DICTATE WAGES

It is the practice in much of agriculture to use piece rates in many of its operations, particularly in harvesting. These are incentive rates and vary widely with the area and crops produced. These tend to relate wage rates to production and stabilize the permanent costs.

Any effort to put a minimum guarantee under piece rates tends to remove incentives and forces the employer to discharge those who are unable to meet the minimum. This forces more and more people onto welfare and eliminates job opportunities for students, housewives, those entering the labor force for the first time, and particularly those who could not consistently earn the equivalent of the guarantee or the minimum wage.

The union would have such a monopoly over the labor and such power to destroy the farmer that from a practical standpoint, the union would in effect be setting hourly wages for the whole of agriculture and eliminating incentive wages.

INTERFERENCE WITH RECRUITING

The union's insistence on eliminating any reasonable,

supplemental labor program and the union's inability to perform on its representations that it could furnish adequate labor at harvest time indicates the inability of unions to supply the labor needed in agriculture.

Instead of the unions being able to find additional qualified workers, this Bill would in effect drive all present agricultural workers into unions.

The unions have not shown the ability to train or supply qualified workers.

The citified worker already under union control has neither the desire nor the ability to perform agricultural work, and the higher the agricultural wage becomes, the less able is the farmer to use the type of worker who likes agriculture but who cannot perform efficiently enough to keep the unit cost in line with competitive areas.

If the farmer were required to first make application to a union hiring hall before he could recruit elsewhere, he would find it practically impossible to obtain necessary labor when he needed it, particularly at harvest time.

The union would obviously have to depend upon the United States (Manpower Employment Service) to supply the seasonal labor. The experience of farmers in California has shown that this Service, however hard it tried to get qualified agricultural labor, could not do so, either in intrastate or interstate recruitment.

ADMINISTRATIVE PROBLEMS

The administrative problems for the National Labor Relations Board to handle representative elections and collective bargaining under this Bill would be insurmountable.

A union could represent the workers even though the union were unable to get 30 percent for the purposes of an election.

A farmer could be made to bargain with the union even though none of his employees desired to join the union.

The union could make a demand upon the farmer to bargain, state the wages it demanded, threaten the farmer with a strike unless he signed the contract, and the only choice the farmer would have would be to accept the union's proposal or have his crop destroyed by a strike.

There is no equality of bargaining power or any justice in this type of compulsion.

Obviously, the union could coerce the employer into a contract without even having an election, and good faith bargaining would be a thing of the past.

If the farmer requested an election, the Board would have to determine the appropriate unit, the eligibility of workers to vote, and what constituted a representative payroll for election purposes.

In the time it would take under present procedures to accomplish these things, the farmer's perishable crop could be rotting in the field.

Because of the large number of small and medium size farmers who have only a few employees during the year and then a substantial number during the harvest season, the determination of the unit for bargaining purposes and the handling of an election to get a representative crew would be practically impossible.

For example, in asparagus the regular crews during the growing season are usually small, but during harvest season the harvesting crew may be ten times the number of regular employees, so that in order to get a representative crew for election purposes elections would have to be held at harvest time. Those voting in the election one year might be entirely different than those who would be present for harvesting during the next season.

This would tend to lead the union to demand a contract on a crop basis for all the producers in an area or the state, which would destroy the freedom of collective bargaining by the growers and would tend to set up large labor blocs that would destroy any equality of bargaining power.

Section 2(4) of the proposed statute provides that the agreement may contain a provision specifying the minimum training or experience qualifications for employment and priority in opportunities for employment based upon length of service with such employer, in the industry or in the particular geographical area.

This would permit the union to set up qualifications for union membership which would be beneficial to its operation, and

arrange a seniority program for an entire geographical area whereby such members would have individual preference for desirable jobs.

This would probably mean that the union would not be able to furnish workers except those which met union qualifications, so that the farmer could not rely upon the union to furnish the great number of seasonal employees who would not meet union qualifications.

This, together with the provisions that they must join the union within seven days, would in fact give preferential hiring to only a small segment of the workers needed and discrimination against and deny membership to the remainder; and the union might require an employer to discriminate against his employees who may be qualified to do the work to the satisfaction of the employer but not meeting union requirements.

While the proposed statute does not specifically provide that an employer must execute such a contract, the economic status of a farmer, as before pointed out, is such that for all practical purposes he would be compelled to sign the contract that the union proposed.

SUMMARY

In summarizing, then, it is our position that this statute would so operate as to be against public policy, would tend to destroy collective bargaining, and, according to our

attorneys, would present a serious constitutional question. It would seriously interfere with and tend to disrupt agricultural production and increase consumer prices.

It would interfere with the necessary recruiting of agricultural labor and probably result in discriminatory practice by the union contrary to the provisions of Section 8 of the National Labor Relations Act.

In addition to the attached exhibits previously referred to are photos of devastation caused by this year's "unusual" rains and floods. You will note the utter destruction of farm lands and orchards which may take years to bring back into production. This tragedy coupled with last year's record freeze, which saw orange crop losses in the 60% area, is not the only evidence we could provide, but this alone should convince reasonable men that agriculture cannot be treated with the same standards which apply to industrial operations. Agriculture must be placed in a more equalized bargaining position than that which currently exists under the N.L.R.A. There is a more equitable way of doing this.

We noted with interest the gentlemen of the Senate who have co-authored this Bill. Perhaps they have not read it carefully and simply accepted the title without turning to the operative language. We sincerely hope they will reassess their position after carefully studying the foregoing statement.

Respectfully submitted,

J. J. Miller

J. J. Miller
Executive Vice President

JJM:MB

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Photos: Courtesy of
STAR-FREE PRESS
Wally Smith
Ventura, California

THE WALL STREET JOURNAL,
Thursday, May 25, 1967

Border Action

U.S. Firms Open Plants Across Mexican Line To Save on Labor Costs

Litton and Kayser-Roth Lured By the Area's Advantages; Mexico Encourages Trend

AFL-CIO Mulls Its Response

By HERBERT G. LAWSON
Staff Reporter of THE WALL STREET JOURNAL

NUEVO LAREDO, Mexico — American manufacturers are eagerly joining a new kind of "bracero" program that uses cheap Mexican labor to assemble U.S. products for the American market.

Unlike the farm program, under which Mexican laborers entered the U.S. until such border crossings were banned in 1965, Yankee manufacturers are bringing their work to Mexican soil—more precisely to the part of Mexico that lies close to the 2,000-mile common border with the U.S.

The border industrialization drive seems certain to draw criticism from American labor unions and already is engaging the attention of top political leaders in both countries. Meanwhile, the quiet start already made in such manufacturing heartens some companies in search of ways to cut costs in making products ranging from electronic parts to clothing and furniture. And it promises relief for an oppressive Mexican unemployment problem that was aggravated by the end of the bracero farm program.

