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AGRICULTURAL MARKETING AGREEMENT ACT:

PROMOTION OF CALIFORNIA-GROWN PEACHES
INCLUDE PEARS FOR CANNING AND FREEZING
RESTRICT IMPORTS OF UNSHELLED FILBERTS

GOVERNMENT

Storage

HEARINGS

DOCUMENTS

BEFORE THE

JUL 27 1971

SUBCOMMITTEE ON DOMESTIC MARKETING

AND CONSUMER RELATIONS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETY-SECOND CONGRESS

FIRST SESSION

ON

H.R. 2454, H.R. 2559, H.R. 4263, H.R. 4874,
and H.R. 5825

MAY 10; JUNE 1 AND 2, 1971

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AGRICULTURAL MARKETING AGREEMENT ACT
PROMOTION OF CALIFORNIA-GROWN PEACHES
INCLUDE PEARS FOR CANNING AND FREEZING
RESTRICT IMPORTS OF UNQUALIFIED FRUITS

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PROMOTION OF CALIFORNIA-GROWN PEACHES

MONDAY, MAY 10, 1971

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

The subcommittee met, pursuant to notice, at 2:10 p.m., in room 1302, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee), presiding.

Present: Representatives Foley, Sisk, Denholm, Link, Goodling, Zwach, and Robinson.

Also present: Christine Gallagher, chief clerk; Lacey C. Sharp, general counsel; and Hyde H. Murray, associate counsel.

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

The subcommittee meets this afternoon for the consideration of H.R. 4263 by Mr. Sisk of California. The purpose of this bill is to add California-grown peaches as a commodity eligible for any form of promotion, including paid advertising, by amending section 608c (6)(I) of the Agricultural Marketing Agreement Act of 1937, as amended.

(H.R. 4263 introduced by Mr. Sisk follows:)

[H.R. 4263, 92d Cong., first sess.]

A BILL To add California-grown peaches as a commodity eligible for any form of promotion, including paid advertising, under a marketing order

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso at the end of section 8c (6)(I) of the Agricultural Adjustment Act (as reenacted by the Agricultural Marketing Agreement Act of 1937, and as subsequently amended (7 U.S.C. 608c(6)(I))), is hereby amended by inserting "California-grown peaches" immediately after "applicable to cherries".

Mr. FOLEY. The first-witness this afternoon will be the distinguished author of the bill, the gentleman from California, Mr. Sisk.

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

Mr. SISK. Thank you, Mr. Chairman. Mr. Chairman, I was going to ask permission to insert this statement in the record, but in view of the fact that there are not going to be many witnesses, I would like to read it. I will take only a couple minutes.

This bill would amend the Agricultural Marketing Agreement Act of 1937 to add California-grown fresh peaches as a commodity eligible for any form of promotion, including paid advertising, under a marketing order.

The act currently contains authority to permit such activities, including paid advertising, for several other commodities. Advertising projects have been carried out under it for Texas oranges and grapefruit and California olives and nectarines.

The Department of Agriculture informs me that the trend is toward expanded commodity advertising and promotion in the fruit and vegetable industries to obtain the means of financing the advertising and promotion of these commodities in the marketplace.

Officials of the Department have assured me, Mr. Chairman, they would support any fruit or vegetable commodity group which undertakes the development of a promotion program by this means.

There has been a patchwork approach to the marketing of fresh peaches. Elberta peaches are controlled under a Federal marketing agreement. All varieties of peaches, including Elbertas sold in California, are controlled under a State marketing order. Varieties other than Elbertas shipped out of the State are not subject to marketing order grade, size, or maturity control. Elbertas sold in California need not be inspected, but must be inspected if their destination is out of the State.

This confusion has arisen because of two separate marketing orders—State and Federal—on a single commodity. In addition two offices are maintained with a duplication of administrative and clerical personnel.

Questions may arise as to why canned or frozen peaches are not included under this market order. It is because they are excluded under the Department of Agriculture list of commodities eligible for promotion under a marketing order.

As for specifically naming California grown peaches, Mr. Chairman, this is because this section of the marketing agreement has been much amended. It is the custom to ask only for specific products from specific regions because the same approach may not be desirable or necessary for products from other regions of the country.

The peachgrowers of California support this bill. The passage of this legislation, Mr. Chairman, would enable California peachgrowers to take the first step in putting their house in order, which would mean the consolidation of peach marketing order programs into a single Federal program under which both promotional and regulatory activities would be carried out.

Mr. Chairman, I might say that this legislation, I am sure the Chair remembers, actually passed last year, and then we changed it to general legislation and, of course, I am sure the chairman recalls the situation that developed then in conference where that title of the bill was eliminated. So, it is my understanding that there is no objection.

Now, Mr. Chairman, if I might, I would like to ask permission to insert in the record a statement by my colleague, Congressman Harold T. (Bizz) Johnson, also in support of the legislation.

Mr. FOLEY. Without objection, so ordered.

(The statement of Congressman Johnson follows:)

STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF CALIFORNIA

Mr. Chairman, I would like to join my good friend and colleague, Congressman Bernie Sisk of California, who serves as a member of the House Committee on Agriculture, in support of H.R. 4263, his bill to add California grown peaches as a commodity eligible for any form of promotion including paid advertising under Federal marketing orders.

At the outset, I would like to emphasize that we have a measure of confusion in the peach industry as a result of different marketing orders. For one thing the State of California, under its State marketing order program, controls the marketing of all varieties of peaches within the State. However, for those varieties which are shipped out of the State to Eastern and other markets throughout the Nation, there is no marketing order with one exception and that relates to the sale of the Elberta variety of peaches.

As Congressman Sisk has indicated this certainly is a "patchwork approach" to the marketing of fresh peaches. The peach growers of my home State of California, in a self-help effort to correct this situation, have urged the enactment of H.R. 4263 to enable them to take the first step in putting their house in order through the consolidation of peach marketing orders into a single Federal program. This, of course, would solve the complications created by the various regulatory efforts. Additionally I feel that the program should take one further step in supporting a promotional effort including paid advertisement.

This also would be of great benefit in the stabilization of our industry. Such programs have been carried out very successfully in many commodities, including Texas grown citrus and California grown olives and nectarines. The trend is for expanded commodity advertising and promotion in agriculture and I feel that the peach industry which is facing some severe economic difficulties today must participate in such a program if it is to keep up with this trend. I, therefore, hope that this Committee will give favorable consideration to Congressman Sisk's bill, H.R. 4263.

Thank you.

Mr. SISK. And further, Mr. Chairman, I have some three letters from interested people in my particular district in support of the legislation and I would also like to make them a part of the record.

Mr. FOLEY. Without objection, they will be received as part of the record.

(The letters referred to follow:)

MAY 3, 1971.

MR. B. F. SISK,
Member of Congress,
Washington, D.C.

DEAR CONGRESSMAN SISK: I must inform you that I will not be able to attend the hearings, but want you to know that I support your bill H.R. 4263—to add California grown peaches as a commodity eligible for any form of promotion, including paid advertising under a marketing order.

Sincerely,

JOHN H. ENNS.

BARR PACKING CO.,
Sanger, Calif., May 7, 1971.

Congressman B. F. SISK,
House of Representatives,
Washington, D.C.

DEAR MR. SISK: It was with extreme pleasure that I received your letter of April 28 stating that Secretary of Agriculture Hardin has returned a favorable report on your bill, H.R. 4263. I have always favored the approach taken in this bill and namely that California grown peaches should be a commodity eligible for any form of promotion, including paid advertising under a Federal Marketing Order.

There is extreme competition among various peach producing districts in the United States and I believe California produces among the finest peaches in the United States and that everything possible should be done to promote this fine product.

Again I give you my strongest support for your bill as a producer and shipper of fresh California peaches.

Yours very truly,

E. L. "TED" BARR, JR.

DINUBA, CALIF., May 4, 1971.

Mr. B. F. SISK,
Member of Congress,
Washington, D.C.

DEAR CONGRESSMAN SISK: We are delighted to hear that Secretary Hardin has returned a favorable report on your bill H.R. 4263.

We are unable to attend a hearing on this matter because we expect to begin peach shipments the week of May 10.

Therefore, we want to express by letter our appreciation to you for your interest in California agriculture and assure you that we support your bill to add California grown peaches as a commodity eligible for any form of promotion, including paid advertising under a marketing order.

Sincerely,

PETER A. ENNS.

Mr. FOLEY. Are there any questions for the gentleman from California?

Mr. LINK. Mr. Chairman, by way of information, would this confine the order only to California-grown fruit?

Mr. SISK. That is correct. This specifies that it would apply only to California-grown peaches.

Mr. LINK. Is there any possibility that this support or provision would find itself in conflict with like producers and products grown in other States? Would there be any possibility of that?

Mr. SISK. I can see no possible way in which it would conflict. Actually, it probably would be helpful to peaches grown in other areas. We already have a marketing order for peaches under Federal law and the State marketing order is purely for the purpose of research and promotion. What we are trying to do here is eliminate duplication by eliminating the need for the State order and permit the research and promotion under the Federal order. It would permit advertising of peaches through radio, TV, newspaper, and other promotional methods, enhancing the sales of peaches from other areas by bringing peaches, in general, before the public, although it would only cover California-grown peaches. California producers would make the contribution, of course, and pay for the program because this provides for a checkoff system for payment.

Mr. LINK. Thank you.

Mr. FOLEY. Mr. Goodling.

Mr. GOODLING. Thank you, Mr. Chairman. How would this be financed?

Mr. SISK. It is financed by the authority granted in the bill, through a check-off system in which the growers would pay so much per ton for peaches harvested or peaches sold.

Mr. GOODLING. Would it be subject to a referendum among the peachgrowers?

Mr. SISK. It is my understanding that it would require approval of the peachgrowers, as is the same procedure with any other amend-

ment to the act. All this does is authorize them to conduct such a referendum and adopt it if two-thirds majority of the growers make that determination.

Mr. GOODLING. I would like to make this further observation, Mr. Chairman. You may recall, and I believe the bills are pretty similar, they may not be exactly the same, but when we were discussing the potatogrower bill which we passed some months ago, I said we were opening Pandora's box, and it is opened, probably going to remain open from here on out. Instead of reducing Government we are going to make Government bigger, and bigger, and bigger, and that is what disturbs me. Whenever we pass an additional law of this kind we are going to add personnel to some department to carry out the intent of the law. That is the thing that concerns me.

Mr. SISK. Would my colleague permit me to comment on the question? Of course, as my good friend from Pennsylvania knows, we are at present operating under a marketing order. We have had a marketing order for quite a long while. All this does is simply provide that if the growers desire they may agree by two-thirds' vote, to advertise their commodity as is done with many other commodities. I do not see where it could substantially increase costs anywhere but to the producers themselves, but again I recognize the more marketing orders we have, the more administrative responsibility and obligation there is on the Department. They have to have people to carry out that responsibility.

Mr. GOODLING. The point I am making is that if we give this privilege to California peachgrowers we have to give it to Pennsylvania, North Carolina, South Carolina, Georgia, and all of the other peach-producing States.

Mr. SISK. Yes, if they want it; and I would be all for it.

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

Mr. FOLEY. Mr. Zwach.

Mr. ZWACH. Mr. Chairman, this is a mechanism to help producers and I favor this approach to that basic problem. I am for this bill. It seems to me we have passed this before.

Mr. SISK. The gentleman is correct; we did, last year, we passed it in the last Congress.

Mr. ZWACH. Yes.

Mr. SISK. But then, if my colleagues from Minnesota will recall, we later on decided to combine bills. My good friend from Pennsylvania called it a fruit salad bill in which we put a number of other things. We actually broadened this provision to make it general law covering all commodities, if the producers so sought. I still think that is a good idea. But, the Senate had some reservations, they prefer to handle commodities individually, so that is why we are back here again to try to get it reenacted.

Mr. FOLEY. Thank you very much, Mr. Sisk. We appreciate your testimony.

The next witness will be Mr. Paul A. Samuelson, the Deputy Director of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture.

Mr. Nicholson, it is always a pleasure to see you. We are always happy to have your enlightened guidance.

STATEMENT OF PAUL A. NICHOLSON, DEPUTY DIRECTOR, FRUIT AND VEGETABLE DIVISION, CONSUMER AND MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. NICHOLSON. Mr. Chairman, members of the committee—

Mr. FOLEY. I misspoke your name as Samuelson only because I identified you with the Nobel Prize-winning economist of MIT so it is not a bad mistake.

Mr. NICHOLSON. I appreciate the compliment. I am Paul Nicholson, as the chairman has introduced me. It is certainly a pleasure to have the opportunity to appear before this committee again. I have a statement on H.R. 4263.

H.R. 4263 would amend section 608c(6)(I) of the Agricultural Marketing Agreement Act of 1937 to permit a marketing order on California-grown peaches to include any form of marketing promotion, including paid advertising. The Department favors H.R. 4263 and recommends enactment.

The Agricultural Marketing Agreement Act of 1937 currently authorizes paid advertising under marketing orders for several commodities. This authority has been incorporated into some existing marketing orders. Advertising projects have been carried out for a number of commodities. The trend is toward more and more commodity advertising and promotion in the fruit and vegetable industry. Producers and others are searching for a means of financing advertising and promotion programs so as to maintain or advance their position in the marketplace. The Agricultural Marketing Agreement Act could provide the facility for this purpose. We believe any fruit or vegetable commodity group which actively supports the development of such a program should be given the opportunity to do so.

It is noted that the bill would insert "California-grown peaches" after "applicable to cherries" in 7 U.S.C. 608c(6) (I). Inasmuch as the word "almonds" was inserted between "applicable to" and "cherries" by Public Law 91-522, 84 Stat. 1357, approved November 25, 1970, it is suggested that the language of the bill should be altered to provide that "California-grown peaches" be inserted immediately after "applicable to almonds." This is just a technical correction in the bill.

There currently is a Federal marketing order in effect for fresh peaches grown in California. This order provides for regulation of grade, size, quality, maturity, or pack of any such peaches. Also, it provides for regulating the containers that may be used in the packaging or handling of peaches, and for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of peaches. This latter provision does not authorize the expenditure of funds for paid advertising nor does the statute so permit.

This bill would enable the California peach industry to undertake and advertising program for California-grown fresh peaches under a Federal marketing order program. Of course, any such proposal must be considered at a public hearing and approved by two-thirds of the producers or two-thirds of the volume involved in a referendum before it could become effective.

In addition to the Federal marketing order on California peaches, separate Federal marketing orders cover the handling of fresh peaches grown in Colorado, Georgia, Washington, and Utah. However, promotional activity for peaches grown in these States, with the exception of Utah, is presently carried out under State authority. Promotional activities for California fresh peaches are currently undertaken pursuant to a California State marketing order. I believe Mr. Sisk covered this in some more detail.

The additional activity caused the Department by enactment of this legislation would be absorbed within existing expenditures for marketing order programs. However, the cost of incorporating the authority under the existing order by amendment, is estimated to be about \$7,500, if the amendment is undertaken separate from other amendments.

That concludes my statement, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Nicholson. I note that, as you have said in previous testimony during the last Congress, the Department tends to favor any amendments which allow an industry to engage in promotion and paid advertising as part of their marketing order if the industry or grower groups representative of the marketing order indicate their willingness and desire to do so.

Mr. NICHOLSON. Yes; that is correct.

Mr. FOLEY. And I think, as you have noted, the amendment you suggest is purely technical and clerical.

Mr. NICHOLSON. Yes.

Mr. FOLEY. I do not have any additional questions.

Mr. SISK. No questions.

Mr. FOLEY. Mr. Goodling?

Mr. GOODLING. No questions.

Mr. FOLEY. Mr. Denholm?

Mr. DENHOLM. No questions.

Mr. FOLEY. Mr. Zwach?

Mr. ZWACH. No.

Mr. FOLEY. Mr. Link?

Mr. LINK. No questions?

Mr. MURRAY. I have a question, Mr. Chairman.

Mr. FOLEY. Counsel has a question, Mr. Nicholson.

Mr. MURRAY. Is it true that the 5-year cost of the bill will be no different than what you have explained here—\$7,500 maximum if there is a separate amendment?

Mr. NICHOLSON. Yes, Mr. Murray; you are right. It would be no different in that it would be absorbed within existing appropriations. But, if we have to hold an amendment hearing, just one amendment hearing separate and apart from other amendment hearings for this particular program, then that would cost \$7,500, but that would just be a one-time \$7,500.

Mr. MURRAY. Or to put it another way, it might not even cost \$7,500, if you incorporate it as part of a hearing procedure on some other modification of the existing order?

Mr. NICHOLSON. That is correct.

Mr. MURRAY. Thank you.

Mr. GOODLING. I do have one question.

Mr. FOLEY. Mr. Goodling.

Mr. GOODLING. Mr. Nicholson, do you have any idea of the cost of a referendum?

Mr. NICHOLSON. This varies. That would be a part of the \$7,500, Mr. Goodling. This varies by how extensive a referendum is, and this would be a very modest referendum, and I would have trouble estimating it separate and apart from the proceedings in general, but it would maybe be about a couple thousand dollars.

Mr. GOODLING. Thank you.

Mr. FOLEY. Mr. Robinson, do you have any questions?

Mr. ROBINSON. No thank you, Mr. Chairman.

Mr. FOLEY. Mr. Nicholson, we thank you again for your appearance today and your testimony with respect to this bill.

Are there any other witnesses who have not been listed who desire to testify with respect to the legislation? If not the subcommittee is going to stand adjourned for the purposes of public hearing and will meet immediately in executive session.

(Whereupon, at 2:30 p.m. the subcommittee adjourned subject to the call of the Chair.)

PROVIDE AUTHORITY FOR MARKETING ORDERS FOR PEARS FOR CANNING AND FREEZING

TUESDAY, JUNE 1, 1971

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

The subcommittee met, pursuant to notice, at 2:05 p.m., in room 1302, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley, Sisk, Link, Zwach, and Robinson.

Also present: Martha Hannah, subcommittee clerk; Hyde H. Murray, associate counsel; L. T. Easley, staff consultant; Fowler West, assistant staff consultant.

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

The subcommittee meets this afternoon for the consideration of H.R. 5825, H.R. 2454, and H.R. 2559, providing authority for marketing orders for pears for canning and freezing. The authors of H.R. 5825, in addition to the Chair, are Mr. Leggett, Mr. McFall, Mr. Johnson of California, Mr. Moss of California, and Mr. McCormack of Washington. The sponsor of H.R. 2454 is Mr. Clausen of California, and the sponsor of H.R. 2559 is Mr. Teague of California.

(The bills and reports follow:)

[H.R. 5825, 92d Cong. first sess.]

A BILL to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

(1) Section 8c(2), as amended, is further amended by inserting "pears," after the words "canned or frozen" where they first appear and also before "olives" in subdivision (a) in the first sentence thereof.

(2) Subsection (I) of section 8c(6), as amended, is further amended by striking "fresh" immediately before "pears" in the proviso and by adding at the end thereof the following: "and when the handling of any commodity for canning or freezing is regulated, then any such projects may also deal with the commodity or its products in canned or frozen form."

(3) Section 8c(7)(C) of the Act is amended by inserting "or pears," immediately after "a marketing order applicable to grapefruit" and by replacing the period following "in such order" with a colon and adding "Provided, That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal."

(4) Section 8c(19) is amended by adding at the end thereof the following: "For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this title, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66 $\frac{2}{3}$ per centum except that in the event that pear producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State."

(5) A new paragraph (J) is added to section 8c(6) to read as follows:

"(J) In the case of pears for canning or freezing, any order for a production area encompassing territory within two or more State or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if at least 50 per centum of the representatives from that State on such agency concur in the recommendation each year."

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 1, 1971.

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

DEAR MR. CHAIRMAN: This is in reply to your request of April 28, 1971, for a report on H.R. 5825, a bill to amend section 2(3), section 8c(2), section 8c(6)(I), and section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended.

This Department recommends that H.R. 5825 be passed.

This bill would amend the Agricultural Marketing Agreement Act of 1937, as amended, to authorize (1) marketing orders for pears for canning and freezing, and (2) any form of marketing promotion including paid advertising under marketing orders for pears. It would also provide that when the handling of any commodity for canning or freezing is regulated under a marketing order, research and development projects providing for any form of marketing promotion including paid advertising under such order may deal with the commodity or its products in canned or frozen form. Additionally, it would require (1) a favorable vote of two-thirds of the growers voting or two-thirds of the volume voted, in each State of the production area, for issuance of an order applicable to pears for canning or freezing, (2) that processor and producer representation on any agency selected to administer such an order shall be equal, and (3) that at least 50 percent of each State's representatives on such agency concur in any recommendation for regulation.

The enclosed statement includes the Department's recommendations concerning H.R. 5825.

Enactment of H.R. 5825 would have no significant impact on the environment. The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

J. PHIL CAMPBELL,
Acting Secretary.

Enclosure.

STATEMENT BY UNITED STATES DEPARTMENT OF AGRICULTURE ON H.R. 5825,
RELATING TO MARKETING ORDERS FOR PEARS

There are three Federal marketing orders currently in effect regulating the handling of fresh pears. One order covers Bartlett type pears produced in California; one covers similar pears produced in Oregon and Washington; and one covers specified varieties of Winter pears grown in the three Pacific Coast States. Each of these orders contains provisions for regulating the quality and the size of the pears that may be handled for fresh market purposes and for establishing marketing research and development projects. The two orders covering Bartlett type pears also provide for regulations designed to standardize the containers and packs of fresh market shipments.

However, the act now exempts pears for canning or freezing as well as canned and frozen products of pears from any regulation under Federal marketing orders. The portion of the U.S. pear crop that is processed has been increasing. Canning is the principal processing outlet. During the 1945-49 period, 40 percent of the U.S. pear crop was processed. Processing increased to 59 percent of production during the 1965-69 period. The Bartlett is the most important pear variety grown in the U.S. Pacific Coast Bartlett pears constitute about two-thirds of the U.S. pear crop and are used chiefly for canning. The percentage of the Pacific Coast Bartlett pear crop used for processing increased from 59 percent in the period 1945-49 to 79 percent during the period 1965-69. Processing outlets utilized 79 percent of the 1969 crop.

As indicated, pear producers and handlers in the Pacific Coast States have developed and used marketing orders to supply the fresh market with only the better quality of pears. Inasmuch as marketing orders cannot now be applied to pears for canning or freezing, similar programs designed to improve marketing conditions for the larger portion of these crops, that which is canned and frozen, may not be adopted. The exemption of such a large proportion of the crop from regulation makes it difficult to attain the objective of the act to improve returns to producers.

Fruit and vegetable producers and handlers have shown growing interest in commodity advertising programs in recent years. Authority for advertising under a Federal marketing order was first included in the act in 1963 for only one commodity—cherries. Such authority has since been expanded to include 18 additional commodities. We believe that the pear industry should be given the opportunity to develop a promotion program by this means if it desires to do so.

The amendment of section 8c(6) (I) as proposed in the bill specifically stating that the authority for marketing research and development projects applies to any commodity or its products in canned or frozen form when the commodity for canning or freezing is regulated under a marketing order is a needed clarification.

In the development of a marketing order, the Secretary must find that the proposed order is limited to the smallest regional production area, or marketing area, or both, as the case may be, that is practicable consistent with carrying out the declared policy of the act. In view of this, it should be pointed out that amendment of section 8c(19), as proposed, in effect would give any State veto power in the case of an order in which it is found that the order should cover more than one State, or portions of two or more States, and the order fails to receive the requisite approval by producers in any one such State. Likewise, it is pointed out that the proposal which would prohibit the administrative agency from recommending a regulation unless at least 50 percent of the agency representatives from each State affected concur, would give each State's representatives veto power over regulation. This would mean that a recommendation could not be made even though a majority of all the agency representatives favor it so long as more than half the representatives of one State do not.

Marketing orders customarily provide for an administrative body comprised of members selected from the industry. The interests of both growers and handlers should be considered in arriving at decisions under any regulatory program affecting them. Provision in the act for representation as specified would assure growers and processors of appropriate representation in the administration of any marketing order applicable to pears for canning or freezing.

It is estimated that the annual costs to the Department for administering a marketing order established under this legislation would approximate \$25,000 for each of the next five years.

[H.R. 2559, 92d Cong., first sess.]

A BILL To amend section 2(3), section 8c(2), section 8c(6) (I), and section 8c(7) (C) of the Agricultural Marketing Agreement Act of 1937, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

(1) Section 8c(2), as amended, is further amended by inserting "pears," after the words "canned or frozen" where they first appear and also before "olives" in subdivision (a) in the first sentence thereof.

(2) Subsection (I) of section 8c(6), as amended, is further amended by striking "fresh" immediately before "pears" in proviso.

(3) Section 2(3) of the Act is amended by inserting "such marketing research and development projects provided in section 8c(6) (I)," immediately after "establish and maintain."

(4) Section 8c(7) (c) of the act is amended by inserting "or pears" immediately after "a marketing order applicable to grapefruit" and by replacing the period following "in such order" with a colon and adding "Provided, That in a marketing order applicable to pears for canning or freezing the representation of processors and producers on such agency shall be equal."

(5) Section 8c(19) is amended by adding at the end thereof the following: "For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this title, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66⅔ per centum except that in the event that producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State."

(6) A new paragraph (J) is added to section 8c(6) to read as follows:

"(J) In the case of pears for canning or freezing, any order for a production area encompassing territory within two or more States or portions thereof shall provide that the grade, size, quality, maturity, and inspection regulation under the order applicable to pears grown within any such State or portion thereof may be recommended to the Secretary by the agency established to administer the order only if a majority of the representatives from that State on such agency concur in the recommendation each year."

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 1, 1971.

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

DEAR MR. CHAIRMAN: This is in reply to your request of February 10, 1971, for a report on H.R. 2559, a bill to amend section 2(3), section 8c(2), section 8c(6) (I), and section 9c(7) (C) of the Agricultural Marketing Agreement Act of 1937, as amended.

This Department recommends that H.R. 2559 be passed.

This bill would amend the Agricultural Marketing Agreement Act of 1937, as amended, to authorize (1) marketing orders for pears for canning and freezing, and (2) any form of marketing promotion including paid advertising under marketing orders for pears. It would also state in explicit terms authority for the establishment and continued operation of marketing research and development projects and any form of marketing promotion including paid advertising under marketing orders for any authorized commodity when prices are expected to exceed the parity level. Additionally, it would require (1) a favorable vote of two-thirds of the growers voting or two-thirds of the volume voted, in each State of the production area, for issuance of an order applicable to pears for canning or freezing, (2) that processor and producer representation on any agency selected to administer such an order shall be equal, and (3) require that

a majority of each State's representatives on such agency concur in any recommendation for regulation.

The enclosed statement includes the Department's recommendations concerning H.R. 2559.

Enactment of H.R. 2559 would have no significant impact on the environment.

The office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely

J. PHIL CAMPBELL,
Acting Secretary.

Enclosure.

[H.R. 2454, 92d Cong., first sess.]

A BILL To amend section 2(3), section 8c(2), and section 8c(6)(1) of the Agricultural Marketing Agreement Act of 1937, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

(1) Section 8c(2), as amended, is further amended by inserting "pears," after the words "canned or frozen" where they first appear and also before "olives" in subdivision (a) in the first sentence thereof.

(2) Subsection (I) of section 8c(6), as amended, is further amended by striking "fresh" immediately before "pears" in the proviso.

(3) Section 2(3) of the Act is amended by inserting "such marketing research and development projects provided in section 8(c)(6)(I)," immediately after "establish and maintain".

(4) Section 8c(19) is amended by adding at the end thereof the following: "For the purpose of ascertaining whether the issuance of an order applicable to pears for canning or freezing is approved or favored by producers as required under the applicable provisions of this title, the Secretary shall conduct a referendum among producers in each State in which pears for canning or freezing are proposed to be included within the provisions of such marketing order and the requirements of approval or favor under any such provisions applicable to pears for canning or freezing shall be held to be complied with if, of the total number of producers, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of 66⅔ per centum except that in the event that producers in any State fail to approve or favor the issuance of any such marketing order, it shall not be made effective in such State."

Mr. FOLEY. The first witness the subcommittee will hear this afternoon is the distinguished member of the subcommittee, Hon. B. F. Sisk of California.

Mr. Sisk?

Mr. SISK. Mr. Chairman, if it is satisfactory, I will not take the time of the committee to make a statement. Instead, I have a very brief statement which I will submit for the record. Mr. Chairman, the fact that my name did not appear on the bill was inadvertent. I have supported the legislation. I know we have a number of our colleagues here to be heard from. If the Chair will allow me, I will just put my statement in the record.

Mr. FOLEY. The statement of the gentleman from California will be received for the record.

(The statement referred to follows:)

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

Mr. Chairman, when this bill was introduced I was to have been listed as a sponsor. My name was inadvertently left off the list of sponsors, however. I am still interested in the bill.

A similar bill was approved by the Agriculture Committee in the last session of Congress.

The major changes in the bill since then are that it provides equal representation of processors and producers on any marketing order administrative agency and it reinforces the right of producers in any state to be included.

The Pacific Coast pear producers, who represent growers of more than 90 per cent of all canning pears, are more than ever convinced that the bill is fair and reasonable.

I understand that representatives of the Washington-Oregon Canning Pear Association and the California Canning Pear Association are here and will testify on H.R. 5825.

I respectfully request the committee's favorable recommendation.

Mr. FOLEY. The Chair notes the presence of the distinguished co-sponsor of the bill, the gentleman from California, the Honorable Mr. Harold T. Johnson.

Mr. Johnson, we will be glad to hear from you.

STATEMENT OF HON. HAROLD T. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. JOHNSON. Mr. Chairman, members of the committee, I am here in support of H.R. 5825, the pear marketing order. I have a prepared statement I would ask unanimous consent to have read into the record at this point.

Mr. FOLEY. Without objection, it is so ordered.

(The statement referred to follows:)

STATEMENT OF HON. HAROLD T. (BIZZ) JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, as a co-sponsor of H.R. 5825, I am, of course, very appreciative of the consideration which this Committee once again is giving to this legislation. As this Committee well knows the benefits of the agricultural marketing act program are available to several speciality crops including fresh Bartlett pears. This legislation which you have before you today would extend these same benefits now available to the growers and processors of the fresh fruit to the growers of canning pears. Virtually all of the canned pears sold throughout the Nation are grown in the West coast States of California, Oregon and Washington. Representatives in Congress of the West coast pear growing areas are virtually unanimous in support of the proposal. This includes Senators from all three States and several Members of the House of Representatives. I am pleased to say it includes yourself, Mr. Chairman.

This broad base of support indicates the importance which those of us representing farm producing areas attach to marketing order programs.

The legislation before you is enabling legislation giving the growers in the individual states the right to ratify the marketing order programs on a state-by-state basis. If the states do not ratify the program by a two-thirds majority then the marketing order will not be applicable in that state. Pear producers in smaller states are assured that programs they may not enforce cannot be forced upon them by producers in larger states. The cost of the program will be borne by the growers who are the prime advocates of the legislation. This procedure has worked very effectively for California producers who during recent years have operated under state legislation patterned after the 1937 act. All reports I have received indicate that the cooperative administration in California canning pear program have been effective. Thus we have a proven program and one which, I believe, should be expanded to include the neighboring States to the north, Oregon and Washington, as the three States together are the principal canning pear growers in the Nation. This, of course, would have to be accomplished through a Federal marketing order, such as is already in effect for asparagus, olives, grapefruit, cherries and cranberries all going into the canning and freezing market.

Mr. Chairman, this legislation received the blessing of this Committee during the 91st Congress, but unfortunately because of some objections on the floor of the House of Representatives failed to achieve the two-thirds majority required under the suspension of the rules procedure. Since that time some changes

have been worked out and, I believe, that the legislation now meets the objections which were raised at that time. Processors have been assured that producers will bear the entire cost of all assessments. Additionally, the processors have been given equal representation with producers on the Administrative Committee. And finally the bill clearly exempts pears in the can, except for trade promotion. The bill is fair and reasonable.

Mr. Chairman, I believe that we have before us a realistic approach which will stabilize the future of the pear industry. There will be no cost to the Federal government and basically we have here a non-subsidized industry which is standing on its own feet and I believe that this legislation will help the industry to continue to stand on its own feet.

Thank you.

Mr. JOHNSON. I want to say I fully support the pear marketing order. The bill is somewhat changed over the bill put in during the last Congress. It has widespread support. We have a number of people here from my State in behalf of the legislation. We have Mr. Leroy Thomas, president of the California Pear Marketing Association, and Mr. Robert Collins, the vice president, along with Mr. Moser, who is a pear grower from the river delta area of California. I am sure that they will be in a position to answer any technical questions as it relates to the pear marketing order on the legislation pending before your subcommittee. I am sorry I will not be able to stay this afternoon, but I did want to come here and submit my statement and place myself in support of the legislation. I think it is improved legislation over the bill that was before us last time. I do hope the committee will act favorably upon the legislation.

Thank you.

Mr. FOLEY. Thank you, Mr. Johnson.

Any questions?

Mr. SISK. Mr. Chairman, I might say to my colleague from California I appreciate his coming. I have a brief comment as to one of the basic changes. I think my colleague will agree with me that we made a change which would remove a substantial part of the objection. I just want to know if he agrees with me. The change would include the processors as well as the producers?

Mr. JOHNSON. Yes; the bill now calls for 50-percent representation on the board, so I think there is a definite improvement there. I do believe that the producers, the growers, and the processors can get together and work out what minor problems there might be. But I think it is an improved piece of legislation.

Mr. SISK. Thank you.

Mr. FOLEY. Thank you, Mr. Johnson. We appreciate having your statement.