Here in this dusty, bustling border town south of San Antonio, the biggest of the new border plants is just getting finishing touches. It's an ultramodern $1.5 million air-conditioned plant for Transitron Electronic Corp. of Wakefield, Mass. When it starts up early next year, 1,500 or more workers will assemble U.S.-made electronic parts into more complex components for shipment back to the U.S.

Tuners for GE

A few blocks away in a small, white-washed concrete building is a more typical operation. Here some 50 Mexican girls solder and crimp wires on American-made television tuners for Sarkes Tarzian Inc., a big Bloomington, Ind., concern. The assembled tuners—1,000 a day—have been moving northward since March last year, destined for General Electric Co. TV sets.

Sarkes Tarzian and Transitron are among more than a score of U.S.-affiliated companies that have started operations just over the border since the Mexican government without fanfare began encouraging such ventures a year or so ago. Among other well-known manufacturers that have started operations on the border are Litton Industries Inc., Fairchild Camera & Instrument Corp., Raytheon Co., Hughes Aircraft Co. and Catalina division of Kayser-Roth Corp.

Nearly all these companies ship their electronic components, textiles or other raw materials and semi-finished goods to their border operations under a special exemption from all import duties. They pay as little as $2 daily per worker for tasks such as soldering or sewing that require extensive hand work. The output then is returned to the U.S. for finishing and sale, with the manufacturer usually paying only a nominal tariff.

Big Growth Expected

Output thus far is small—probably totaling no more than a few million dollars worth of exports to the U.S. annually. But most American businessmen and Mexican government officials predict a sizable impact within five years. "By then, production should total at least in the tens of millions of dollars annually," says one company president.

Some U.S. business leaders are cautious. "This is a new thing for Mexico, and it could go either way," says David Bakalar, president of Transitron. But others have fewer doubts. "I'm convinced that the potential of cheap labor makes a border operation a natural for any labor-intensive manufacturing," says Eli R. Rush, a lanky New Englander who directs a transformer plant on the border, plans a management consulting service in Ciudad Juarez, located opposite El Paso, Texas, to aid new border companies and heads a Mexico City electronics concern.

The duty exemption on imports into Mexico of raw materials, components and machinery is being granted by the Mexican government on an individual plant basis. But few firms are encountering any troubles, and the government is taking pains to make clear its commitment to the program.

"Our idea is to offer an alternative to Hong Kong, Japan and Puerto Rico for free enterprise," Octaviano Campos Salas, secretary of industry and commerce in the federal government, says in Mexico City. "Such industrial programs have to be long-term programs."

The U.S. Government hasn't done anything officially to encourage or discourage border manufacturing. Under well-established customs rules, a U.S. company can send its components to Mexico under a temporary export license and then bring them back without paying any duty on the material, as long as customs men are satisfied the product hasn't been altered beyond identification. The only duty paid is on value-added, meaning the value of the low-cost Mexican labor.

A Need for Jobs

Mexican backing for border industry picked up noticeably after the U.S. closed its borders to farm workers. Unemployment now totals one-third of the work force in cities like Juarez, a community of 300,000, one study indicates. "There's a need for us to find an outlet for workers with no jobs," stresses Mr. Campos Salas.

The high joblessness makes hiring easy in the border towns, companies say. Transitron started building its plant in May last year; within four months, without any publicity, it had 1,500 applications, and it now has 2,500. Its only hiring so far has been 34 girls (at $2.08 daily) to train to become assembly line supervisors.

President Johnson and Mexican President Diaz Ordaz have taken a personal interest in solving border unemployment. U.S. Ambassador Harry Turkal recently made a confidential report to the White House urging creation of fenced-in industrial parks straddling the border. He envisioned such parks as vastly simplifying the customs inspection of goods produced with Mexican labor for the U.S. market.

A more formal study of border manufacturing is due to be presented to the heads of both governments shortly, perhaps this month. The U.S. leader of this joint border commission is Raymond Telles, former El Paso mayor. It's expected that the commission's recommendations will be considered when Mr. Diaz Ordaz visits Washington this fall.

The big hurdle confronting any plans for a large-scale "Hong Kong" on the border may well be U.S. labor opposition. "Our problem" confides one high Administration official sympathetic to border manufacturing, "is to pacify or mollify U.S. labor unions."

The AFL-CIO appears to be uncertain about its attitude, partly because the exodus of U.S. companies to the border has happened so quickly and quietly. "We've been following it with some concern," says Nat Goldfinger, director of research for the union headquarters. "But frankly we have a paucity of information now about this." The big question, he says, is "whether we are exporting U.S. jobs."

Saving U.S. Jobs?

Manufacturers and some Mexican and American government officials argue that the border movement may actually save U.S. jobs by winning back markets now lost to goods made entirely in the Far East. In essence, they argue, it's better to produce something partly in the U.S. and partly in Mexico than to allow a totally foreign product to enter the U.S. market.

"This may be hokum, but we can't rule it out," says Mr. Goldfinger of the AFL-CIO.

The paucity of information about which the union complains is due partly to the tight-lipped policies of many companies operating on the border. "The less our competitors know, the better we feel," snaps the president of an American company now expanding its initial border operation.

But most border companies will reveal enough of their operations to suggest that they are happy with their decision to locate here on the border. Most say productivity is equal to that of U.S. workers in similar jobs, while labor costs, including fringe benefits, are one-third to one-fourth the U.S. level.

Litton says its two Tijuana plants, started last year, are "quite successful." A spokesman adds: "We favor plants in the border areas of Mexico over Hong Kong. The immediacy of supervision and technical coordination when necessary are a psychological and economic advantage that's hard to beat."

Litton started up a 3,000-square-foot plant in September to make magnetic memory cores for U.S. computers. It's now expanding that plant, which employs 110 workers, to five times its original size. The other Litton border plant employs 50 workers to make transformers. "We're able to compete effectively in markets in which we previously couldn't compete — namely products coming from the Far East," says the spokesman.

Fairchild to Increase Employment

Fairchild Camera, which also operates in Tijuana, started last July assembling relatively heavy electronic components from U.S.-made parts. "We have 150 employes now, and we're still hiring, shooting for 400 by the end of the year," says one official.

Fairchild is in an especially good position to judge the competitive costs of the Mexican border. It has similar electronic plants in Hong Kong, Korea and other foreign low-wage areas. Far Eastern wages are less than two-thirds the level in Tijuana, says the Fairchild official. "But on heavier components where freight cost is important, the higher Mexican wage is offset by low freight charges, so that the advantage is with Tijuana," he says.

Kayser-Roth's Catalina division has had a similar chance to compare its operation in Mexicali with its plants in the Far East and Puerto Rico. "The cost advantages depend entirely on the type of product," says Norman Hinerfeld, senior vice president. On certain types of clothing whose value is almost entirely in labor, such as a hand-embroidered cotton blouse, "we're better off in Hong Kong," despite the full duty that must be paid when the blouse enters the U.S., he says. "But on a coat made with $5-a-yard fabric in which labor is only 20% of the total value, we're better off sewing it in Mexico" because a U.S. duty is paid only on the labor added. The expensive fabric itself enters Mexico from the U.S. and returns to the U.S. duty-free.

The Southern California sportswear maker set up its Mexicali plant in early 1966 and now has 225 workers sewing garments there. "We'd been watching the situation for several years until we felt the political climate was right in Mexico," says Mr. Hinerfeld. "The end of the bracero farm program helped bring the U.S. and Mexico together on this. The potential is there for a massive industrial program."

Getting Along With Customs

Whether the potential is realized depends on a good many things, including the attitude of U.S. and Mexican government officials. "The toughest part of operating on the Mexican border now is satisfying U.S. Customs officials that what you are shipping back into the U.S. is what you brought over," says Mr. Rush in Mexico City.

Catalina echoes this view. "You can sew a seam in Mexico, but if you sew a buttonhole, you've altered the nature of the article, and its entire value becomes subject to U.S. duty," says Mr. Hinerfeld.

Mexican red tape still harasses many Yankee businessmen setting up border operations. Applications for duty exemptions have to win approval from two cabinet-level ministries in Mexico City, and there must be elaborate coordination of all plans between state and federal officials, say businessmen.

WALL STREET JOURNAL, Thursday, May 25, 1967

One Firm Goes to Mexico To Sort Grocery Coupons

By a WALL STREET JOURNAL *Staff Reporter*

NUEVO LAREDO, Mexico—A. C. Nielsen Co., the big television rating and marketing services firm, believes that service industries as well as manufacturers can profit from cheap labor on the U.S.-Mexican border.

Nielsen set up a plant here in 1962 to tabulate promotional coupons that U.S. food and other manufacturers issued to supermarket shoppers. The coupons—which typically give the customer 10 cents off on a product—have to be returned for credit by the grocery chain to the dozens of manufacturers who issue them.

"We act as redemption agent, doing the counting, sorting and preparing of invoices," says a Nielsen spokesman. "It's a sort of clearing house." The coupons are mailed to Mexico by grocery chains, and invoices are returned to the U.S. manufacturers for payment.

Much of the sorting is hand labor. About 300 workers are employed by Nielsen here and at a new plant opened last year in Juarez. "We hope to have about 450 within a year," says the spokesman, adding: "Obviously, the low wage rate here has something to do with our being here." Nuevo Laredo's minimum wage is 23.50 pesos daily, or $1.88.

32-615 O - 70 - 23

STATEMENT OF THE NATIONAL CONSUMERS LEAGUE
ON S. 8
NLRA COVERAGE FOR FARM WORKERS
July 25, 1969

The National Consumers League, which is celebrating its 70th anniversary this year, was established in order to use the power of consumers to obtain improved working and living conditions for those who produce the goods and services consumers use. For over half a century the League has concerned itself with that most neglected segment of our working population, the migrant agricultural worker. We therefore welcome this opportunity to express our views to your committee and to indicate support of the bill (S. 8) to extend to these workers the protection afforded to workers in all other industries under the National Labor Relations Act.

The League began its study of the problems of the agricultural workers with an investigation of field and cannery workers in New Jersey as long ago as 1906. Some of the problems we found then still exist today. Inadequate incomes, substandard living conditions, inequitable labor policies perpetuate the poverty and degredation of those who harvest the food and fiber which other Americans enjoy.

The need for Federal legislation to protect the farm worker has long been recognized. More than 25 years ago the LaFollette Committee, after the most thorough investigation of agricultural labor conditions ever conducted in the United States, recommended:

> *"Legislation must assure the enjoyment of the same rights, standards of living, and status to labor in ... agricultural industry as is afforded by our laws and customs to other labor. No less measure of public intervention will suffice.*

"The first and fundamental public policy which the Committee recommends is the enactment of such legislation as is necessary to protect the rights of agricultural labor ... to organize and bargain collectively."

(Senate Report No. 1150, 77th Congress, 2nd Session 394, 1942)

Some progress has undoubtedly been achieved, but the fact remains, as the many witnesses who have appeared before your committee attested, that in this year of 1969, most farm workers are still denied their fair share of our affluent economy. The 1.7 million noncasual farm workers in 1967 eared an average $1,389 for the year. Migrant workers averaged $1,266. Small wonder, then, that so many young children are forced to work. For last year it is estimated that there were about 800,000 paid farm workers younger than 16, about one-quarter of the entire hired farm working force. Approximately 375,000 children from ten to thirteen years of age are still employed as hired farm workers. Infant mortality rates in migrant families was 125% higher than the national rate. The death rate from influenza and pneumonia was 200% higher, and that from tuberculosis and other infectious diseases was 260% higher. The movie recently shown to your committee "What Harvest for the Reaper?" portrayed most graphically the miserable working and living conditions of the average migrant.

Agricultural workers have done must to help themselves by forming an active organization, but the absence of orderly collective bargaining protection has resulted in disorders and strife in the Rio Grande Valley and in California that are reminiscent of the chaotic days of the early labor history of this country. Once again workers have been beaten, jailed, and harassed as they have attempted to organize to obtain for themselves the rights long enjoyed by most

other workers, to improve their own working conditions. The rules of jungle warfare have again resulted in brutalities and chaos that could be avoided under the more civilized restraints of legal recognition and rational procedures of an enlightened labor-management approach.

The cause of the strife is the agriculture industry's refusal to recognize the employee's need for organization and collective bargaining. It is due to the growers' refusal to treat farm workers as human beings, as American workers entitled to the rights and privileges enjoyed by all other American workers. Nobody really gains from such an attitude -- neither the grower, the worker, nor the consumer. Unless the Congress takes action to improve this situation the social explosion in our rural areas will match the unrest and agitation in our cities.

The National Consumers League is convinced that as a moral issue alone there is no alternative but to extend to farm workers this most basic, democratic right -- the right to be represented by a union of their own choice. And as an economic issue, the League is convinced that passage of legislation extending collective bargaining rights to farm workers would be beneficial rather than detrimental to all facets of our economy.

There is ample evidence that when the NLRA was passed in 1935, the exclusion of farm workers was intended to be only temporary. Thirty-four years is a long time for a <u>temporary</u> discrimination to exist. It is almost a lifetime for many of those who have suffered from this discrimination.

That the principle of collective bargaining can work in the agriculture industry has been amply demonstrated. In many foreign

countries collective bargaining has operated successfully in agriculture for many years. In this country California wine grape growers have entered into collective bargaining agreements with their workers to the mutual benefit of both groups. In Hawaii there has been a long history of successful collective bargaining in the sugar and pineapple industries. And for many years there has been successful collective bargaining in industries which are closely connected to U. S. agriculture -- packing shed, food processing, canning -- where the work is seasonal, the workers migrants, and the products are highly perishable. Industrial peace and the free flow of agricultural products in interstate commerce has not been hindered. There has been no adverse impact on the economy.