The Chair will, without objection, include in the record the statements of Hon. Robert Leggett, cosponsor of H.R. 5825, Hon. John McFall, also a cosponsor, Hon. Don H. Clausen, author of H.R. 2454, and the statement of Robert M. Hampton, Director of Marketing and International Affairs for the National Council of Farmers Cooperatives. Without objection, these will be received for the record.

(The statements of Messrs. Leggett, McFall, and Hampton follow:)

STATEMENT OF HON. ROBERT L. LEGGETT, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Chairman: I appreciate the opportunity to appear before your subcommittee this morning in support of your bill, H.R. 5825, which Congressman John Moss, Congressman Harold Johnson, Congressman John McFall, Congressman

Mike McCormack and I have introduced with you; and in support of H.R. 2454 introduced by Congressman Don Clausen, and H.R. 2559 introduced by Congressman Charles Teague, which would permit producers and canners of pears to adopt a Federal marketing order if they so desire.

In the Fourth Congressional District of California, which I represent, 26 percent of all the pears grown in California are produced. This is an important industry in my District, the State of California, and the Pacific Northwest. The economics of pear growing are such that a considerable amount of capital must be invested to begin production and to assure the continuing production of high quality pears for which California and the Pacific Northwest are justly famous.

It is, therefore, immediately apparent that this sector of the agriculture economy must be able to avail itself of the orderly marketing structures which assure stable prices to the producer, adequate quality and quantity to the canners, and realistic prices to the consumer.

The Federal Government for many years has recognized the importance of voluntarily adopted marketing programs by the enactment and implementation of the Agricultural Marketing Agreement Act of 1937. Under this Act, producers of a substantial number of agricultural commodities are legally entitled to adopt Federal marketing orders. At the present, however, only producers of fresh pears are covered by a Federal marketing order. The grower of canning pears is at a distinct disadvantage in marketing his product. Experience over the past years has clearly indicated an unhealthy fluctuation of prices for canning pears, which has seen losses fall very heavily on the small and medium size producer, the independent businessman-farmer, who must attempt to guide his business practices without a clear knowledge of the future income he will receive from his crop.

Some opposition has been recorded in the past from urban areas—afraid that passage of farm legislation would tend to drive the price of canned pears up beyond the reach of the lower income family. I feel that these fears are not justified, and experience with other crops marketed under Federal orders will bear me out on this.

In the past there has been some canning opposition to this type of legislation. This is understandable, of course, as it is in their self-interest to get the lowest possible price for the raw product; just as it is in the self-interest of the producers to get the highest possible price.

However, it does not help the economic health of the pear industry if any section of the industry is at the mercy of the other. It is apparent that the canners felt that the previous legislative proposals would not have simply improved the position of the producers, but also have reversed the order of dependence to the detriment of the canners.

The bill presently under consideration should resolve this by the inclusion of the provision for equal representation of both canners and producers on the regulatory agency to be established to set prices and quality controls. The compromise reached by both sides will be vital to the well-being of the industry.

Federal marketing orders have been used in this country for the last thirty years in many farm communities. The system is well regulated. After enabling legislation is passed by the Congress, an interested party may propose a marketing order. Hearings are held on the proposal and the growers vote on whether to adopt the order.

The need for a Federal marketing order is especially important for the pear industry, both for the reasons I outlined above, and because pears are grown in more than one state, hence state marketing orders are ineffective. The bill before you would allow the growers of each state in the pear producing region to adopt a Federal marketing order, but would protect the growers of each State by requiring at least fifty percentum of the representatives of each State on such agency to concur in the recommendations each year. I fully believe this provision will serve to protect the interests of the growers and canners in each state and insure the most efficient operation of the marketing order.

In my past statements to this Subcommittee, I quoted from the 1966 report of the National Commission on Food Marketing. The statement bears repeating again. We conclude that Federal marketing agreements and orders should be authorized for any agricultural commodity produced in a local area or regional subdivision of the United States.

In conclusion, Congress long ago decided that Federal marketing orders were a good thing, both for the producers and for the public. Congress long ago endorsed the idea of "self-help" and there is no reason why the opportunity for "self-help" should not be extended to the growers of canning pears when it has been extended to the growers of fresh pears for many years. This legislation will enable growers of canning pears to enjoy the needed benefits of Federal marketing orders. It is urgently needed by the pear industry and is strongly supported by the growers in my District.

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

Mr. Chairman, I am glad to have this opportunity to express my strong support for H.R. 5825 and companion bills which would make provisions of the Agricultural Marketing Agreement Act of 1937, as amended, applicable to canning pears. At present, fresh pears are included.

Distinguished colleagues on both sides of the aisle are joining in this effort, including Congressmen Robert Leggett, Charles Teague, Harold T. (Bizz) Johnson, John Moss, Don Clausen, Don Edwards, B. F. Sisk—and others of California—and you, Mr. Chairman, and Congressman Mike McCormack of Washington.

In the Senate, a companion bill (S. 1241) has been sponsored by Senators Cranston, Tunney, Packwood, Magnuson and Jackson.

I mention this broad base of support because it indicates how many of us representing farm producers recognize the importance of marketing order programs to our agricultural constituents.

As you know, the Act is the enabling legislation under which marketing programs can be adopted. Since 1937, the original exclusions have been modified to permit certain canning fruits. For the past several years, I have worked with Pacific Coast canning pear producers to amend the Act to permit them to be able to utilize the Act as they do now for pears grown on the same trees which go into the fresh market.

I have done this because I am convinced that it is in the public interest to encourage this industry to attempt to resolve its problems through its own efforts. California producers have for many years had programs adopted through State legislation patterned after the Federal legislation. All reports I have received indicate that pear processors and producers have worked together effectively and cooperatively in administering the California programs affecting canning pears.

However, canning pears are grown in States other than California, particularly in the Pacific Northwest. These producers are in need of being able to work together on a regional basis as California State producers do under their State programs. It is reasonable that they be permitted to do so under a Federal marketing program covering more than one State.

Other Congressmen and I have worked with all segments of the industry in an effort to develop a bill that is fair and reasonable.

This bill, therefore, clearly exempts pears in the can except for trade promotion. Pear producers in smaller States are assured that programs they may not endorse cannot be forced upon them by the producers in larger States. Processors have been assured that producers will bear the entire cost of all assessments. Processors finally have been granted equal representation with producers on the administrative committee which must by majority vote recommend any program.

Some of these modifications have been worked out since you reviewed and favorably recommended similar legislation in the last Congress. Despite your favorable action, we had not brought the bill to the Floor of the House since some of these changes were only resolved late in the second session.

My colleagues and I who are sponsoring this legislation in the House believe it more than ever warrants your favorable action and are confident that once before the entire House it will be approved. We are prepared to make every effort to achieve this result.

STATEMENT OF HON. DON H. CLAUSEN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Chairman, I appreciate this opportunity to advise this committee of my strong support for the subject legislation to provide authority for marketing of pears for canning and freezing.

As will no doubt be mentioned, my bill does not include, as do the others, the 50 percent representation on the board by processors, which was not present in the legislation as approved by this committee during the 91st Congress. However, I am pleased to learn that agreement on this point has been reached and I am in total support of the unified position as outlined in the other bills before the committee. I am happy that the growers, producers and processors have come forward with viable programs which should carry out the intent of the legislation if enacted.

Gentlemen, I am very aware of the need to provide the growers, producers and processors with the capability to improve both the quantity and quality of marketable pears, and this legislation can go far in helping us attain that goal.

As you know, California produces approximately 65 percent of this country's processed pears, and a substantial portion of that comes from my Congressional District. I am happy to report that those concerned with the growing and processing of pears in my District are unanimously in favor of the legislation and have asked me to convey this support to the committee.

Again, my thanks to you for acting so quickly on the legislation early in this Congress and I urge you to give the measure favorable consideration.

NATIONAL COUNCIL OF FARMER COOPERATIVES,

Washington, D.C., June 1, 1971.

HON. THOMAS S. FOLEY,
Chairman, Special Subcommittee on Domestic Marketing and Consumer Relations, House Committee on Agriculture, Washington, D.C.

DEAR REPRESENTATIVE FOLEY: The National Council of Farmer Cooperatives urges your favorable consideration of H.R. 5825 to enable farmers to establish their own self-help programs for marketing pears for processing under long-established procedures of the Agricultural Marketing Agreement Act of 1937.

The National Council favors expanded use of marketing orders to achieve more orderly marketing of farm products to the benefit of producers, processors, and the public alike. Our current policy statement on "Marketing Agreements and Orders" includes the following:

"The National Council favors legislation for the continuation and liberalization of the marketing agreement and order authority to:

"1. Provide for inclusion of additional commodities under the marketing agreement and order authority; and to specifically provide that fruits and vegetables for processing now excluded may make use of federal marketing orders and agreements whenever such order or agreements affect the farmer-producers. Whenever they regulate the processed product, such orders or agreements may become effective only upon the voluntary assent of a majority of the handlers affected, and should be administered jointly by producers and handlers . . .

"2. Provide for expansion of this type of authority to encompass such geographic areas as are most desirable to carry the intent of the order."

The National Council strongly supports programs of mutual self-help for farmers, such as cooperative activities and marketing order self-regulation. Hopefully, these types of programs can eventually assume more of the task of achieving orderly, efficient marketing for agriculture, and thereby relieve the need for governmental programs of restriction and support which have been so controversial in recent years.

Marketing orders, when well administered, offer farmers a sound and practical means of adjusting their product quality and availability to market needs, of promoting improvements and benefits to consumers, and of developing alternative uses or marketing channels. Obviously, these steps toward more orderly marketing to the benefit of farmers, handlers and the public cannot be fully effective if programs are not coordinated on an industrywide basis. This is all that H.R. 5825 seeks to do.

These proposals are consistent with long-standing Congressional endorsement of the marketing order principle, and were strongly endorsed in principle by

recommendations of the 1966 report of the National Commission on Food Marketing, which suggested that cooperatives complemented by marketing orders and agreements offer an ideal combination for effective group action to "coordinate quality improvement programs or to schedule more even flows of products to the extent demanded by today's food industry."

We would appreciate it if you will include this statement in the hearings record for H.R. 5825.

Sincerely yours,

ROBERT N. HAMPTON,

Director of Marketing and International Trade.

Mr. FOLEY. The next witness is Mr. Paul A. Nicholson, Deputy Director of the Fruit and Vegetable Division of the Consumer and Marketing Service, U.S. Department of Agriculture.

Mr. Nicholson, it is always a pleasure to see you before the subcommittee and we are very happy to see you again this afternoon.

STATEMENT OF PAUL A. NICHOLSON, DEPUTY DIRECTOR, FRUIT AND VEGETABLE DIVISION, CONSUMER AND MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. NICHOLSON. Thank you, Mr. Chairman. I certainly appreciate the kind words and it is a pleasure to be here again.

I am Paul A. Nicholson and Chairman Foley has said who I represent. I have a statement on H.R. 2559 and H.R. 5825.

H.R. 2559 and H.R. 5825 would authorize marketing orders for pears for canning or freezing. Also, they would provide for any form of marketing promotion including paid advertising under marketing orders for pears.

The Department recommends that H.R. 2559 and H.R. 5825 be passed.

These two bills are not identical, however. H.R. 2559 proposes to amend section 2(3) of the Agricultural Marketing Agreement Act of 1937 to clarify the authority to establish, maintain and continue marketing research and development projects when prices are expected to exceed parity. We believe that proposal was included inadvertently since the act was so amended by Public Law 91-292 approved June 25, 1970. H.R. 5825 does not include this proposal.

In addition, H.R. 5825 includes a modification of the proposed amendment to 8c(6)(I) which makes it clear that regulation of a commodity for canning or freezing can serve as a basis for promotion and advertising of that commodity or its products in canned or frozen form. This is implied in H.R. 2559 but is not so stated. Therefore, we recommend that H.R. 2559 be amended as stated in our report on the bill on H.R. 2559.

Each of the bills would require a favorable voting of two-thirds of the growers voting or two-thirds of the volume voted in each state of the production area for issuance of an order applying to pears for canning or freezing. Each bill would also require equal representation of processors and producers on any agency selected to administer any order for regulating pears for canning or freezing.

The Agricultural Marketing Agreement Act of 1937 authorizes marketing orders for the commodities specified in section 608c(2) of the act. The purpose of a marketing order is to assist agricultural

producers in the orderly marketing of their crops. The act authorizes varying types of regulations in order to improve returns to producers.

There are now in effect three Federal marketing orders regulating the handling of fresh pears. One regulates Bartlett-type pears grown in California. One covers similar pears grown in Oregon and Washington. The other covers specified varieties of winter pears grown in the three Pacific Coast States. Each of these orders contains authority for regulating quality and size of pears shipped to fresh market, and for conducting marketing research and development projects. The two Bartlett pear orders also provide for container and pack regulations for fresh market shipments.

The act does not now authorize the regulation of pears for canning or freezing under marketing orders. Processing is a major outlet for the U.S. pear crop. This outlet is becoming more important. Two-fifths of the production was processed in the period 1945-49. This grew to about 60 percent in the 1966-70 period. Canning is the principal processing outlet. The Bartlett is the most important U.S. pear variety. It makes up about two-thirds of the total and is used principally for canning. Processing of Bartlett pears in the Pacific Coast States has increased from 59 percent in the 1945-49 period to 79 percent during the period 1965-69. Processing outlets utilized nearly 81 percent of the 1970 crop.

Pear producers and handlers in the Pacific Coast States have developed and used marketing orders to advantage in marketing fresh pears. But they are precluded from following the same route in the marketing of the larger portions of their pear crop utilized for canning and freezing. This sometimes hampers efforts to achieve the act's objective of improving grower returns.

Authority for advertising under a marketing order was first included in the act in 1962. This was for the single commodity—cherries. The authority has since been expanded to include 18 additional commodities. Substantially increased interest in advertising has been shown by fruit and vegetable producers and handlers in recent years. Advertising programs for several industries are currently being carried out under Federal marketing orders. Fresh pears are now eligible for marketing orders which include advertising. We believe that the pear industry should have the opportunity to develop a promotion program covering other pears if it desires to do so.

These bills would not authorize regulatory orders for canned or frozen pears. But their intent with respect to marketing research and development projects is to authorize such projects, including those dealing with marketing promotion and paid advertising, for any and all pears, including canned and frozen pears and other processed products. Without the promotion of canned pears little benefit would be derived.

Before a marketing order may be issued, a public hearing is required. Current provisions of the act require that at least two-thirds of the producers by number or volume of production voting in a referendum shall indicate approval before an order may be issued. The results are based on the overall number of producers and the overall volume of production. No breakdown is made by individual States or portions of States included in the production area. Since the secretary must find

that the proposed order is limited to the smallest regional area practicable, consistent with carrying out the declared policy of the act, the amendment of section 8(c) (19), as proposed, would in effect give any State veto power in a multi-State order. If the secretary finds that the order should cover more than one State, or portions of two or more States, and it fails to receive the requisite approval by growers in any one State, then the order could not be issued.

Likewise, it is pointed out that the proposal which would prohibit the administrative agency from recommending a regulation unless at least 50 percent as provided in H.R. 5825, or a majority, as provided in H.R. 2559, of the agency representatives from each State affected concur, would give each State's representatives veto power over regulation. This would mean that a recommendation could not be made even though a specified proportion of all the agency representatives favor it so long as the required proportion of one State's representatives do not.

Marketing orders customarily provide for an administrative body comprised of members selected from the industry. The interests of both growers and handlers should be considered in arriving at decisions under any regulatory program affecting them. Provision in the act for representation as specified would assure growers and processors of appropriate representation in the administration of any marketing order applicable to pears for canning or freezing.

It is estimated that the annual costs to the Department for administering a marketing order established under this legislation would approximate \$25,000 for each of the next five years.

Thank you.

Mr. FOLEY. Thank you, Mr. Nicholson.

Any questions of the witness?

Mr. ZWACH. Mr. Chairman.

After marketing orders are issued, how is the board of directors elected? It now provides that half of them shall be producers and the other half shall be processors.

Mr. NICHOLSON. The selection of the board would be spelled out in the marketing order, which would be arrived at through a hearing process.

Mr. ZWACH. Yes, I am aware of that, but generally, about how large a board is this in existing orders?

Mr. NICHOLSON. Well, the boards vary by the size of the industry they serve. We have some that run eight or 10, some that run as high as 25.

Mr. ZWACH. I see.

Mr. NICHOLSON. I would say in the pear one that I do not know, perhaps 14, 15, or 16. It would be hard to foresee.

Mr. ZWACH. Are the producer members generally elected by a region or district or are they elected over the whole area?

Mr. NICHOLSON. They are generally elected by region or district. The producer members would generally be selected, nominated, by the producers and the processor members would generally be nominated or selected by the processors, and then the appointment would be made by the secretary.

Mr. ZWACH. The processors get together and suggest or recommend their membership?

Mr. NICHOLSON. Yes, they would under this kind of a scheme.

Mr. ZWACH. That is all, Mr. Chairman.

Mr. SISK. Mr. Chairman.

Mr. FOLEY. Mr. Sisk?

Mr. SISK. Just to clarify a comment on the first page, Mr. Nicholson, you indicate that the Department recommends that H.R. 2559 and H.R. 5825 be passed. If I understand the explanation in the following paragraphs, the suggested amendment to 2559 would make it almost identical then to 5825. In other words, the language that is now contained in 5825 is your suggestion, is that correct?

Mr. NICHOLSON. That is correct.

Mr. SISK. Now, of course, the other point in section 2(3) was inadvertently, as you say, added, and is not needed in view of the fact that the basic law has been amended.

Mr. NICHOLSON. That is true.

Mr. SISK. So in essence, the Department is recommending the language as contained in 5825?

Mr. NICHOLSON. That is correct.

Mr. SISK. Either amended in 2559 or as left in the other bill?

Mr. NICHOLSON. Yes, I think 5825 is preferred somewhat, but if you settled on 2559, then this amendment should be made that we have pointed out.

Mr. FOLEY. Mr. Nicholson, did you have an opportunity to examine H.R. 2454, introduced by Mr. Clausen of California?

Mr. NICHOLSON. Yes, I did briefly, and this bill has two or three things left out that are included in 5825, and I think the committee would want to have them in.

Mr. FOLEY. Is it correct that one of the principal omissions from H.R. 2554 included in the other bills is 50-percent participation by processors on the board?

Mr. NICHOLSON. That is correct.

Mr. FOLEY. Is that the major difference?

Mr. NICHOLSON. That is a major difference.

Mr. FOLEY. Mr. Link?

Mr. LINK. No questions.

Mr. FOLEY. Mr. Robinson?

Mr. ROBINSON. No questions.

Mr. FOLEY. The subcommittee counsel would like to ask a question.

Mr. MURRAY. Mr. Nicholson, under the present act, which commodities are eligible for marketing orders as canned or frozen commodities?

Mr. NICHOLSON. Only two for the finished products and that would be olives and asparagus.

Mr. MURRAY. And which commodities are eligible for marketing orders as commodities for canning, for freezing, or for processing?

Mr. NICHOLSON. If you will just say for canning or freezing—

Mr. MURRAY. All right, for canning or for freezing.

Mr. NICHOLSON. For canning or freezing, it would be six commodities and two of them would be olives and asparagus and the other four would be cranberries, cherries, apples in some States but not all States, and grapefruit.

Mr. MURRAY. In other words, this bill would add pears for canning and freezing to that list of six and make it seven?

Mr. NICHOLSON. Exactly.

Mr. MURRAY. Then under existing law, in which of these programs either for canning or for freezing or frozen or canned do processors have a vote in the determination of the marketing order?

Mr. NICHOLSON. The processor has the vote in four of the six and that would be the apples in some States, the cranberries, the cherries, the grapefruit, but they do not have a vote in the case of olives and asparagus.

Mr. MURRAY. Then in which of these is there a statutory representation on the marketing board for the processors?

Mr. NICHOLSON. Grapefruit.

Mr. MURRAY. Only grapefruit?

Mr. NICHOLSON. I think only grapefruit, yes.

Mr. MURRAY. Thank you, Mr. Chairman. I just wanted to get that on the record, which of these other commodities are covered.

Mr. FOLEY. Thank you very much, Mr. Nicholson. If you would not mind and your time schedule permits, would you stay?

Mr. SISK. Could I ask for a little clarification, Mr. Chairman?

Mr. FOLEY. Yes.

Mr. SISK. I got lost on page 4. I was trying to reread this in connection with the establishment of the orders across State lines. I understand what you are saying here is that it would be set up to preclude a single State from vetoing an order?

Mr. NICHOLSON. No.

Mr. SISK. Or is it vice versa? In other words, I was trying to follow exactly your language on page 4 there to see exactly what your intent was.

The proposed bills would provide that the vote must carry by each State if more than one State is covered in the proposed order.

Mr. NICHOLSON. Right. And that is what I tried to say.

Mr. SISK. So that if it failed to carry in any one State, then the order would not go into effect.

Mr. NICHOLSON. The order would be out entirely because of the finding the Secretary has to make.

Mr. SISK. I am sorry. I did not word my question correctly. What I meant was let's say if an order was voted covering California, Oregon, and Washington, and California and Washington voted for it and Oregon voted against it, there would be no order?

Mr. NICHOLSON. There would be no order from that proceeding.

Mr. SISK. Even though there might be a substantial number in both California and Washington who voted for the order?

Mr. NICHOLSON. Exactly.

Mr. SISK. Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Nicholson, what would be the effect of that State by State rule in the event that the order was terminated?

Mr. NICHOLSON. In the event the order was terminated?

Mr. FOLEY. Was terminated by a vote?

Mr. NICHOLSON. I do not believe the proposed bills would modify the termination provision of the act, as I recall. I do not think that would—

Mr. FOLEY. It would have to be a vote in all three States or all the States affected in order to terminate the order?

Mr. NICHOLSON. The provision for terminating an order is somewhat different than for voting it in. While it takes 66⅔ percent of

those voting, and this would be by State in this case to vote in an order, 50 percent of the production can terminate and does terminate an order—over 50 percent.

Mr. FOLEY. But the Secretary would not be authorized to conduct elections in single States to terminate an order?

Mr. NICHOLSON. No, I do not construe this to have modified that provision on termination at all.

Mr. FOLEY. It only affects the invocation of the order and not the statutory or regulatory procedures for terminating it?

Mr. NICHOLSON. In the issuance of the order, yes, sir.

Mr. FOLEY. Thank you very much. If you can, Mr. Nicholson, we would appreciate it if you would stay in attendance in case any technical questions arise.

Mr. NICHOLSON. I will be glad to do so.

Mr. FOLEY. The next witness scheduled to appear before the subcommittee is Hon. Robert McDougall, State senator from the State of Washington. Mr. McDougall has kindly offered to yield, along with Mr. Thomas, so that the statement to be given by Mr. Robert E. Collins, vice president of the California Canning Pear Association, can appear at this time.

Mr. Collins, we are pleased to welcome you to the subcommittee.

STATEMENT OF ROBERT E. COLLINS, VICE PRESIDENT, CALIFORNIA CANNING PEAR ASSOCIATION

Mr. COLLINS. Thank you, Mr. Chairman, members of the subcommittee. My name is Robert E. Collins. I am vice president of the California Canning Pear Association, which is a nonprofit cooperative marketing association engaged in the marketing of pears for our members.

This marketing association consists of approximately 800 growers producing about 165,000 tons of pears in all the important pear grower districts of California. The association markets from 65 percent to 70 percent of the canning pears produced in California.

I am a full-time farmer myself, owning and operating about 300 acres including 50 acres of pears, and alfalfa, grains and other field crops. I also rent and farm an additional 800 acres in partnership, including 150 acres of pears. Until March of this year, I had been president of the California Canning Pear Association for 11 years and have been active in the pear industry of the West for 25 years. I have also served as president for 2 years of the Agricultural Council of California which is an association of the leading farm cooperatives in California including those engaged in processing as well as in bargaining. I am serving as a member of a tristate (Washington, Oregon and California) pear industry study group composed of representatives of all segments of our industry including processors, shippers, and growers.

I am here to speak in behalf of the California Canning Pear Association, to speak in support of the amendment to the Agricultural Marketing Agreement Act of 1937, as proposed by H.R. 5825. I appreciate that most of you are familiar with this proposal and its purposes—since it is essentially the same concept as the bill which your subcommittee and the full committee favorably recommended in the last Congress. Because of our desire to see this bill pass with a mini-

mum of industry disruption and friction, it was our judgment at that time that we should further seek to accommodate the opposition of the processors as expressed by the NCA. Therefore, we did not attempt to secure a vote by the full House but instead devoted our time to working out amendments which would provide the most protection to the processors while retaining the structure of a growers' program, which it basically is.

Canning pears, the commodity to be affected by this bill, are produced mainly in the three Western States of California, Oregon, and Washington, California alone accounting for approximately 65 percent of the Bartlett pears, the major processing variety.

While pears are used for both fresh consumption and processing and both markets are important to us, in recent years the processing uses have greatly outgrown the fresh outlets—some 75 percent to 85 percent of the crop now being processed, almost the exact reverse of the situation in 1937 when the Marketing Agreement Act was enacted. The fresh usage has just barely managed to hold its tonnage although losing ground heavily on a per capita consumption basis.

When the original Marketing Agreement Act was established by Congress in 1937, Congress pointed out the public concern with the well-being of farm producers and through this vehicle provided the means for self-help marketing agreements to work toward a parity of income.

This has been good legislation, not only for farmers, but for the general public. With proper safeguards, it has permitted growers to work together to develop information and to coordinate their marketing efforts in many problems that reach beyond State boundaries. Many commodity groups have been able to develop a measure of order and stability out of the chaotic conditions that existed through the use of these agreements.

As pear growers, we also have used the act. But, unfortunately, only on a steadily decreasing portion of the crop shipped fresh, since by specific exclusion our canning fruit is excluded from the act, even though the canning and the fresh fruit may have been picked from the same tree at the same time.

We have developed, on a State basis, a number of programs by which we have attempted to accomplish some of the same objectives of a Federal act. But these programs have varying authorizations and managements depending on the basic laws of the three States. These programs are all voted in, paid for, and administered by growers and growers' funds under State supervision, and they have been a big step toward orderly marketing.

We have also at our own expense on a voluntary basis formed two effective bargaining cooperatives representing California and Oregon and Washington. Through almost 20 years of successful operation of these organizations, we have gained a great insight into the economics that make up our market. It is the result of this knowledge that impels us to request this next step in the growth and extension of industry cooperation: for we now realize that these economics must extend beyond the bounds of a given State or the legal capacity of a State marketing program.

It was for this reason that the Federal Marketing Agreement Act was established by Congress and this was the reason producers of other

farm commodities make use of it, as we do on the fresh portion of our crops. We see no valid reason why these same programs should not be available to our canning pears.

The bill you have before you differs in two material aspects from the bill you favorably recommended to the last Congress.

1. Express provision has now been made to insure self-determination by the pear producers of a given State as to the applicability of an order to that State.

2. The representation of processors and producers on the agency which administer any marketing program shall be equal.

The significance of each of these changes is probably apparent, but I would like to make a brief explanation of each.

The first change is to guarantee to the growers in any State which would be covered by a proposed program that they cannot be dominated by the growers of another State. Speaking frankly, this would guarantee growers in Oregon or Washington that in a regional order affecting the Pacific coast, which is a likely prospect, that the California growers who produce over 65 percent of the Nation's canning pears could not impose a program on them against their wishes. The California producers are quite agreeable to this limitation because they are convinced that no effective program can be developed that does not, in fact, have the support of the producers in each State affected.

The second change is perhaps of even greater significance. Some processor spokesmen have objected in the past to our bill because they contend a program could be put into effect against their will. We have taken steps in the bill you approved before to make it clear that any such program shall not regulate pears in the can. We have abundantly assured the processors—and so here and now as a part of this legislative record—that the producers expect to pay for all assessments levied. We now have agreed that processors shall have equal representation with producers on the committee which administers any marketing program.

As you undoubtedly know, even though our bill becomes law and even though a marketing order is promulgated and adopted, no program shall go into effect unless a majority of the administrative committee recommends such a program to the Secretary of Agriculture and the Secretary acts favorably on such a recommendation. In the spirit of compromise, we have agreed to this new provision which means for practical purposes that producer representatives on the administrative agency must have some processor support to place a program before the Secretary.

A number of processors have privately expressed to us their satisfaction with the bill in this form.

We cannot, of course, satisfy those who simply as a matter of principle really oppose the basic concept of marketing orders. On this issue, we are prepared to go to a final vote by this Congress.

It is argued that we should go further and allow processors a veto power over the promulgation of an order. As I have explained to you, the order, once adopted, is simply enabling action which of itself puts no program into effect until the administrative committee has, by majority vote including processors, recommended it. To give processors a veto power over promulgation of an order simply creates another ob-

stacle for adoption of a program which will be difficult enough to put into effect under our bill.

Some canner spokesmen argue then that if we are unwilling to give this veto to processors twice, we should agree now in our bill that no powers can ever be exercised affecting the quantity of the pears going into the can. I would like to discuss this directly.

As indicated above, we anticipate that our primary concern is to provide a vehicle by which all pear producers in a given area can work together. The bargaining cooperatives in California and in Washington and Oregon are voluntary membership organizations. This means that nonmembers—even though just a minority—do not bear their fair share of costs of programs or services we provide. As I have indicated, we are concerned initially with research, trade promotion, and statistical data. It is entirely possible that in due course we could adopt a program of quality control. Such a program would, of course, affect the quantity of pears going into the can.

We suspect that the fear of such canner spokesmen is that strict quantity controls could be established which somehow could work to the disadvantage of the canners. In fact, this is a straw man type of argument for reasons that those of you who are familiar with the pear industry will quickly recognize.

Pears are a multiuse crop, being consumed in the fresh market and as dried fruit, as well as going into the can.

Pears are grown in significant volume in more than one State or area. Moreover, there is increasing competition from pears grown in other parts of the world—such as Australia and South Africa—and we are already deeply concerned about the competition from foreign canned pears.

It is, therefore, simply a matter of elementary economics that if U.S. pear producers were inclined to try to obtain unreasonably high prices for themselves, they just could not do so.

In fact, the history of pricing for U.S.-produced pears for canning reveals a constant awareness by our producers of the reality they face. I am confident that the canners we deal with on the Pacific coast will privately agree that we have provided responsible leadership.

But even if our producer representatives were to seek what processors felt was some unreasonable program—as I have explained to you—the processors through their representatives on the committee could legally veto it under the bill before you now.

I would like to mention some of the other past objections that have been raised by opposition.

Some concern has been expressed that the effect of this enabling legislation will be to increase the cost of canned pears or fruit cocktail to the consumer. I assume that what is unsaid is again the fear that somehow the pear grower through this legislation will become so powerful and dominant in the marketplace that he could, if he were so inclined, radically increase raw fruit prices and enrich himself at the expense of the consumer.

I should point out that the raw fruit cost in a can of pears is so small in regard to the total cost that such a sizeable change in the price of \$10 to \$15 per ton to us only results in 1- to 1½-cent change in the retail price per No. 2½-can, or much less than is commonly

discounted by canners for an advertising program. Perhaps it would be helpful to point out nothing in this enabling legislation will provide the pear grower with any real capacity for power and dominance in the marketplace. The plain truth is that the independent pear grower is a relatively small operator who is struggling to equip himself through cooperation with his fellow producers to do a more informed, intelligent, and effective job of producing and marketing his pears. With the most effective bargaining cooperative, which we hope we have, and a useful Federal marketing order he will continue to be bargaining essentially from a position of weakness with his customers. Certainly he wants a good return but we have learned that the highest possible price in a given season may hurt us in the long run.

Through our working together in our cooperatives and under State marketing orders, we have learned to be as deeply concerned as the canner and retailer that the price of our product in the tin be competitive with other canned fruits and other products with which we compete for the consumer's dollar. We simply cannot afford to price ourselves out of the marketplace. I have spoken at this length on this point largely because we feel some have attacked our proposal out of a genuine concern for the consumer but also without really understanding what this bill is intended to accomplish. I hope I have made it clear that this bill does not represent a threat to the consumer and there is no true conflict between him and the pear grower.

I have referred earlier to the objection by some processor spokesmen that they pay the assessment. This is not our experience in the Federal order we now have on fresh pears nor on our State marketing orders. The cost or assessment is taken from grower returns and this is known both to the grower and the handler or processor. While it is true that this assessment is collected by the handler or processor the order is clear in indicating this is a producer cost. This has been the practice in California since our marketing order was enacted in 1938, and we would expect producers would similarly bear the cost of any Federal marketing order. I have stated this in every discussion and will so state again—we have no desire to control our product after it leaves our hands—nor to cause a charge the canners must pay.

Another objection by canners is that this is undercutting free enterprise and replacing it with Federal legislation. I think the record of pear industry leadership and actions in programs now in effect is the best answer to this objection.

The objectives of a fair return and stability can only be achieved by giving full recognition to the problems of processors, handlers, and consumers as well as those of growers. Pear growers can point to a long record of statesmanship in this regard. Recognition of this has been made by processors in public statements and articles appearing in their own trade papers.