The National Consumers League has recently (Policy Statement, March, 1969) reaffirmed its belief in the basic right of all workers, including those who work in agriculture, to join a union, to bargain collectively, and to expect public authorities to protect their organization from unfair attacks. It therefore urges that you enact legislation giving farm workers the most effective legislation to help them achieve their basic rights, and to put them on an equal level with other American workers.

Therefore, the League is opposed to the proposals of the U.S. Dept. of Labor, and of some industry representatives, to create a separate farm labor board and special machinery to handle farm labor matters. Not only would such a proposal entail unwarranted additional expense at the very time when the Administration is seeking desperately to reduce its budget, it would also take away from this disadvantaged group the most effective weapon enjoyed by other workers. Substitution of mediation and arbitration for the right to strike or boycott would again single out this group of workers with

restrictions that would effectively bar them from moving out of the second-class citizenship to which they have been assigned for much too many years. It would be morally unjust, and economically unwarranted. The NLRB is able and willing to administer the provisions of the NLRA for farm workers, and the League strongly urges that no special new board be set up.

The League also wishes to call the attention of the Committee to a practice which has strengthened the growers' hand in opposing farm worker unionization. We refer to the abuse of the "green card" clause of the Immigration Act. Apparently, green-carders are being brought in by growers as strike breakers in California and Texas, and Mexican nationals on visitors cards are being hired by growers to help break strikes. This is a clear violation of the intent of the law, and should be stopped immediately. If the law needs strengthening, we urge your prompt action in that direction. It seems, though, that vigorous enforcement of the present law should stop this practice which makes peaceful solution of the farm workers problems even more difficult.

S. 8 would provide the machinery needed by farm workers to enable them to organize and bargain collectively -- a basic right which all American workers should enjoy. Passage of this bill would not guarantee success to farm workers, but would give them the opportunity within the framework of the legislation which has proven effective in bringing a large measure of peace to U.S. labor-management relations. It would extend to agri-business some of the responsibilities which other industries in America must face. It is long overdue.

The National Consumers League urges prompt enactment of the strongest possible bill to finally bring agricultural workers out of their second-class position in the American economy.

RICHARD B. RUSSELL, GA., CHAIRMAN
ALLEN J. ELLENDER, LA.
JOHN L. MCCLELLAN, ARK.
WARREN G. MAGNUSON, WASH.
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HIRAM L. FONG, HAWAII
J. CALEB BOGGS, DEL.
JAMES B. PEARSON, KANS.

THOMAS J. SCOTT, CHIEF CLERK
WM. W. WOODRUFF, COUNSEL

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

May 5, 1969

Honorable Harrison A. Williams
Chairman
Subcommittee on Labor
Senate Labor and Public Welfare Committee
Washington, D. C.

Dear Pete:

I have been advised that your Subcommittee will conduct further hearings on S. 8, the bill to extend bargaining rights of the NLRB to agriculture employees, on May 6 at which time you will hear witnesses from the State of Florida.

I appreciate your action in providing time for Florida witnesses who are vitally interested and would be adversely affected should the proposed legislation be enacted.

It is my understanding that Mr. George H. Wedgeworth, Wedgeworth Farms, Inc., Belle Glade, Florida, and Mr. Charles R. Sexton, Vero Beach, Florida, both of whom are most knowledgeable in regard to Florida agriculture, will testify on the proposed legislation for the benefit of your Subcommittee.

I also understand that Mr. Clark M. Ghiselin, Executive Secretary of the Citrus Industrial Council, Lakeland, Florida, has submitted written testimony for the record of the hearings.

I further understand that Mr. Joffre C. David, Secretary-Treasurer, Floria Fruit and Vegetable Association, Orlando, Florida, has also submitted a letter to you as Chairman of the Senate Labor Subcommittee under date of April 29, 1969, regarding this legislation and asked that the letter be made a part of the hearing record.

In addition, Mr. Robert W. Rutledge, Executive Vice President, Florida Citrus Mutual, directed a letter to Mr. Robert Nagle, Associate Counsel of the Subcommittee under date of April 30, 1969, updating a letter addressed to me by Mr. Rutledge under date of August 6, 1968, which appears at page 1013 of Appendix III of the hearings before the Subcommittee on Migratory Labor, 90th Congress, Second Session. I would appreciate your Committee incorporating the letter of April 30, 1969, and the letter of August 6, 1968, in the record of the hearings presently being conducted by your Subcommittee.

I also ask that your Subcommittee give favorable consideration to the inclusion in the record of the enclosed letter I received from Mr. Clark M. Ghiselin dated

April 30, 1969, advising of the telegram the Citrus Industrial Council sent to the President, and the enclosed telegram the Florida Fruit and Vegetable Association forwarded to me on April 30, 1969, which is identical to the telegram the Association forwarded to the President under the same date.

Your consideration of the above and the incorporation of this letter in the hearing record will be greatly appreciated.

With kind personal regards, I remain

Yours faithfully,

SPESSARD L. HOLLAND

SLH/yms
Encls. (2)

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WESTERN UNION
TELEGRAM

1969 APR 30 PM

SYMBOLS
DL = Day Letter
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NFB045 (28)AB246
A ORA502 HT NL PDB FAX ORLANDO FLO 30
HONORABLE SPESSARD L HOLLAND 422
US SENATE 224-5274 421 OLD SENATE OFFICE BLDG WASHDC

RECEIVED
WASHINGTON, D. C.

MEMBERS OF THIS ASSOCIATION ARE HIGHLY CONCERNED OVER MOVES TO INCLUDE AGRICULTURAL WORKERS UNDER EITHER THE NATIONAL LABOR RELATIONS ACT OR UNDER SOME SIMILAR LEGISLATION. BOARD OF DIRECTORS OF THE FLORIDA FRUIT & VEGETABLE ASSOCIATION, IN MEETING THIS DATE, RESPECTFULLY ADVISE THAT THIS ASSOCIATION STRENUOUSLY OPPOSES TO THE UTMOST ANY INCLUSION OF AGRICULTURAL WORKERS UNDER THE NATIONAL LABOR RELATIONS ACT OR ANY OTHER SIMILAR LEGISLATION WHICH WOULD HAVE THE EFFECT OF NULLIFYING THE AGRICULTURAL LABOR EXEMPTION ESTABLISHED BY CONGRESS UNDER THE NATIONAL LABOR RELATIONS ACT. THE ASSOCIATIONS REASONS FOR THIS STAND ARE OUTLINED IN LETTER ADDRESSED TO THE HONORABLE HARRISON

SF1201(R2-65)

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WESTERN UNION
TELEGRAM

SYMBOLS
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A WILLIAMS JR CHAIRMAN SENATE LABOR SUBCOMMITTEE DATED APRIL
29 1969 COPY OF WHICH FOLLOWS. OUR POSITION IN ALSO KNOWN TO OUR
SENATORS HOLLAND & GURNEY. WE WOULD APPRECIATE YOUR
FAVORABLE CONSIDERATION OF THIS POSITION
SYDNEY O CHASE JR PRESIDENT FLORIDA FRUIT & VEGETABLE ASSN

29 1969.

SF1201(R2-65)

XEROX COPY XEROX COPY XEROX COPY

Citrus Industrial Council

Post Office Box 89
LAKELAND, FLORIDA
33802
Phone: 688-5594

C. M. GHISELIN
Executive Secretary

April 30, 1969

SENATOR S. L. HOLLAND
RECEIVED
WASHINGTON, D. C.

Senator Spessard L. Holland
Room 421, Old Senate Office Building
Washington, D. C.

Dear Senator Holland:

The following telegram was sent to President Nixon today:

> "On behalf of the Florida citrus growers and employers, we strongly oppose coverage of agricultural workers under the National Labor Relations Act. We are submitting testimony on this point to Senator Mondale, Chairman of Migratory Labor Sub-Committee. The scales of equity and justice weigh far too heavily in favor of organized labor and place agricultural employers in an untenable position for any remedy in time to save highly perishable commodities during strikes at harvest time."

Sincerely,

CITRUS INDUSTRIAL COUNCIL

Clark M. Ghiselin
Clark M. Ghiselin
Executive Secretary

CMG:bh

STATEMENT
of the
AMERICAN FEED MANUFACTURERS ASSOCIATION
CONCERNING S.8
Prepared for the
SUBCOMMITTEE ON LABOR
SENATE LABOR AND PUBLIC WELFARE COMMITTEE
April 29, 1969

The American Feed Manufacturers Association is the National Association for the feed manufacturing industry. We are interested in this legislation because it vitally affects tens of thousands of farmers who produce most of the ingredients used in formula feeds, and tens of thousands of farmers who utilize formula feeds in the production of meat, milk and eggs.

We are opposed to the enactment of S.8 because we believe it could seriously affect the production of food needed to meet the requirements of the consuming public, and that it would create problems far more serious than those sought to be met by the legislation.

We think the Congress acted wisely in exempting agriculture from the provisions of the National Labor Relations Act. It seems clear that the basic reason underlying the passage of the NLRA was to meet the conditions and problems in the employment of labor in the industrial field. The Congress recognized that agriculture and industry are different, their problems are different, and remedies designed to meet the problems of industry and those of agriculture must necessarily be different.

Producers of meat, milk and eggs would have almost no bargaining power in case of an organized strike. Animals have to be fed and watered daily. They could not exist without care during a strike.

Farmers who produce annual or seasonal crops would also have almost no bargaining power if faced with an organized strike at harvest time. A farmer would be forced to yield to almost any terms because of the necessity of harvesting his crops when they mature. His alternative would be to lose not only the results of his year's labor, but also the substantial capital investment required to produce the product.

Farmers could not withstand such losses. Neither could consumers. This legislation, in our opinion, would jeopardize the national food supply by subjecting its production to the dictates of labor organizations. The result could be food shortages and substantially higher prices to consumers. It would seem to be unwise to create a situation where a strike could cut off a city's milk supply, for example. The situation is obviously vastly different from that of the factory or office which can normally be closed for a period of time during a strike without loss of product in course of production and without creating an emergency situation for consumers.

Many farmers, if forced into a situation where they would have the alternatives of bankruptcy on the one hand, or yielding to whatever demands might be made on the other, might well elect to no longer continue to make the capital investment required to produce the food needed by our nation. This would seriously affect both consumers and those whose livelihood depends on the production of food. The U.S. would lose not only farm jobs but also the jobs of those who supply production inputs to farmers, those who transport farm products to processors, those who process U.S. farm products, etc. More of the U.S. food production would be imported, and less of the U.S. farm output would be exported. This would also add to the nation's serious

balance of trade problem.

We believe that no worker should be forced to join a union against his wishes in order to obtain a job or to be able to keep his job, as would be possible under the provisions of S.8 for agricultural employees. Unions which effectively represent the best interests of their members will be able to obtain and hold the support of the workers they wish to represent. If a union is not effectively representing the best interests of the employees, the employees should not be forced to support the union.

We are also opposed to the provision of S.8 which would make it possible for a union to sign a contract with a farmer even though the employees on the farm had not been given the opportunity to vote as to whether they wished the union to represent them. It is both in the public interest and in the interest of workers that workers be given the opportunity of a secret ballot to determine whether they wish to be represented by a given union.

The proponents of this legislation usually point to the migrant labor problem as justification for the proposed legislation. We would suggest that this problem is not one that can be solved by legislation which would subject agriculture to the National Labor Relations Act. The migrant labor problem is a social problem. It includes many different problems such as education, nutrition, health and housing. The migrant problem may appear to some as an agricultural employment problem because agriculture is able to provide limited employment at certain times of the year which is more attractive than other employment which is available to these less fortunate citizens.

Most of the migrant workers are employed for a few weeks at a time for harvest, etc. in such industries as fruits and vegetables (which make up only a small proportion of U.S. agriculture). Apparently the hourly and daily wages of migrant workers on U.S. fruit and vegetable farms are generally well above the minimum wage. Most of the migrant workers are unskilled, and it is economically impossible for farmers, or any other private segment of the U.S. economy, to pay wages for a few weeks of unskilled labor sufficient to support a worker and his family throughout the year. The migrant worker problem is a social problem and should be recognized and dealt with by the Congress in much the same way as the problems of the ghettos in our cities must be handled. The employment provided to migrant workers by agriculture, instead of being discouraged, should be utilized as a base for better programs to meet their problems and needs.

The agricultural cost-price squeeze is well known. The wages of farm workers are increasing several times faster than the prices of farm products. U.S. Department of Agriculture statistics indicate that, as of the end of 1968, prices received by farmers for all products had increased only 8% above the 1957-59 average (Farm Income Situation, February 1969 issue). Farm wage rates increased 66% during the same period (Farm Cost Situation, February 1969 issue). The USDA also reported in the February Farm Cost Situation that for the year 1968 the ratio of prices received by farmers to prices paid for production items was only 88% of the 1957-59 average. In other words, farmers have clearly been unable to pass on to consumers the increased costs of producing food and fiber.

We urge this Committee to give full consideration to the unique character of agriculture and to the great benefits inuring to the consuming public from the production of an abundant food supply. Congress recognized that agriculture was different from industry at the time the National Labor Relations Act was passed. Nothing has occurred since that time which has changed the unique nature of agriculture. We believe that it would be a serious mistake to extend to agriculture measures which were designed to meet the problems of the employment of labor in the industrial field.

We oppose the passage of S.8 for the reasons specified above.