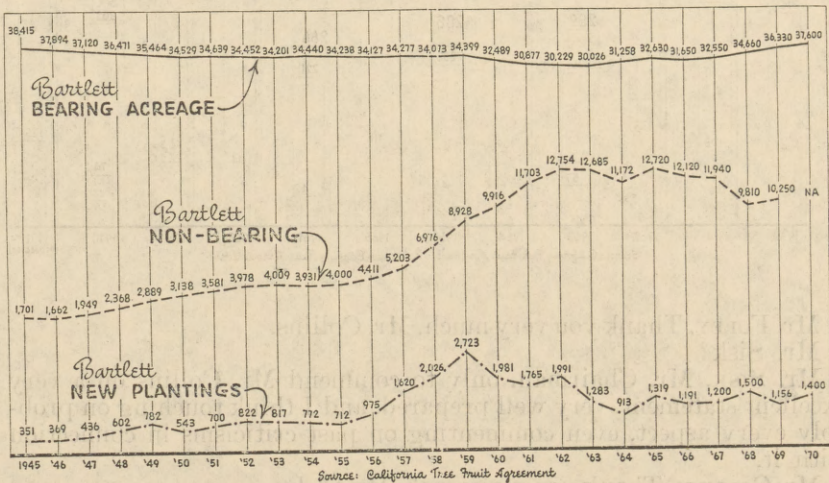
In conclusion, let me restate that the basic purpose of this bill is to permit the continuance of the orderly evolution in pear marketing. We producers have learned to work together on a State level through State programs, then more recently through cooperation under a patchwork of different State programs on a three-State level. We are only asking you now to let us, through this bill, work together more efficiently and effectively under a Federal marketing program.

It is difficult for us pear growers to understand why some spokesmen for the canning industry present such a parade of horrors when they make their opposition to this legislation. Certainly, those canners we work with on the Pacific coast know that, in fact, we pear growers are a cautious and conservative group. We have not sought public funds through subsidies to meet our problems. We have not supported change merely for the sake of change but only where we are convinced it can significantly improve what now exists. We believe that our own record is the most effective reassurance to such spokesmen that any marketing order program which might be adopted under the enabling act will be constructive and responsible. If that were not enough assurance, we wish to point out that no program will be promulgated for approval by the requisite number of farm producers unless the Secretary of Agriculture is personally satisfied with its provisions. And, I repeat, under our bill before you, the processors through their representatives on the administrative committee have a veto power over any program.

We, in pears, are proud of the fact that we have not asked you for direct subsidies. We are deeply committed to the self-help concept—we want to go it alone at our own expense, and through democratically adopted and retained programs. But the problems we face are profound, and we urgently need the ability to adopt meaningful self-help programs. If the powers of the Agricultural Marketing Act are not made available to our pears for canning, our self-help approach may fail dismally for being too little and too late. I do not want to think of the alternatives with which the U.S. pear producers will then be faced.

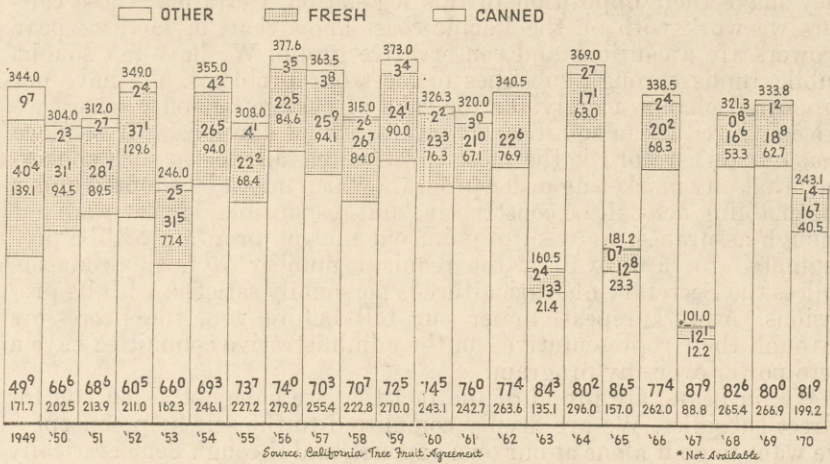
Thank you, Mr. Chairman. That concludes my statement.
(Attachments to the statement follow :)

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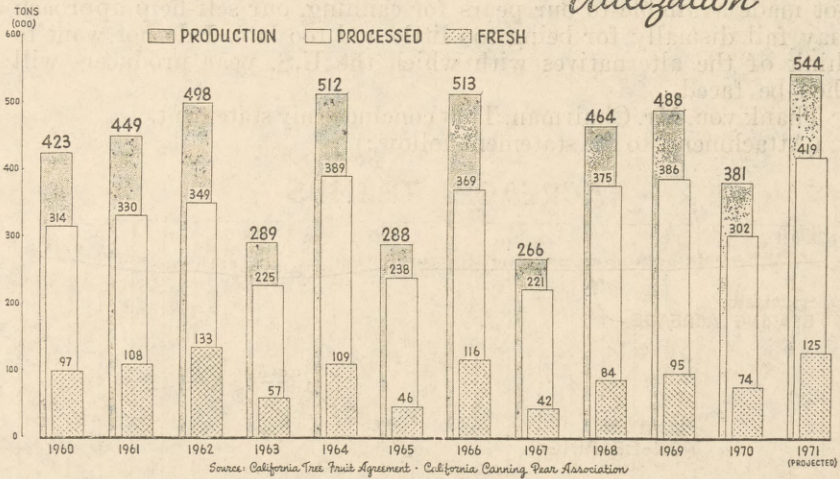
Utilization of CALIFORNIA BARTLETT PEARS

TONS (000)



PACIFIC COAST BARTLETT PEARS

Utilization



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

Mr. Sisk?

Mr. SISK. Mr. Chairman, only to commend Mr. Collins on a very excellent statement, very well prepared, and I think touching on probably every aspect, even commenting on past criticisms in connection with it.

Mr. COLLINS. Thank you very much, Mr. Sisk.

Mr. FOLEY. The Chair agrees; I think it is an excellent statement.

Mr. Zwach?

Mr. ZWACH. Mr. Chairman.

I think you recognize that in the original marketing act of 1937 was a provision for producers to try to work out their own problems. Now, why do you recommend watering down the producers by bringing in half, or a veto power to processors? Your interests are not in strict harmony. They ought not to be definitely opposed, but are you going to give now to the processor full power to stalemate anything that you folks think is good?

Mr. COLLINS. Mr. Chairman, I think I can answer that by—

Mr. FOLEY. Before you answer that, Mr. Collins, the Chair is going to interrupt to make an off the record comment.

(Off the record discussion.)

Mr. COLLINS. You may want to object to my answer. I was about to say that even in farming, you occasionally rise above principle. I think that in order to try to get a bill passed, we have trod this route before. We have worked hard on it. We find that the canners, through what they feel are good and sufficient reasons, object to any extension of marketing acts by growers. We can appreciate their fears. We have tried our best to allay those fears. We have found that that was not enough, so we have tried to accommodate their fears as best we can by these types of amendment. Because we feel that unless we do the job together, we are not going to have an effective program.

Mr. ZWACH. So you are really compromising the purpose of the act in an attempt to achieve your objective that way?

Mr. COLLINS. To make use of the act; yes, sir.

Mr. ZWACH. It disturbs me a little, but if this is what you want, I am not going to basically object to it. I am very concerned about this feature of it.

Mr. COLLINS. I appreciate your question and concern.

Mr. ZWACH. That is all, Mr. Chairman.

Mr. FOLEY. Are there any other questions?

Mr. LINK. No.

Mr. ROBINSON. No.

Mr. FOLEY. Mr. Collins, I take it from your answer to Mr. Zwach's question that you feel confident that if the legislation were enacted, the provisions permitting 50-percent representation on the board by processors would not, in your judgment, frustrate the purposes of the order. As I take it, you feel that the actual operation of the order would be seen to be a cooperative and effective measure by both producers and processors?

Mr. COLLINS. Yes, sir; I feel it will be a great restraining force on us and I feel that the fact that we have made this accommodation indicates the extent to which we feel that in order to get a workable bill, we must have this type of cooperation.

Mr. FOLEY. Does it also reflect the confidence that you feel that cooperative efforts could be successful?

Mr. COLLINS. We have found this so in California and I would certainly hope that this would be true in the three States if we would go ahead and attempt to enact a bill.

Mr. FOLEY. Thank you, Mr. Collins, again. I think you have provided a very useful statement and we appreciate having it.

We now return to the established witness list and call Hon. Robert McDougall, State senator for the State of Washington, president of the Washington-Oregon Canning Pear Association.

I want to say as Senator McDougall sits down that I find great pleasure in welcoming him today. He resides in my congressional district and I think any member of the Washington State delegation of either party would not quarrel with the statement that there is no more able or highly esteemed member in our State senate than Senator McDougall. I think that is underlined by the very strong majorities with which he is sent to the State senate by a district which is the most important fruit-raising district of the State of Washington, and which prides itself on being one of the major fruit-raising areas of the United States.

I will also note, as I think Senator McDougall makes reference to in his statement, that he is general manager of Horan Bros. One of the founding members of that company was Walt Horan, who served with great distinction in the Congress of the United States from the Fifth Congressional District for over 22 years. I will testify that I do not think there are many Members who sit in the Congress who were more affectionately regarded by both their constituents and their fellow Members. I do not think any members of this subcommittee, with the exception of Mr. Sisk probably, had the pleasure of serving with Congressman Horan. When I came to Congress myself, I found an enormous respect and regard for him.

Senator McDougall is related by marriage to the late Congressman Horan and is a member of the association which he founded. He comes here not only as a representative of a great fruit-raising area but a major leader in this very important area of agriculture.

STATEMENT OF ROBERT McDOUGALL, STATE SENATOR, STATE OF WASHINGTON; PRESIDENT, WASHINGTON-OREGON CANNING PEAR ASSOCIATION

Mr. McDOUGALL. Thank you, Mr. Chairman, for the very kind remarks.

Mr. Chairman, members of the subcommittee, my name is Bob McDougall. For the past 6 years I have served as president of the Washington-Oregon Canning Pear Association. This is a nonprofit cooperative association devoted to determining for its members a realistic price for processing Bartlett pears.

Our association represents approximately 950 growers in the State of Washington who produce nearly 40 percent of the free processing pears in the State and 70 growers in Oregon.

On behalf of our organization, I would like to take this opportunity to personally thank the subcommittee and, in particular, Mr. Chairman, the Honorable Tom Foley, for this time to present our case to you today.

In the interests of not presenting redundant testimony to the subcommittee—for certainly the remarks presented by Robert Collins are completely endorsed by our northwest growers—I should like to pursue the importance of the passage of this legislation for Bartlett pear growers.

I should like to briefly describe our own Bartlett pear operation and what the effects of favorable consideration of this legislation would do.

As was pointed out, I am general manager and principal stockholder of Horan Bros., Inc., located in Wenatchee, Wash. As the able chairman has pointed out, the late Walt Horan, who served with distinction in the House of Representatives for 22 years, was one of the founders of the corporation.

Since becoming manager of the operation some 20 years ago, our production of Bartlett pears has varied from 250 tons a year to 500, the fluctuations coming from tree loss and spring frosts. In addition, we handle and produce winter pears and apples. Bartletts represent about 25 percent of overall fruit production.

For the past 20 years approximately 75 percent of our Bartlett production has been sold to the processors and the balance packed for the fresh markets in our packing and storage plant. Comparing our ratio of processed to fresh shipments since 1962 in Washington and Oregon, we find that fresh shipments ranged from a high of nearly 35 percent in 1962 to a low of nearly 16 percent in 1967. This is a direct relationship between fresh versus processing shipments based on Pacific coast production. When there is a big crop, fresh shipments increase proportionately. Northwest fresh sales have ranged from a high of 48,995 tons in 1962 to a low of 17,240 tons in 1965. In that year, only 102,756 tons were produced in the two States. Average production is about 145,000 tons.

The significance of these figures is to point out that sales to processors remain somewhat stable, subject, of course, to Mother Nature's whims. Additional information on northwest Bartlett pear production is shown on the attached statistical sheet.

Several years ago, producers of fresh Bartlett pears in Washington and Oregon decided to avail themselves of the fresh fruit provisions of the Agricultural Marketing Agreement Act of 1937. By an overwhelming majority, the growers supported the referendum. As a result the public is now being provided with better fruit and at no increased cost to the buyer for the law of supply and demand prevails.

As growers and packers of fresh Bartletts, we are cognizant of the fact that per capita consumption of all fresh fruits has declined. Our opportunity to retain a reasonable portion of the grocer's fresh fruit display case is to provide the housewife with an attractive and sound piece of fruit. The Agricultural Marketing Act of 1937 has afforded us this opportunity. The average fruitgrower does not seek to destroy the free enterprise system or the law of supply and demand concept. We merely seek to maintain our spot in the marketplace. We ask for a minimum of governmental control in achieving this and have consistently done this at our own expense.

The Federal Marketing Act has been most beneficial in the fresh Bartlett program. We earnestly seek your help to have it include processing Bartletts.

When our California friends first suggested that we join with them to have legislation introduced to include processing Bartletts in the act, there were mixed emotions expressed by members of the Washington-Oregon Canning Pear Association. Many felt that they could see no benefits and that all that we would do would be to antagonize the limited number of processors who purchase our Bartletts in the northwest.

Others were suspicious that the California proponents of the plan had some ulterior motive which would be detrimental to Washington-Oregon growers. Fortunately, as a result of the close cooperative efforts of the two bargaining associations, the board members of our organization had complete trust in the California board and we were able to allay any fears that arose. Some of our growers did ask that provisions of the act be only effective when ratified by a two-thirds favorable vote in each State by volume before it may be bound by any marketing order proposed. By so doing, this would prevent domination by any State.

A number of meetings were held in the northwest to discuss the proposed amendment to the 1937 act. They were attended by members and nonmembers of the bargaining association. It is my conviction that we have nearly unanimous support for the change in the law.

We have also been favored in having strong support in previous congressional sessions from Congressman Foley and former Congresswoman Catherine May, both of whom represent the major pear growing areas of Washington. We have also been assured that fourth district Congressman Mike McCormick favors this legislation and has joined with Mr. Foley and others in sponsoring this legislation.

Today's producer of Bartlett pears is well aware that for him to remain in business, he needs to have the processor in a sound financial position. We in no way wish to jeopardize this situation. As a result of our bargaining associations we as growers have become knowledgeable of the processor's problems and concerns. It would be our hope that the canner could place a finished product on the grocer's shelf at a price to the consumer which would be nearly constant year after year. Like the canners, we as producers suffer when the price of the raw product, through supply and demand, gets unreasonably high.

We in no way ask for this act to directly improve our price position.

To summarize:

1. The Federal Marketing Act of 1937 has been most beneficial in the fresh Bartlett program. It has not resulted in higher prices to the consumer but, conversely, has provided a better product.

2. Bartlett pear growers in Washington and Oregon are nearly unanimous in support of including processing pears in the Act.

3. Bartlett pear producers wish to continue the fine working relationship we have had with processors and seek this legislation to further help in the promotion of our product.

4. The consuming public should not experience increased prices for canned Bartlett pears as a result of extending the act to this commodity.

On behalf of the pear growers of Washington and Oregon, I earnestly support your favorable consideration of H.R. 5825, and/or relative bills.

Thank you very much, Mr. Chairman.

Mr. FOLEY. Thank you, Senator McDougall. I notice you have attached to your statement the breakdown of the fresh and canned pears packed in Washington and Oregon.

Mr. McDUGALL. Yes.

(The statistical data referred to follows:)

PEAR DISPOSAL—NORTHWEST

	Fresh	Canned	Total
1962:			
Washington.....	26,566	48,954	75,520
Oregon.....	22,429	41,135	63,564
Total.....	48,995	90,089	139,084
1963:			
Washington.....	26,000	62,653	88,653
Oregon.....	5,116	23,792	28,908
Total.....	31,116	86,445	117,561
1964:			
Washington.....	23,740	61,186	84,926
Oregon.....	16,500	35,706	52,206
Total.....	40,240	96,892	137,132
1965:			
Washington.....	9,538	32,239	41,777
Oregon.....	7,702	53,277	60,979
Total.....	17,240	85,516	102,756
1966:			
Washington.....	24,986	62,440	87,426
Oregon.....	17,725	54,519	72,244
Total.....	42,711	116,959	159,670
1967:			
Washington.....	17,705	76,580	94,285
Oregon.....	7,655	58,098	65,753
Total.....	25,360	134,678	160,038
1968:			
Washington.....	22,605	73,882	96,487
Oregon.....	6,303	35,633	41,936
Total.....	28,908	109,515	138,423
1969:			
Washington.....	14,032	57,412	71,444
Oregon.....	14,778	67,455	83,233
Total.....	28,810	124,867	153,677
1970:			
Washington.....	21,726	77,925	99,651
Oregon.....	6,885	31,014	37,899
Total.....	28,611	108,939	137,540

Mr. FOLEY. Mr. Sisk?

Mr. SISK. Mr. Chairman, I want to say to Senator McDougall I am sorry I missed the first part of his statement. I see that he is general manager of Horan Bros. Walt Horan was a personal friend of mine while he was in Washington and I thought a great deal of him. Our late colleague was indeed a great force for the State of Washington. I want to commend him.

I understand you are related to Congressman Horan?

Mr. McDUGALL. Yes, sir.