Oakley M. Ray

OAKLEY M. RAY
Vice President

4401 E. Colonial Drive/P. O. Box 20155/Orlando/Florida/32814/Area Code 305/Phone 841-1350
Sydney O. Chase, Jr., Sanford-Pres./George H. Wedgworth, Belle Glade-V. Pres./Joffre C. David, Orlando-Sec.-Treas.

Florida Fruit & Vegetable Association
a non-profit co-operative association

April 29, 1969

The Honorable Harrison A. Williams, Jr.
Chairman, Senate Labor Subcommittee
352 Old Senate Office Building
Washington, D. C. 20510

Dear Senator Williams:

The Florida Fruit & Vegetable Association represents over 4,500 producers of vegetables, sugar cane, citrus, and tropical fruits from virtually all major agricultural areas of the State of Florida. On behalf of these producer members of perishable agricultural commodities who have expressed their profound concern, we wish to register FFVA's strong opposition to S. 8, which, if enacted, would extend coverage to agricultural workers under the National Labor Relations Act. This legislation is highly controversial, as evidenced by the protests of record from national farm organizations, the Chamber of Commerce of the United States, and many other groups throughout the country.

Agriculture returns more than a billion dollars per year in market receipts to Florida's agricultural producers whose principal costs are wages. When considered from the standpoint of the agribusiness complex, this accounts for more than 4.5 billion dollars annually in the economy of the State of Florida, surpassing tourism as Florida's number one commodity. Over 60 percent of the value of Florida's agricultural products is attributable to the producers of vegetables, citrus, sugar cane, and tropical fruits. Producer members of this Association grow a majority of the fruits, vegetables, and sugar cane grown in the State of Florida.

In 1968, Florida agriculture utilized an average of 112,000 workers according to "FARM LABOR," a publication of the United States Department of Agriculture. The low point in labor utilization was July, when 82,000 were used and the high was in February, when 138,000 were utilized. In December 1968, agriculture in Florida used 128,000 workers. Of these workers, an average of

35,000 were "family type" workers and an average of 77,000 were "hired" workers. Family type workers varied from a low of 27,000 in December to a high of 42,000 in September. Hired farm workers varied from a low of 48,000 in July and August to a high of 103,000 in January. There were 92,000 hired workers in Florida agriculture in December of 1968. This increased to 103,000 in February of 1969.

The inclusion of agricultural workers under the provisions of the National Labor Relations Act would indirectly affect all of Florida's agricultural workers but would most directly affect the "hired" farm workers of which there was a peak of 103,000 in Florida agriculture in 1968. Exclusions based on a minimum number of employees or on a minimum yearly labor cost would not materially reduce the numbers of farm workers in Florida who are included in the category of "hired" farm workers and who would be extended coverage under the NLRA if S. 8 or similar legislation were passed. The vast majority of "hired" farm workers in Florida is used on farms which would not be excluded under proposed legislation.

The Congress, in all its wisdom, originally excluded agricultural labor from the provisions of the National Labor Relations Act (NLRA) in 1935. When major revisions of the NLRA were made in 1947, and again in 1959, Congress saw fit to continue the exclusion of agricultural labor from the provisions of the Act. The major reasons for the exclusion are as valid today as they have been in the past.

The perishability of agricultural commodities has not changed to any great extent. Agricultural technology has advanced tremendously during the past 33 years since the NLRA was originally passed in Congress. However, there has not been sufficient progress made in the field of growth retardation or retardation of the maturing process to be of significant help in holding a ripe field of fruits or vegetables at a particular point in maturity while negotiations are held with Union representatives over wages and working conditions. The crops would rot in the fields and the grower's complete investment, and possibly his life savings, would be lost in a matter of a few days' delay in harvesting. This alone places agricultural producers, and particularly Florida producers who grow an exceedingly high percentage of their vegetable and fruit crops for the fresh market, in an entirely individual and unique position in comparison to other industries covered under the NLRA.

Because of the perishability of our products, there already is a built-in inequality of bargaining power between farmers and Unions. Workers and crew leaders already have tremendous bargaining power over farmers in the area of wages and working conditions without the added burden of compliance with the provisions of the NLRA. The continuing shortage of agricultural workers also has placed a premium on their services. Giving Unions the additional power dictated by the NLRA over farms would completely destroy any semblance of equality in bargaining between Unions and farmers. This inequality in agriculture would be much more pronounced than the pro-labor inequalities that other industries have been vehemently protesting during recent years and which have resulted in the introduction of legislation to restore some semblance of balance in labor-management relations in the United States. The legislation initiated in the Senate this Session to establish a Federal Labor Court has been construed in many quarters as an expression of dissatisfaction with the obvious pro-Union decisions that have consistently been rendered by the National Labor Relations Board.

Agriculture is the life-blood of all American people. A widespread strike at harvest time by Unions could do considerable harm to this great Nation of ours. A Civil Defense study a few years ago concluded that at NO time was there more than seven days' supply of fresh fruits and vegetables en route from the producer and available to the consumer through normal channels of distribution. Past experience with strikes in industries where even the public interest was at stake gives much room for concern.

Coverage of agricultural workers under the NLRA would greatly increase both the incidence and severity of strikes involving farm workers. This would not be in the best interest of the American people. Union leaders have claimed that coverage of farm workers under the provisions of the NLRA would lead to "labor peace" in American farming. Mr. Walter Reuther in his testimony before the Senate Subcommittee on Migratory Labor on July 13, 1967, stated that "... farm industries will have more labor peace, not less, once farm workers are organized ..." Experience in other industries has shown that Unions and unionization is not the panacea for labor-management problems that Mr. Reuther claims. On the contrary, during the first six months of 1968, there were 24.7 million man-days of work lost due to strikes. This is double the loss in man-days for the comparable period in 1967. The total

man-days lost due to strikes in 1967 was FOUR TIMES as much as in 1961. These figures compiled by the United States Department of Labor do not indicate that unionization is reducing labor problems in industry. We don't believe Unions would have any better results in reducing labor-management problems in agriculture than they do in other industries. On the contrary, we firmly and sincerely believe that labor problems would increase with the intrusion of Union participation in the normal interplay between agricultural workers and agricultural employers.

Inclusion of agricultural workers under the provisions of the NLRA would not materially benefit the great majority of agricultural workers. Farmers could rightfully expect that their labor costs, both direct and indirect, would increase and they could expect more labor disputes. Both of these conditions would force farmers to substitute capital for labor as soon as possible. Part of this substitution of capital for labor would be in investment of labor-saving equipment and accelerated mechanization wherever possible. Another effect would be in the switching of crops to those which do not require a great need for labor. This has happened already to some extent in the southeastern section of Florida, where acreage devoted to strawberries and trellis tomatoes a few years ago is now being used for hay and rice. Whether growers switched to other crops or used increased mechanization, the result on farm labor would be the same -- less work available for farm workers. It is our opinion that more workers would be hurt than helped in the long run, particularly marginal agricultural workers who are the least productive of all American labor and who would find it difficult to obtain jobs in other industries. This certainly would not end the "War on Poverty."