Mr. SISK. Thank you, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Sisk.

Mr. Zwach?

Mr. ZWACH. Mr. McDougall, your group did express some concern with regard to a 50/50 board of directors, growers and processors?

Mr. McDougall. No, sir; I believe my statement was to indicate that we expressed some concern basically amongst our own producers as to whether or not one State in essence could dominate the provisions of the act. This, of course, was not the particular board we would like. As Mr. Collins has pointed out, if at all possible, we would prefer that the board perhaps be composed principally of only producers, but we are realistic enough to realize that in order to, hopefully, get this legislation passed, we must participate as nearly as possible on a 50/50 basis.

Mr. Zwach. Do you have the right under your order to control production?

Mr. McDougall. No, sir, not per se. I can only speak now with regard to the fresh marketing provisions of the act, which would allow some leeway with regard to what particular sizes of fruit might be packed. But the grades are essentially established and are there year after year.

Mr. Zwach. On these boards, in your marketing orders which you have now, how many board members are there?

Mr. McDougall. They are from each of the various districts. And I believe in the State of Washington we have but two, and there are two to my knowledge in the State of Oregon. One is considered a producer member; the other is a handler member who, in essence, packs the food and also sells the fruit. So in that instance, there is equal representation on the board.

Mr. Zwach. It was my privilege to serve in the State senate of Minnesota for 20 years. I appreciate once in awhile a State legislator appearing before us.

Mr. McDougall. Thank you.

Mr. Zwach. Thank you, Mr. Chairman.

Mr. Foley. Mr. Zwach is not only a strong supporter of the agricultural producers of this country, but also a strong supporter of the confederacy of State senators.

We have a number of distinguished State senators in the Congress.

Mr. Zwach. Yes.

Mr. Foley. Mr. Link?

Mr. Link. Mr. Chairman, I likewise appreciate the appearance of, first of all, Mr. Collins, a farmer, who indicated that he is a farmer by profession, and then our second witness here, a member of the State legislature. I am sure he will concur, as will our colleague, Mr. Zwach, that with every good senate, there is a good house.

Mr. Foley. Mr. Link is a former member of the North Dakota State House.

Mr. Link. We appreciate the two bodies on the State level and appreciate their expertise in coming before this congressional committee.

I perhaps should also have addressed this question to Mr. Collins if he cares to comment as well as Mr. McDougall.

What is the main source of production? Does it come from independently owned and operated farmers?

Mr. McDougall. Yes, sir. As I pointed out, at least, and I am speaking basically for the State of Washington now and I alluded to this in my remarks, we have some 950 growers in the State of Washington in our organization, which would, of course, represent a number—this

represents about 40 percent of the overall production. So we do have a number of small growers in the State, both in Oregon and Washington.

Mr. LINK. And is it your concern, your opinion, that this type of legislation would enhance their operation and make it possible for them to continue on a profitable basis that would be of benefit to not only your economy, but to the consuming public of the entire country by ensuring adequate supplies?

Mr. McDOUGALL. Yes, I very definitely feel so. As a matter of fact, as both Mr. Collins and myself have tried to point out, we as growers want to participate to the extent of trying to promote our commodity, with the result that we would hope that as a result of this, we would not only find ourselves perhaps in a profitable position, but also to be able to remain in business and not to drive the smaller farmer from his farm into some other type of field.

Mr. LINK. You feel this legislation would be beneficial to that extent?

Mr. McDOUGALL. Very definitely.

Mr. LINK. Thank you, Mr. Chairman.

Mr. FOLEY. Thank you, Mr. Link.

Senator, you have pointed out the number of producers that are members of the Washington Canning Pear Association and you represent an area that, as I stated in the introduction, is perhaps the principal fruit raising area of the State of Washington. It has always been my judgment that those who produce fruit crops are basically a pretty hardy and independent group of farmers and producers and they really are quite self-reliant and are rather loath to ask for any assistance or Government support. Is that not your judgment?

Mr. McDOUGALL. Yes, I believe this is quite true. We have prided ourselves on the fact that we have avoided both perhaps at the State level and certainly at the Federal level asking for anything that we could not do for ourselves. It is only because we find that we are in a situation where only Federal legislation can afford us this opportunity that we come here today to ask your support.

Mr. FOLEY. And basically, in your statement, this legislation would not change radically the relationship that exists now between fruit growers and processors?

Mr. McDOUGALL. I would hope not, and I do not believe it would. Again, if I may allude to my remarks, we in the Northwest have found ourselves in a situation where we have lost processors basically because of the costs involved. But it is still my contention and feeling that this in no way should jeopardize our working relationship with these processors.

Mr. FOLEY. Would you describe those relationships as they exist now to be generally sound?

Mr. McDOUGALL. Very much so. I think, particularly since the inception of the bargaining organization, that both the producers and the growers find themselves in a much better position in working relationship with the processors than we once had. We are cognizant and they have supplied us with useful and vital information about what their problems are. We in turn have tried to tell them what our problems are, with the result that it has been a much more harmonious relationship than we have ever had in years prior to the conception of these bargaining associations.

Mr. FOLEY. Would you think that were this legislation enacted, the representation of processors on the board would be a further opportunity for communication and close working relationships between processors and producers?

Mr. McDougall. It very well could, and I would envision that it very definitely would.

Mr. FOLEY. Thank you very much. If there are no other questions, Senator McDougall, we thank you for coming. We appreciate your testimony and your taking the time to come so far to present it.

Mr. McDougall. Thank you again for your many kindnesses.

Mr. FOLEY. The next witness will be Mr. Leroy B. Thomas, president of the California Canning Pear Association.

STATEMENT OF LEROY B. THOMAS, PRESIDENT, CALIFORNIA CANNING PEAR ASSOCIATION

Mr. THOMAS. Thank you, Mr. Chairman.

Mr. Chairman, members of the subcommittee, my name is Leroy Thomas. I appear here today as president of the California Canning Pear Association in support of H.R. 5825 introduced by your chairman and the companion bills. I am a pear grower in the Lake County area of California. I own, lease, and manage approximately 170 acres of Bartlett pears. Part of my production goes into the fresh markets and the balance to the canneries.

Our past president, Robert E. Collins, has effectively stated the case for the enactment of this bill, as has Senator McDougall. I heartily endorse their testimony.

I am here today at the request of the board of directors of the California Canning Pear Association, as the newly elected president of our cooperative, to add a note of urgency to the request of the pear producers that this bill become law.

As we appear here today, the canning pear producers—and canners, too—face a difficult year and more than likely equally difficult years to follow. New plantings of a few years past are maturing now and coming into production. Canning capacity on the Pacific coast has not significantly increased. Foreign production of raw pears and canned pears are a reality. For the first time, Australian fresh pears are being imported into the United States in significant quantities. U.S. pear processors are facing ever-increasing competition from Australian and South African canned pears both in foreign markets and even here in the United States.

Pear producers still want to try to resolve their problems through self-help. But they must, I repeat, must be able to work together effectively. There are serious limitations to what we can do through make-shift voluntary programs adopted by the efforts of voluntary membership organizations. Marketing order programs probably on a regional basis adopted by producers democratically which apply to and are supported financially by all producers are a necessity.

I am here, therefore, to convey to you the urgency which is now felt by the California pear producers and to implore you to act favorably on this bill and once out of committee, to use your best efforts to secure its enactment.

Thank you.

Mr. FOLEY. Thank you very much, Mr. Thomas. I am very happy to have your statement in support of Mr. Collins' and Senator McDougall's statements.

Are there any questions of Mr. Thomas?

Mr. SISK. Mr. Chairman, I welcome Mr. Thomas from Lake County, the district of my friend Bizz Johnson, I believe.

Mr. THOMAS. Bob Leggett's.

Mr. SISK. Oh, you are in Bob's district. Bizz has so many counties in his district.

That is right, you are in Bob Leggett's. At any rate, we are happy to welcome you from California, Mr. Thomas. You and the other gentlemen, I think, make a very fine case for this legislation.

That is all I have.

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

Mr. Link?

Mr. LINK. No questions.

Mr. FOLEY. Mr. Robinson?

Mr. ROBINSON. No questions.

Mr. FOLEY. Mr. Thomas, I noticed that you mentioned, as did the other witnesses, the growing importation of Australian and South African canned products. I think it is important to underline in the record that since the first consideration of this legislation, there has been a rather sharp increase in those imports into the United States. It appears from both your statement and those of the other witnesses that this is something which the producers are very cognizant of. I take it you have no desire to create any conditions which would encourage the increase in the share of the market by those imported products. Is that true?

Mr. THOMAS. That is very true and I think we are very fortunate this year that Australia took it upon themselves to limit the amount of canned pears that they exported into the United States.

Mr. FOLEY. So this is another area in which your producers and processors in this country are in agreement?

Mr. THOMAS. Yes.

Mr. FOLEY. Thank you very much. We are very glad to have your statement, Mr. Thomas.

I would like to note in the record the presence in the hearing room of Mr. James S. Moser of California, who is an outstanding producer in that State. I understand that Mr. Moser does not have a separate statement to present to the committee, but he is here in support of the legislation.

Mr. MOSER. Yes, thank you.

Mr. FOLEY. I would be very glad to hear from you if you desire to testify, Mr. Moser.

Mr. MOSER. I have no prepared statement. If there are any questions, I would be happy to try to answer them.

Mr. FOLEY. Are there any questions of Mr. Moser?

Mr. ZWACH. No.

Mr. FOLEY. We appreciate your appearance.

Mr. MOSER. Thank you.

Mr. FOLEY. The final witness scheduled for testimony today was originally listed as Mr. Edward Dunkelberger, the general counsel of the National Cannery Association. Mr. Dunkelberger is not appearing

today, but Mr. Robert Heiney is appearing. Mr. Heiney is the distinguished, well known, and highly regarded director of government and industrial relations of the National Canners Association and well known to the subcommittee.

Mr. Heiney, we will be happy to have your statement at this time.

He is accompanied by Mr. Van Meir, staff economist of the National Canners Association. We will be glad to have Mr. Van Meir accompany Mr. Heiney to the counsel table.

I have said on previous occasions when Mr. Dunkelberger was presenting testimony for the National Canners Association that both of us being lawyers and former defense counsel, he once said to me that he would give up the presumption of innocence for his client if he could have the final argument. So the final argument today is going to be presented by Mr. Heiney on behalf of the National Canners Association.

Off the record.

(Off the record discussion.)

Mr. FOLEY. It is a great pleasure to see Mr. Heiney. He certainly is always welcome before the subcommittee.

STATEMENT OF ROBERT B. HEINEY, DIRECTOR, GOVERNMENT-INDUSTRY RELATIONS, NATIONAL CANNERS ASSOCIATION, ACCOMPANIED BY LAWRENCE W. VAN MEIR, STAFF ECONOMIST

Mr. HEINEY. Thank you very much, Mr. Chairman. I will not bite on that presumption of innocence allusion. We are innocent.

Perhaps—I do not know whether off the record or not—Mr. Robinson can join with Mr. Zwach and Mr. Link in former State representation. He is a senator from Virginia.

Mr. FOLEY. I am glad you pointed that out. I think it should be on the record. We have on this committee and on the full Agriculture Committee a great number of former State senators and State representatives. I have always counted a missing part of my own background that I did not have an opportunity to serve in the State legislature, because I think all of us who observe Members of Congress when they come from previous legislative experience know how quickly that gives them a grasp of the responsibility here and acclimates them to the work of the Congress.

Mr. HEINEY. My name is Robert B. Heiney. I am director of Government-Industry Relations for the National Canners Association, a nonprofit trade association whose almost 600 members have canning plants in 44 of the 50 States and pack approximately 90 percent of our national production of canned fruits, vegetables, meats, seafoods, and specialties. With me as the chairman has pointed out, is Dr. Lawrence W. Van Meir, staff economist for the National Canners Association.

The association and the canning industry which it represents are opposed to the enactment of H.R. 2454 and the additional bills which are before you today. These would amend the Agricultural Marketing Agreement Act of 1937 to authorize the imposition of marketing order controls on canners and freezers of pears. The basis for this position is contained in a statement of policy regarding agricultural legislation and controls adopted by the membership in January, 1969, and

reaffirmed this past January at our annual convention. The text of our position is attached to this statement.

There must be something good about canning, and I picked this up from the testimony of the proponents. It seems to increase the growers' market.

Because this statement of policy represents a conscientious effort by the canning industry to restate, and in some respects modify a more adamant policy regarding agricultural legislation affecting canning crops, I will comment briefly on those aspects of the policy that relate to the proposals before this committee.

PROMOTION AND ADVERTISING PROGRAM

As I heard Mr. Nicholson's testimony, we have no argument with him.

A major argument by many grower representatives and groups in support of bills such as those before you is that growers should have available an effective mechanism for planning, financing, and administering promotion and advertising programs. The association recognizes that such programs may be beneficial and does not oppose legislation that would authorize grower-financed programs of this type. Indeed, we would not object to a checkoff provision in legislation under which processors would be required to withhold a specified amount from payments to growers and to turn such funds over to the growers' promotion program, nor have we injected ourselves in legislation such as the potato promotion program or the more recent peach hearings before this subcommittee.

The Agricultural Marketing Agreement Act does include authority for marketing orders that provide for market research and development projects, which may include paid advertising. The difficulty, however, is that marketing orders may also include many other provisions which have nothing whatever to do with promotion and advertising. Some years ago the act was amended to authorize marketing orders for processing cherries, on the basis of the proponents' contention that they wanted authority for a cherry promotion program, but once the act was amended, the first marketing order proposed was concerned almost exclusively with supply controls and reserve pools instead of promotion.

That first proposed cherry order was voted down by the producers as well as by the processors. It is interesting to note that a modified cherry order was developed and was approved in a referendum. It also provides for marketing quotas and a reserve pool. The processors voted to give the order a chance and will sincerely work with the producer proponents toward its success, but we know it will become a disillusionment to the cherry growers.

The expenses of a promotion program under the act are borne by handlers—in our case the canners—even though the program would be initiated, planned, and developed by growers and their representatives. We feel that growers desiring to undertake a collective promotion program for a commodity to supplement the promotion and advertising by processors should be willing to pay for the program themselves.

RAW PRODUCT RESEARCH AND MINIMUM QUALITY STANDARDS

Two other important goals of those favoring marketing order legislation are raw product research and the adoption of reasonable raw product minimum quality standards for the purpose of eliminating unsuitable raw material. Again, we believe such programs may be beneficial, and we would not oppose legislation authorizing either or both if processors are afforded an equal voice and vote in the formulation, adoption, and administration of the programs.

Both growers and processors of canning crops have a common interest in developing and maintaining high quality fruits and vegetables for use in canned foods that can compete effectively with other products and meet rising consumer demands. Federal and State programs may contribute to the canning industry's continuing efforts in this regard by providing for raw product research and by establishing minimum quality standards, but if such programs were solely grower oriented and controlled, without appropriate recognition of the needs of processors and the tastes of consumers, then growers could very easily find themselves raising crops for which there was no demand. It is thus vitally important that both processors and growers have an equal role in development, adoption, and administration of such Government-sponsored "self-help" programs.

A third aim of those who support marketing order authority for canning crops is the adoption of supply controls by the imposition of limitations on the purchase of the raw product by processors. Let me interject here in my prepared testimony that these three types of controls that I am talking about are all covered in the Agricultural Marketing Agreement Act. If this pear legislation is adopted, you are not only authorizing one of them, you are authorizing all of them. It is this aspect of marketing orders, the supply control, that gives the canning industry its greatest concern, for the association and most canners seriously question the long-term benefits to either growers or processors of Government raw product supply controls. The available data strongly suggest that the forces of supply and demand in a competitive market are more effective—and more beneficial for growers as well as processors—than artificially imposed Government restraints, surplus pools, and the like.

Several years ago (1965) a report of a study of marketing orders for processing crops by Profs. John A. Jamison and Karl Brandt of the Stanford University Food Research Institute, financed in part by a grant from the National Canners Association, was released. The independent conclusions of this report, reached on the basis of an exhaustive study of marketing orders on cling peaches and asparagus, raised serious questions as to the validity of the claims of the proponents of artificial supply controls for canning crops.

As that report made clear, virtually continuous State marketing order controls on California cling peaches over more than 30 years have failed to solve the economic problems of that industry. To cite just a few of the facts and conclusions presented in the report:

Total revenues to growers of cling peaches over this period have not increased as much as those of growers of other major canning fruits, including Bartlett pears, not subject to direct supply controls.

The number of cling peach growers in California has increased since the 1930s, whereas for most California crops the number of growers has decreased. Marketing order controls have augmented, rather than reduced, the excess capacity for cling peach production, by encouraging entry of new producers.

If reduction in the volume of a crop marketed has the effect of increasing prices on the canned product, consumers will shift to lower priced substitutes, thereby reducing demand for the commodity.

For this reason, cling peach canners have not raised the price of canned peaches appreciably, in the light of competition for other competing products. Faced with constant pressure of increased prices for the raw product, some processors have begun to shift their capital to other enterprises.

In the light of the experience with cling peaches, we cannot conceive why marketing order supply controls would be promoted as a panacea for pear growers. To embark on an ambitious program of marketing controls could well invite disaster for both growers and processors of pears. We kind of wonder if the pear-producing situation really is as bad as Mr. Collins makes out.

Now, I would like Dr. Van Meir to make some comments directly related to pears, which really is the subject of this hearing.

Mr. VAN MEIR. Mr. Chairman, committee members. Dr. Jamison has updated the report of 1966, and there will be released shortly a new report of more extensive and exhaustive research of marketing orders. From a preview of a preliminary report of Dr. Jamison's survey, I can advise the committee that Dr. Jamison's totally objective analysis of five marketing order programs—cling peaches, Bartlett pears, California-Arizona lemons, Pacific coast walnuts, and almonds—destroys the theory that production marketing order controls should be advanced as a lofty goal in agricultural policy.

Particularly in the case of pears, we see great danger in an attempt to achieve shortrun price objectives through supply controls administered under marketing order authority. Due to weather factors, the west coast pear industry has experienced wide year-to-year fluctuations in pear production, which in turn has resulted in equally great fluctuations in canned pack from year to year. For example, the canned pear pack in 1966 exceeded the 1965 pack by 72 percent, but then dropped by 48 percent in 1967, and rose by 78 percent again in 1968.

Naturally, such fluctuations in harvest are accompanied by wide fluctuations in prices for canning pears. Under supply control philosophy, it appears advantageous to the grower to put a floor under prices in the years of high production and depressed prices by merely destroying a part of the crop through a green drop or some similar technique. This destruction of product can prevent a bumper harvest year from pushing prices below the price objective of the producers in the short run. However, the longer run consequences are permanent loss of markets and threat of increased competition from imports.

Australia has developed a significant pear industry and export capability in recent years. Imports of pears into the United States from Australia in 1970 were almost 4.8 million pounds—an increase of 403 percent from the 945,000 pounds imported in 1969. If our domestic pack of pears is to be limited to that of average or below average years of pear production by a supply control program, we will be inviting Australia to enter our market on an expanded and unchallenged basis.

A comparison of the canning pear industry with the cling peach industry, an industry that has had long experience with supply control, does not indicate that the pear producer has much to gain by resorting to the techniques employed in the cling peach industry. From 1955 through 1969, the weighted average value per ton for west coast Bartlett pears trended upward at an average annual rate of 5 percent per year. During this same period of time, the average value per ton of cling peaches trended upward at an average annual rate of 2.9 percent.

In 1970, the canned pack of pears was only 1.4 percent below the 1955-69 average pack, yet the average value per ton of west coast Bartlett pears was 35.3 percent above the 1965-69 average value per ton. On the other hand, the 1970 pack of cling peaches was 5.4 percent above the 1965-69 average pack but the value per ton of cling peaches was only 28.3 percent above the 1955-69 average value. However, the cling peach producers had to uproot 9,140 acres of bearing trees and eliminate the yield of an additional 8,000 acres through "green drop" and surplus diversion at canneries to achieve the price they did achieve. The uprooting of 9,140 acres of trees itself represented a destruction of capital value of about \$10 million. On the other hand, the pear grower was able to market his entire production. If the pear grower contemplates that in the future he also may be faced with periodically destroying a part of his investment if he resorts to supply control, and that he is creating an export market for Australian pears by so doing, his interest in marketing orders and supply control likely would wane.

Mr. Heiney will continue with our presentation.

Mr. HEINEY. In spite of our conviction that supply controls cannot provide long-term benefits to growers, we have modified our position to the extent that we are willing to evaluate on a crop-by-crop basis whether under exceptional circumstances supply controls might be of short-term benefit when applied to a perennial fruit crop in a particular area for a limited period of time, but only if the proposed legislation or order afforded to processors an equal voice and vote in the formulation, adoption, and administration of the supply control program, and the controls could not apply to the commodity after it comes into the possession and control of the processor and he has become responsible for payment.

On the basis of our carefully developed statement of policy and the economic studies available, the association feels it must oppose this legislation to authorize comprehensive regulation of pear processors and the imposition of a variety of supply controls at the pleasure of the growers, with no provision for processor vote on proposed orders. The canners would bear the full costs of whatever programs the growers decided to adopt, and the canners alone would be subject to the controls and to penalties for failure to observe them. That is not entirely a technical point. The Agricultural Marketing Agreement Act makes it quite clear that the enforcement and the penalties attached to any marketing order control violation go against the handler entirely.

The National Canners Association firmly believes that the problems inherent in raising, processing, and distributing canned fruits and vegetables in sufficient quality and quantity to meet the needs of our citizens, and at prices that provide a reasonable return on investment

and labor, cannot possibly be surmounted if the growing and processing communities must contend with each other as antagonists rather than as partners. Legislation such as this before the committee is based on the assumption that growers can improve their lot at the expense of the processors.

The time is past, if indeed it ever existed, that growers and processors can afford the luxury of charges and countcharges that do nothing but provide support for those who are out of sympathy with the entire agricultural community. To insist that excess and marginal production deserves a profitable return, to expect that artificial manipulation of supply can in some way induce consumers to pay higher prices in an otherwise competitive market, and to allege that it is the processors who are somehow responsible for periodic poor grower returns, may give some sort of false satisfaction to growers, but such an approach cannot hope to be successful in today's political and economic climate.

We wish to remind the growers and producers of crops for processing that the processor assumes the year-round responsibility for marketing a seasonal commodity. In terms of volume of production, that is, cases sold each year, he is a successful marketeer but he has been doing the job and is doing it on a very low profit margin.

We also urge in the strongest possible terms and with sincere conviction that growers should not expect an increasingly consumer-oriented Congress to look with favor on the enactment of legislation designed to artificially stimulate prices. We respectfully request that these bills not be favorably reported by this committee.

(Attachment to statement follows:)

POLICY REGARDING AGRICULTURAL LEGISLATION AND CONTROLS

The National Canners Association believes that experience has repeatedly demonstrated that the complex problems of planning and production and marketing of processed foods are best resolved in the American tradition of free enterprise, competitive incentive, and individual, imaginative business management. These beliefs provide the basis for the Association's policy regarding agricultural legislation and controls.

GOVERNMENT INVOLVEMENT IN BARGAINING AND MARKETING ACTIVITIES

(1) Since we support the right of growers and processors to make individual determinations concerning how they will best sell (growers) or best procure (processors) their raw products, we are opposed to Federal or State government intervention in raw product bargaining activities between processors and growers, and to the establishment of a Federal agricultural bargaining board or similar agency that would control in any manner these bargaining activities.

(2) We are similarly opposed to Federal or State government intervention in the marketing of agricultural commodities and products, and to the establishment of Federal marketing boards which would regulate or control any phase of marketing activity.

PROMOTION AND ADVERTISING OF COMMODITIES

Grower-financed programs for promoting and advertising particular commodities may be beneficial, and in general the Association is not opposed to legislation authorizing grower-financed programs of this type. We believe, however, that processors' funds can best be utilized to support their own promotion and advertising programs. Although it is preferable that the growers be directly responsible for the payment of any assessments to finance such programs, the Association will not oppose a so-called check-off by processors if that is deemed to be the most effective means for collection of such assessments from growers.

RAW PRODUCT RESEARCH AND MINIMUM QUALITY STANDARDS

Federal, State or voluntary programs providing for raw product research and reasonable raw product minimum quality standards for the purpose of eliminating unsuitable raw material may be beneficial, and the Association in general will not oppose appropriate legislation authorizing such programs where processors are afforded an equal voice and vote in the formulation, adoption, and administration of the programs.

RAW PRODUCT SUPPLY CONTROLS

(1) We seriously question the long term benefits to either the growers or processors of Federal and State government raw product supply controls and in general do not approve the establishment of such controls.

(2) Other than as recognized under the circumstances covered in paragraph 3, the Association will continue to urge that no supply controls be imposed by government on fruits and vegetables for canning or freezing either by mandatory marketing orders or in any other way.

(3) It is recognized, however, that some segments of the industry believe that there may be exceptional circumstances when supply controls might be of short term benefit as applied to perennial fruits and nuts (vine, bush, or tree) in appropriate sections of the country for limited periods of time. Accordingly, the Association will evaluate on a crop-by-crop basis whether to modify its position in the case of particular individual perennial fruits and nuts for canning or freezing for which Federal or State enabling legislation authorizing mandatory supply controls are proposed, but only if—

The proposed legislation or order affords to the processors of the affected commodity an equal voice and vote in the formulation, adoption, and administration of the supply control program (since such controls applicable to the grower will affect the operations of those who process that commodity); and if

The proposed marketing order or supply control program does not apply to the commodity after it comes into the possession and control of the processor and he has become responsible for payment.

This paragraph 3, however, does not apply to mandatory supply controls on any annual crop for canning or freezing.

Mr. FOLEY. Thank you, Mr. Heiney, Dr. Van Meir.

Any questions of Mr. Heiney?

Mr. SISK. Mr. Chairman, let me welcome my constituent, Bob Heiney, and Dr. Van Meir. As I am sure my good friend knows, we probably do differ a little bit in connection with some of his testimony.

On the other hand, I want to commend the canning industry for a great job and the great amount of good that they do for both producers and processors in this whole business. Let me ask you this, Bob.

You directed most of your testimony to H.R. 2454, which we know does not contain certain language in the bill by the chairman, which is H.R. 5825. I would like to discuss with you briefly the provision which, as has been very ably explained by Mr. Collins and by Senator McDougall, was a concession made to the canning industry, the processing industry. One question on this administration board. In view of the power of the board on marketing orders and the handling of proceedings even to where you have an order or do not have an order, do you still feel that this does not give the processor a fair shake at the table. In the latter part of your statement, you express the fear that you are going to cause processors and producers to be fighting about this. Actually would this not tend to bring them closer together? Would you care to comment on that?

Mr. HEINEY. Yes, Mr. Sisk.

Giving the canner representation on an administrative board, we feel, is sort of a gesture after the fact. The decision is made as to whether there will be a marketing order at the time of a referendum

and this proposal—none of these bills in connection with pears gives the processor an opportunity to vote in a referendum. Whether we were given 50-percent representation on a board or, as in the case of, I think it is grapefruit or some of the other commodities where the act just says we shall have representation, is a nice gesture, but we have nothing to do with the selection, the appointment of the members to the board, and I cannot believe that unfavorable appointees would be named to a board, even if you are given 50 percent. I cannot believe that even with a 50-percent representation, without ever having had the opportunity to vote in a referendum, you would have true representation of the opinions and judgment of the processor.

Mr. SISK. Well, most orders do have some processor representation. For example, the raisin administrative board, which is one of the oldest marketing orders we have in my area, has processor representatives, but they are in a minority. Here, as I understand it, the law specifically would require equal processor-producer representation. The acts of the board in connection with the program require a majority approval. So you must have processors joining with producers in reaching a program decision. Is that not correct?

Mr. HEINEY. Certainly, and I think any lawyer would be perfectly willing to go to trial with a jury where he had the sole ability to select the jury. This would be the effect in the case of our being given 50-percent representation on the board. Somebody else is selecting them. We have no voice in it until the board is appointed.

Give us, as we suggest, equal voice and vote in the referendum, as well as an equal voice in the administration of it, and then we are confronted with a different situation. We would have to exercise a different judgment on it.

Mr. SISK. Let me say, I am not trying to put you on the spot and certainly not arguing with you. Actually, in view of what I understand the position of canners to be, I am inclined to favor Mr. Zwach's position, that there is no particular point in having or making this concession. Maybe we should just revert back to the original bill and eliminate the representation unless it served a purpose. I feel here that the canners are taking too narrow a look at this situation. It seems to me there is a desire on the part of the industry people to bring about co-operation, because the producers can't survive without a canning industry any more than the canning industry can survive without the producer. It seems to me that they have pretty well bared their souls from the standpoint of a desire here to cooperate. It would be a little difficult for me to visualize that 50 percent of the board might be selected without there being a true representation of the processing industry in that particular area. That, of course, as I understand it, is what you are saying, that there might not be. I do not know. That might be true. But there again, you are prejudging the case before we get to it.

Mr. HEINEY. Mr. Sisk, the canning industry has been confronted with this marketing problem since 1933, and a little history might not be out of line.

After the *Schecker* decision and the Congress reenacted what is now the Agricultural Marketing Agreement Act of 1937, you will observe that there are two canning crops that are subject not only to raw product control, which in our opinion is a severe thing, but also to the con-

trol of the canned product—that is olives and asparagus. The reason those two crops are included, those two commodities, olives and asparagus, is because the industry was making, with producers of those two commodities, sincere efforts to work out rather severe economic problems. As you say, we are partners of them. They were as severe to us as they were the producers. They were worked on, they were put into the act and made possible.

However, the work done on them has been, in the case of asparagus, done under a California law and there have been intermittent orders dealing with olives.

From those experiences, our industry's philosophy has hardened on this issue of what is good not only for ourselves, but for those who supply us.

We just do not believe and we cannot believe, and it seems a little difficult sometimes to come before a congressional committee and try to suggest that our judgment is better than the producer's judgment, but I would encourage you to consider the fact that we are the people who have the largest investment on the line. We have the cans, we have the boxes, we have the transportation, we have the marketing, and we have more things involved in this program than to purchase the raw product. We are not going to live unless we are able to buy the raw product. We are not going to be successful unless we keep that market a viable one, a living one. So we are not going to price our own suppliers out of being suppliers.

Mr. SISK. There is no question about that. I certainly agree with you on that. That is, from the standpoint of the investment that you have and concern. Of course, on the other hand, the producer has everything in the world he has riding on it, too. So you cannot say he does not have an inducement. He has his whole livelihood and everything he owns, of course.

Mr. HEINEY. May I make one further comment, Mr. Sisk. A further reason why our position on marketing orders was modified—we are only willing to look at marketing supply controls on a perennial crop, where we agree that the producer does not have the alternatives. He is not as flexible as the grower of vegetable crops who can make his own decisions come every December when we go out and start contracting. We agree that the producer does not have that ability as readily available when he has fruits or tree nuts or perennials.

Mr. SISK. Mr. Chairman, I do not want to take any more time, but I have one further question.

In comments on page 6—I believe this was Dr. Van Meir's statement—"from a preview of it, I can advise the committee that Dr. Jamison's totally objective analysis of the five marketing order programs"—and he named cling peaches, Bartlett pears, California-Arizona lemons, Pacific coast walnuts and almonds—"destroys the theory that production marketing order controls should be advanced as a lofty goal in agricultural policy."

I only cite that to indicate that I well recognize that we have with cling peaches in California some difficult problems. I am not trying to sweep them under the rug. I met just as recently as last Friday with people on this matter.

On the other hand, though, certainly I do not think this means that marketing orders generally have failed. In fact, particularly in con-

nection with almonds, I think it has done an outstanding job, and I think the walnut program is doing a good job. I do not accept Dr. Jamison's study as being very objective if he writes of these orders having not served their purpose, because my experience with them during the last 30 years, has been that they have done a very good job. As I say, we have problems in the cling peach area, I think there is no question. But again, I think we cannot just give up the ship. I think we have to work to try to correct the problems that exist.

Thank you, Mr. Chairman.

Mr. FOLEY. Thank you.

Mr. Zwach?

Mr. ZWACH. Mr. Chairman.

Mr. Heiney, if I interpret your presentation, you are of the basic opinion that marketing orders do not have longtime benefits to producers or consumers?

Mr. HEINEY. That is right.

Mr. ZWACH. Do I read that right?

Mr. HEINEY. That is correct, sir.

Mr. ZWACH. And you have tried to document your reasons for that.

Mr. HEINEY. Yes, sir.

Mr. ZWACH. Do you feel that—I see you talk about product control. Do you believe that in these marketing orders, an integral part of it is supply control?

Mr. HEINEY. Yes, sir.

Mr. ZWACH. Then you say you do not look with favor on legislation designed to artificially stimulate prices. You think that artificially stimulated prices are also a major objective of the marketing order?

Mr. HEINEY. Yes, sir.

Mr. ZWACH. You know, I have not been able to see the real fear that your group has in this legislation. I have really listened and I have tried to understand.

Mr. HEINEY. We appreciate that.

Mr. ZWACH. Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Link?

Mr. LINK. Mr. Chairman.

Mr. Heiney, in relation to the matter of processing of pears, which is what is under consideration at this meeting, has the canning industry always purchased the total production each year?

Mr. HEINEY. I believe, Mr. Link, that there are some rather long term contracts for the purchase of pears. But I would say generally, to my knowledge, pears are bought at the time of harvest.

Mr. LINK. They have always purchased the entire production, even in a high-production year?