Recent studies at the University of Chicago have indicated that increases in wage rates have the most adverse effect on the young people just coming into the labor market, and the older people who are no longer fully productive. Reduction in use of farm workers, particularly the young and old, would only add to the many problems already being experienced by our overly congested cities and would certainly not help the manpower requirements needed to produce and harvest our crops.

Florida is a "Right-to-Work" State and we sincerely hope that this will not change. However, should changes in national legislation alter this and also alter the present exclusion of agricultural workers under the NLRA, many of the other onerous provisions of the NLRA would befall agricultural workers and growers. Under the provisions of S. 8, growers could, in order to avert imminent labor problems at the critical harvest time, agree in advance to Union representation rights for their workers and any subsequent employees would be subject to become Union members after seven days of employment. The workers themselves would not have been given the right to decide whether they wished to belong to a Union or not or to have Union dues deducted from their wages. We need greater protection for our workers against excessive Union power and more protection to give workers the right to work without being forced to join a Union and pay Union dues. The provisions of S. 8 seem to be designed for the benefit of the Unions and not the workers.

The growers also could be forced to go through the Unions in order to obtain additional labor during a time of need. This situation could well spell disaster for a grower with crops to harvest if the Unions decided on additional demands. We believe the inclusion of farm workers under the NLRA would be a poor substitute for the present freedom experienced by agricultural workers under existing systems of labor utilization. Additionally, the deduction of compulsory Union dues could only add to the problems of the marginal worker and his "take-home" pay.

Unionization of farm workers could also affect the ability of growers to operate their farms as efficiently as possible, particularly with respect to utilizing labor-saving devices. Strikes and labor disputes to prevent the adoption of technological improvements or labor-saving equipment is not uncommon in industry. This would be disastrous in agriculture where increases in cost of production cannot be successfully passed on to the consumer and where mechanization as a means of keeping production costs down may be the only answer to a grower's continued existence.

The inclusion of farm workers under the provisions of the NLRA will increase the direct and indirect cost of labor in farming.

There is no doubt that the cost of direct wages would increase at least over the short run and would have an exceedingly disruptive effect on the economics of farm operations. The indirect labor costs would also increase because of the need for legal assistance by highly specialized and expensive attorneys who are familiar with labor law and the ramifications of the NLRA, in particular. More and more Union elections are being contested because of claimed violations of technicalities found in the NLRA. Only an individual with constant and long experience with the NLRA can keep up with the changes being made in interpretation of the law almost daily by the National Labor Relations Board with its broad powers.

This legal assistance is not generally available to the smaller farming communities and is very expensive. This would be an added cost of production which would be particularly hard on the smaller farmers who are already being hard pressed to make ends meet and who have been dropping by the wayside in American agriculture at an alarming rate. The number of farms in the United States has decreased steadily from 5.647 million in 1950 to 3.059 million in 1967. We believe the passage of S. 8 or a similar bill would accelerate the demise of the small farmer even more than is now being experienced.

It has been stated that the small farm would not be affected if only the larger farms were included under the provisions of the NLRA. This is pure illusion. Any increase in wage rates or other benefits by larger growers must be complied with by the smaller growers who compete in the same labor market area for the same workers. Any added burdens placed on growers by inclusion of farm workers under the NLRA would affect the smaller farmers more than the larger farmers. Production costs for small farmers, including labor costs, are generally higher per unit produced than for large farmers. Any drastic increase in labor costs, whether direct or indirect, will more severely affect the smaller farmer. Unionization of the larger farmers would be followed closely by unionization of the small grower. The economic base built up by unionization of the larger grower would be used to finance the organization of all workers. With the constant interchange of workers between farmers

in the same labor market area, it would be relatively easy to plant Union sympathizers on the smaller farms to strike, boycott, or otherwise harass the grower. Whether small farmers were excluded from the provisions of the legislation to include farm workers under the NLRA or not, the effect would be the same on all farmers in an area, large or small.

Florida agriculture is in an exceedingly vulnerable position with regard to competition for its products from neighboring foreign countries, particularly Mexico. Florida, more so than any other state in the United States, is in direct competition with Mexican production throughout most of its growing season and this competition is expected to accelerate as the costs of producing agricultural commodities increase in the United States.

The Florida Fruit & Vegetable Association must oppose any action that would encourage more foreign agricultural products being imported into the United States from low-wage countries without adequate protection for the Florida agricultural producer. In our estimation, the inclusion of agricultural workers under the NLRA would encourage more foreign agricultural products being imported into the United States because of the increased cost of production on American-grown fruit and vegetable crops. Cost of production on agricultural products grown in the United States has increased considerably during the past few years. These increases are attributable in part to an increase in labor costs. Florida has been no exception in showing increases in cost of production, including increases in cost of labor.

Average farm wage rates have increased in Florida over 45 percent during the last eight years of record, according to the United States Department of Agriculture, which is equal to the percentage increase nationally for the same period. Wages paid in fruits and vegetables have increased more notably, particularly in the caseof piece-rate workers. Fruit pickers in citrus last year averaged $2.36 per hour and vegetable harvest workers were making from $20 to $30 per day during this past season in such crops as tomatoes, sweet corn and watermelons for a ten-hour day, which, on an hourly basis, would show a range of from $2 to $3 per hour. The increases

in wages paid to agricultural workers in Florida have come in a natural and orderly manner based primarily on supply and demand with growers practicing extensive recruitment of domestic workers throughout the Southeastern United States. Furthermore, it should be fully recognized that agricultural workers are now protected by the provisions of the Fair Labor Standards Act, which provides for a min imum wage of $1.30 per hour, and that sugar cane workers are protected by the provisions of the Sugar Act, which provides for a minimum of $1.55 per hour at the present time.

Farm production expenses are up from previous years. In 1967, a total of 81 percent of the cash receipts from farm marketings were used for production expenses, up from 64 percent in 1950. Farm production costs are rising more rapidly than farm prices. Net farm income in 1967 for the United States was down 11.3 percent below 1966. With this cost-price squeeze on growers, the added impetus of accelerating labor costs would undoubtedly force even more growers out of the production of agricultural crops in the United States. To Florida farmers, who must compete directly with farm products produced in the low-wage countries, such as Mexico, this would be disastrous.

During the winter months, Florida is one of only a few states that has the climate necessary to produce vegetables and fruits for the American housewife. With the increase in population in the United States, it would be natural to assume that our production of fruits and vegetables as measured by the interstate shipments should also increase. This has not been the case and United States Department of Agriculture figures reflect that during the seasons starting with 1959-60 and ending with 1967-68 carlot equivalent shipments of fresh fruits and vegetables from Florida have only varied from a low of 171,728 carlot equivalents during the 1963-64 season to a high of 184,420 carlot equivalents during the 1961-62 season with no trend toward increased shipments evidenced.

On the other hand, figures on imports of fresh fruits and vegetables from Mexico show a much different trend, particularly in the high labor-using crops. For instance, cucumber imports from Mexico show an increase from 17.7 million pounds in the 1963-64 season to 59.5 million pounds during the 1966-67 season. Tomato

imports from 245.1 million pounds in the 1963-64 season to 369.9 million pounds during the 1966-67 season. Fresh strawberry imports increased from no significant imports in the 1959 season to 9.78 million pounds in the 1965 season and to 18.72 million pounds in 1966. Another great concern to Florida growers is the threat of citrus importation from Mexico in future years based on their increase in tree count from 12.35 million trees in 1957 to 34.9 million trees in 1965.

With this direct competition from low-wage countries and the magnitude of its future threat facing our growers, FFVA must oppose any action that would further accelerate our production costs and place our growers in an even more disadvantageous position in relation to our foreign competition.

The Florida Fruit & Vegetable Association is strongly opposed to any legislation that would impose the provisions of the National Labor Relations Act in any manner on either agricultural labor or agricultural producers. It is respectfully requested that this statement in its entirety be made a part of the hearing record on S. 8.

Sincerely yours,

Joffre C. David

Joffre C. David
Secretary-Treasurer

JCD/mf

cc: Senator Spessard L. Holland
Senator Edward J. Gurney

INTERNATIONAL —— WASHINGTON OFFICE ——
LONGSHOREMEN'S & WAREHOUSEMEN'S UNION
COLORADO BUILDING, 1341 G STREET, N.W., WASHINGTON, D. C. 20005, NATIONAL 8-8779

HARRY BRIDGES
President

J. R. ROBERTSON
Vice-President

LOUIS GOLDBLATT
Secretary-Treasurer

STATEMENT BY INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION

The ILWU welcomes the opportunity to present its views on pending legislation to extend National Labor Relations Act coverage to farm workers. As in the past, we wholeheartedly support such legislation. ILWU's International Officers stated last year, and we repeat: "There can no longer be any excuse for not according agricultural workers the same rights and benefits enjoyed by workers in other industries."

The ILWU is the collective bargaining agent for some 15,000 sugar and pineapple workers in the state of Hawaii. Our members include all classifications employed in both industries, from field workers to sugar mill and pineapple cannery workers. Both groups have been organized for more than twenty years and during that time have emerged from a quasi-colonial situation to full industrial citizenship with wages and fringe benefits comparable to those enjoyed by workers in non-agricultural industries.

Recently we signed a new agreement in the sugar industry which raises the lowest classification wage rate to $2.19 per hour. By May of 1971, that basic rate will rise to $2.35 per hour. Pineapple plantation workers, in 1968, won increases which will raise basic wages to $2.49 per hour in June of 1971. Both industry groups have comprehensive medical plans, pensions, paid holidays and vacations, sick leave and severance pay. Hours of work have been reduced to 8 per day, 40 per week, with overtime paid thereafter.

While we recognize that there are signifigant differences between plantation workers in Hawaii and farm workers on the mainland, many of them migratory, we believe that our experience is relevant to the legislation now before this Subcommittee.

We might add that our experience with the longshore industry on the West Coast, is also relevant. When we started to organize longshoremen back in the early '30s, work was largely casual. There was a basic problem of organizing hiring and dispatch in such a way as to decasualize the work force and thus to insure both a decent living for the man and a stable labor supply for the industry. These objectives were accomplished by the jointly operated and maintained hiring halls which now exist in all West Coast ports.

The improvements in wages and conditions for the sugar and pineapple workers in Hawaii and for the longshoremen on the coast have been primarily the result of organization, and we believe that the presently shocking conditions of mainland migratory agricultural workers will only be fully corrected by the pressure of self-organization. The stubborn resistance to unionization on the part of most of the big growers can, in part, be overcome by appropriate legislation. This is our experience. Our success on the West Coast in 1934, though primarily the result of the determination of the longshoremen themselves, was assisted by the adoption by Congress of Section 7 of the National Industrial Recovery Act, which was later expanded into the Wagner Act. Section 7 declared it to be national policy to further collective bargaining. The subsequent organization drive throughout California industry was in great measure facilitated by the Wagner Act.

Similarly, in Hawaii, our organizing efforts in sugar were in considerable measure assisted by representation elections conducted in the sugar milling industry by the NLRB. Current agribusiness hostility to self-organization by their employees has provoked struggles reminiscent of the bitter conflicts of the '30s. We believe, and our experience demonstrates, that if the law provides reasonable procedures for the establishment and carrying on of collective bargaining, both parties -- and the public generally -- will benefit.

We are therefore strongly in support of extending National Labor Relations Act coverage to include agricultural workers. The passage of this legislation will not, in itself, overcome the disabilities suffered by farm workers, but we believe that NLRA coverage is a necessary prerequisite to unionization if it is to be achieved without undue friction and dislocation.

March 27, 1969

International Longshoremen's & Warehousemen's Union
Eighteenth Biennial Conennntion
Los Angeles, California
April 7 - 11, 1969 Statement of Policy #15

FARM WORKERS AND THE NLRA

It has been almost 35 years since the National Labor Relations Act (NLRA) was enacted. That law - termed the magna carta of labor by many - not only provided for workers to have the right to organize and join unions and engage in collective bargaining, but the NLRA also prohibited such unfair labor practices by employers as interference, restraint or coercion of employees, discrimination against employees for union activities, and refusal to bargain with elected representatives.

Although the NLRA was written to apply to most workers, it specifically excluded a number of occupations, agricultural workers among them. From 1935 down to the present, agricultural workers have not been accorded the same rights under the laws of the land as have millions of other working people. For agricultural workers there are no laws prohibiting employer intimidation, compelling representation elections, or providing for collective bargaining.

In recent years, farm workers, led particularly by the United Farm Workers Organizing Committee, have struggled to organize and bargain collectively. Their efforts have been continually resisted by hostile employers, and the organizing drives have been frustrated, in part, by not being protected by the same labor laws which apply to most other workers.

Coverage under the NLRA will by no means guarantee that farm workers will be organized; laws alone will never do the job. But the rights enjoyed by other workers are long overdue for farm workers Extension of NLRA coverage to farm workers is imperative. We support the efforts being made in Congress to achieve this end. Much of that battle is being led by congressmen from states within the jurisdiction of the ILWU.

Senator WILLIAMS. I wish to thank everyone who so willingly participated in the hearings. Also I am grateful to those who could not attend, for submitting prepared statements expressing their views.

That concludes our hearing.

(Whereupon, at 12:30 p.m., the subcommittee adjourned subject to the call of the Chair.)

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