Mr. HEINEY. Well, pears, as Mr. Van Meir points out, have a dual market. Pears for processing are also the same pears that go to the fresh market. The producer has, to an extent, a choice of how he wishes to ship and handle, how to market his pears. I think it is interesting that the tonnage of pears each year seems to go more and more to processing rather than the fresh market. I wonder, sometimes, why it is someone wishes to control what seems to be the more profitable market. You would think he would be kind of happy about it.

Mr. LINK. Well, I do not believe that we can assume that whether most of it goes into canning or into the fresh market determines the

profitability. It perhaps indicates an outlet for the product or the raw product. It was at that point that my question was directed, as to whether the producer of the raw product has available to him an unlimited market even in years of high production.

Mr. HEINEY. Mr. Link, I can't tell you. I think that probably, the canning industry, in a year of high pear yield, would be able to take, at a price, what is offered.

Mr. LINK. At a price?

Mr. HEINEY. Certainly—of course.

Mr. LINK. And this price may differ from a high figure to a lower figure and may conceivably affect the income of the producer?

Mr. HEINEY. There is no doubt, in the case of pears, the yield is a chart like this (indicating); it is up and down, the fluctuations, as Dr. Van Meir pointed out and as the proponents' testimony also indicated.

Mr. LINK. Well, I do not want to have you get the idea that this question is intended to be facetious. But if at some time, the canning industry, the processor, limits the amount that it can take of a raw product at a given price, but takes more at a lower price, does this not impose a type of control on the product that is finally processed? Is this not a type of controlling production that is available to the consumer?

Mr. HEINEY. I am not sure I follow you, Mr. Link. First, to get a feel of this, the canning industry can't combine in any sense to decide what it is going to do. There are antitrust laws that are rather severe. So it is each individual canner's decision as to how much he is going to be able to handle in the course of a season based on his evaluation of what he can market through the distributing trades and what he comes back with after he has gone through the computer, whether it is a machine or in his mind, will determine what he will buy.

Mr. LINK. And is not his decision as to the amount he will buy determined somewhat on what he feels or estimates he can sell.

Mr. HEINEY. Certainly.

Mr. LINK. Whether it is profitable to him or not?

Mr. HEINEY. That is correct.

Mr. LINK. Is this not probably the same philosophy that the promoters of this legislation have in mind?

Mr. HEINEY. I would imagine so, yes.

Mr. LINK. Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Robinson?

Mr. ROBINSON. Mr. Chairman.

Mr. Heiney, I appreciate your kind remarks at the outset of your testimony with regard to my former legislative experience and background in farming.

I wonder if you would describe for us the price-making process that takes place in the pear industry in California and the Northwest when the price for these pears is established by the processor.

Mr. HEINEY. Mr. Robinson, I could not do that. I do not have that competence.

Mr. ROBINSON. Does your counsel have it?

Mr. VAN MEIR. I do not understand the process completely, myself. I think maybe some of the people from California could do a better job.

Mr. ROBINSON. Are you sufficiently familiar with it to know and acknowledge that the price is established in conjunction with negotiation with grower groups that are established under the title of bargaining associations?

Mr. HEINEY. I do understand from the testimony from the proponents that there are bargaining associations, evidently in California and the Northwest. And I judge that those two associations are the principal proponents of this legislation. We will be discussing bargaining legislation, I assume, before this subcommittee at a later date.

Now that you have introduced this subject, Mr. Robinson, it is interesting that decisionmaking is, of course, one of the great problems in life and when you combine a strong bargaining association and a Federal marketing order, there is absolutely no doubt where the decisionmaking will be from that point on. It will be in the producer group.

Mr. ROBINSON. The point that I am trying to make with respect to this process is that there is a process of negotiation at the present time between processors and producer groups, is there not?

Mr. HEINEY. I judge there is, yes, sir.

Mr. ROBINSON. I simply wonder why this process that the bill sets up—that all three of them set up—is not a logical extension of this negotiation principle which has already been established and which, I judge, is acceptable to the processors, is it not? Because they certainly are a part and party of it.

Mr. HEINEY. Certainly as long as it is a totally and completely voluntary program. This proposal, this pear marketing order proposal before you, though, does not make this voluntary. This becomes a mandatory Federal statute and obligation and you combine that with the bargaining association activity and freedom has disappeared in decisionmaking.

Mr. ROBINSON. Is it not accurate to state that there have been State marketing orders that have been functioning in the area in California in years past?

Mr. HEINEY. To my knowledge, as far as a crop for processing, only in the case of peaches.

Mr. ROBINSON. But it does exist in the case of some of the crops in California?

Mr. HEINEY. As far as canning commodities are concerned, only peaches. I beg your pardon. And federally, olives.

Mr. ROBINSON. You are familiar with the fact that it has operated in the case of peaches, however?

Mr. HEINEY. Yes, sir.

Mr. ROBINSON. That was developed in your testimony.

Mr. HEINEY. Yes.

Mr. ROBINSON. Now, is it not also true or is it your information that in the comparison of the situation as it regards cling peaches and the comparison of the canning pear situation, that there are some significant differences that have occurred in the area that you compared? And I am speaking of the pear decline proposition which affected the pear production very rapidly and affected the entire pear industry, as a matter of fact, until certain technological advances were made.

Mr. VAN MEIR. May I speak to that, please?

The pear decline problem is, as I view it, a longer range problem. It destroys trees. It can't explain the sort of year-to-year fluctuations

in pear harvest that we have had over the last 6 or 7 years, because if trees were put out of production by pear decline, they would not be around to bear the next year. But there are some additional weather phenomena that are giving extreme year-to-year fluctuations in pear harvest over the past 6 or 7 years.

Mr. ROBINSON. This is always a hazard that a fruit grower faces naturally, as we all know.

Can you tell me, Mr. Heiney, how many processors there are of pears in California and the Northwest?

Mr. HEINEY. I can supply that information. I do not have it at hand, Mr. Robinson.

Mr. ROBINSON. I think it would be interesting, Mr. Chairman, in terms of the record, if we knew the number of processors of pears in California in the area that this proposed marketing order legislation might affect as opposed to the number of growers of pears. Because this, I think, is always of some interest to the decisionmaking process. (The information referred to follows:)

NATIONAL CANNERS ASSOCIATION,
GOVERNMENT-INDUSTRY RELATIONS DIVISION,
Washington, D.C., June 9, 1971.

Mrs. CHRISTINE S. GALLAGHER,
Chief Clerk, House Committee on Agriculture,
1301 Longworth House Office Building, Washington, D.C.

DEAR CHRIS: In connection with my testimony on Tuesday, June 1, on H.R. 5825 (pear marketing orders) Mr. Robinson asked that I submit for the record the number of processors of pears in California and the area covered by the proposed marketing order legislation. According to our Directory of the industry there are 21 canners who process pears in California, 10 in Oregon, and 4 in Washington. The list of these companies is attached.

Very truly yours,

R. B. HEINEY, *Director*.

Enclosure.

PEAR CANNERS

California.—Beech-Nut, Inc.; Sacramento Foods, Div. of Borden, Inc.; California Canners and Growers; Contadine Foods Div., Carnation Co.; Del Monte Corporation; Duffy-Mott Company; Fruitvale Canning Co., Div. NCC Food Corp.; Gerber Products Company; H. J. Heinz Company; G. W. Hume Company; Hunt-Wesson Foods, Inc.; Libby, McNeill & Libby; Manzanita Ranch; Orrell's Food Products; Santa Clara Packing Co.; Stanislaus Food Products Co.; Stokley-Van Camp, Inc.; Tillie Lewis Foods, Inc.; Tri-Valley Growers; NCC Food Corp.; F. G. Wool Packing Co.

Oregon.—Bagley Canning Company; Agripac, Inc.; Diamond Fruit Growers, Inc.; Dole Company; Hudson House, Inc.; Northwest Packing Company; Oregon Fruit Products Co.; Rogue River Packing Corp.; Sabrosó Company; United Flav-R-Pac Growers, Inc.

Washington.—D & D Foods, Inc.; Del Monte Corporation; Libby, McNeill & Libby; Snokist Growers.

Mr. ROBINSON. Then one final question. Do you have very much to say or do your processors have very much to say about how much they pay for cans?

Mr. HEINEY. Yes, I think to a degree, the industry has had something to say about what they pay for cans in the fact that I think now almost all the major canners are self-manufacturers. The reason, I assume, that they have gone to self-manufacturing is because they found or hoped that that would produce containers at a lesser price than they were paying the can manufacturers.

Mr. ROBINSON. I am afraid your testimony would make some of our people like American Can and Continental and Crown Cork and Seal and people like this a little unhappy, because they still are supplying an awful lot of cans to an awful lot of canners.

Mr. HEINEY. They certainly are and they are very good people and we have no argument with them of any kind. They help support the National Canners Association. But as to whether or how much influence an individual canner has on the price of cans, I am afraid I cannot help you on that very much other than that he does have a choice.

Mr. ROBINSON. I think you are familiar with the fact, however, that a lot of independent canners are still buying cans and that there are significant numbers of cooperative canners that have gone into the can manufacturing business themselves. But this is not the point of the question.

You do not have much to say about how much you pay for sugar?

Mr. HEINEY. No, sir. That is regulated.

Mr. ROBINSON. Are not most of your plants in the West and Northwest operated by organized labor?

Mr. HEINEY. The industry is pretty thoroughly organized over the west coast.

Mr. ROBINSON. This to me indicates that we are down to the point where all costs are fixed except for the cost of the raw product to the processor. Is this not essentially true? And this is a point of negotiation?

Mr. HEINEY. I think I would like to defer to an economist on that one. I have my own personal reservations.

Dr. Van Meir, would you have a comment to offer?

Dr. VAN MEIR. I would, I think, agree sort of in principle with Mr. Robinson.

Mr. ROBINSON. No further questions, Mr. Chairman.

Dr. VAN MEIR. I would like to respond to one point that had been raised earlier, though, and that is the price bargaining under the bargaining associations. That is that as the situation now stands, if these bargaining associations would undertake to destroy part of their crop to enhance price somewhat, I believe they would be in violation of the antitrust acts.

Mr. FOLEY. Mr. Heiney and Dr. Van Meir, just one or two short questions.

Dr. Van Meir, does the association have statistics in readily available form to indicate over some representative period of time the size and average prices of raw product in any given year, let's say in pears, as compared to average costs of certain standard packs of pears?

Dr. VAN MEIR. The value series that we have are those published by the statistical reporting service of USDA. We do not collect an independent value series for prices of canning crops.

Mr. FOLEY. That is as to the raw product?

Dr. VAN MEIR. Yes, sir.

Mr. FOLEY. You have corrolary figures as to the finished commodity?

Dr. VAN MEIR. No, we do not. You are talking of, say, a F.O.B. cannery wholesale price?

Mr. FOLEY. Yes.

Dr. VAN MEIR. Again, we use prices that are published in trade publications; Canning Trade, for example, carries price quotations. But one has to use these somewhat carefully, because these are not net prices. They may include promotional allowances and other factors.

Mr. FOLEY. But I was interested in knowing if you had readily available figures that would indicate the relationship between the raw value of the product as purchased by processors and the general retail prices or f.o.b. prices of the finished canned product?

Dr. VAN MEIR. Yes, sir; I can cite some general results of work that I have done in this area. For the major canning fruits, the grower price has trended upward about 4.4 percent per year over the last 10 to 15 years. The price per hour, the wage rate per hour of the worker, has trended upward about 4.2 percent a year. That is for production line cannery workers.

The f.o.b., the trend in the f.o.b. canner's price, overall, has been something around 1 percent a year.

Mr. FOLEY. What I was interested in was whether there were any discernible variations in, for example, a very large crop year, when canners may be obtaining raw product at a somewhat depressed price because of the large crop, which were reflected in a very dramatic way in the cost of the canned product to the consumers?

Dr. VAN MEIR. That is reflected not only in the published price series, which I said one has to use with a degree of caution, but it is also reflected in the much wider allowances extended to wholesalers and retailers to entice them to feature the canned product.

Mr. FOLEY. To move the product?

Dr. VAN MEIR. Yes, sir.

Mr. FOLEY. Mr. Heiney, you mention in your statement that the cost resulting from whatever product you establish was borne by the canners. In fact, this would be assumed as a cost of the product in the amount paid to producers, would it not?

Mr. HEINEY. I will acknowledge, Mr. Foley, that there is always a contention about who actually pays. From our point of view, we would have to absorb it. From the producer's point of view, he would argue that we, the canner, passes it back.

Mr. FOLEY. One way or the other?

Mr. HEINEY. The law puts the obligation on the processor.

Mr. FOLEY. In your statement, I found the third paragraph on page 8 of particular interest, in which you say that the National Canners Association modified your position to the extent that you were willing to decide on a crop by crop basis whether under exceptional circumstances, supply control might be of benefit and so on, providing that a proposed order or legislation afforded to processors an equal voice vote in the formulation, adoption, and administration of the supply control program.

Granted that the marketing order gives authority for certain grade quality standards which could be construed as supply controls, it is not necessarily so that supply controls or what might be assumed to be supply controls are necessarily a part of any program? That depends on the administration of the programs, does it not?

Mr. HEINEY. Certainly. And I can visualize some minimum quality standards and research work that would have absolutely no supply control aspects about them at all. However, since the purpose and value

of them would be just as important to us as to the producers, we again, in this instance, think we ought to be full participants in it.

Mr. FOLEY. Well, I found your statements in answer to questions underestimating the importance of the administration of the marketing order. It seems to me, and I invite your comment, that there is no order that is established that is self-executing. It depends entirely on its administration as to how far and into what areas of activity it reaches. And since the principal bill, H.R. 5825, provides for equal voice in the administration of the program of any order, it seems to me this would afford sufficient protection to processors to avoid any direction to a marketing order that they would deem ill advised or damaging either to themselves or the industry as a whole. Why would not 50-percent participation in the administration give protection?

Mr. HEINEY. Well, again, I will go back. Why not give us a vote in the referendum, then, and an equal voice? If the program is a good one, good for everyone, then I would think everyone would want to support it.

But precisely to your question, if the processor, the handler, has had no opportunity to participate in a referendum and then he is handed 50-percent representation in an administering body and he has no choice in the selection of who those members are going to be, they will be named by the Secretary of Agriculture and I cannot help but believe that he will be biased to the producer view. That is the producer's agency.

Mr. FOLEY. Well, I am glad you brought that latter point up, because I think the record should show, as you have indicated, that the selection of the representatives of the administration of the marketing order is made by the Secretary of Agriculture on nomination. It seems to me that it would be most unlikely that a Secretary of Agriculture would appoint processor representatives to any marketing order except on the nomination of the processing industry. Just as exactly, I would think he would put producer representatives on the board from nominations submitted to him by the producing industry.

I do not necessarily suggest a comment on your part, but my own view would be that any Secretary of Agriculture could be expected to be fair in the appointment of processor representatives. I know your organization well enough to know that you would be properly and rightly expressing your concern if the Secretary of Agriculture loaded a board with representatives supposedly from the processing industry who were not in fact representative of the industry itself.

Mr. HEINEY. The only response I wish to make, Mr. Foley, is it's an after-the-fact representation and the Secretary of Agriculture could be as fair as anybody would want someone to be and the processor representatives might turn out to be fully representative. But they are representative of something which they had no participation in at all.

Mr. FOLEY. Well, I have no further questions.

Are there any questions by any members of the committee? [No response.]

Are there any other witnesses or anybody in the hearing room who desires to make a short additional statement? [No response.]

Mr. HEINEY. We appreciate being here.

Mr. FOLEY. If not, the Chair wishes to express his appreciation to Mr. Heiney and Dr. Van Meir for being here.

(The following statement and letter were also submitted to the subcommittee:)

STATEMENT OF THOMAS B. HOUSE, PRESIDENT, AMERICAN FROZEN FOOD INSTITUTE

Thomas B. House, President of the American Frozen Food Institute, presents the following statement in behalf of the Institute and the industry it represents in connection with H.R. 2454 and H.R. 5825.

The American Frozen Food Institute is a voluntary, non-profit organization formed for the purpose of promoting and protecting the interests of the American frozen food industry and its allied trades. Members of the Institute pack approximately 90% of the entire national production of frozen foods. Total frozen food production is in excess of 13 billion pounds annually with a retail value of more than \$6 billion.

H.R. 2454, introduced in the U.S. House of Representatives January 29, 1971, and H.R. 5825, introduced in the U.S. House of Representatives March 10, 1971, would amend the Agricultural Marketing Agreement Act of 1937 to bring pears for canning or freezing under the marketing control provisions of the Act. We are opposed to H.R. 2454 and H.R. 5825 for the following reasons:

1. H.R. 2454 would permit pear growers, through a Federal program administered by the Department of Agriculture, to control the conditions under which processors could obtain pears for canning and freezing. In contrast to H.R. 2454, H.R. 5825 provides that processors and producers shall be equally represented on the agency administering a marketing order applicable to pears for canning or freezing. This provision is worthwhile and essential to any program which directly regulates the interests of both producers and processors. Such a provision, standing alone, however, falls far short of adequately affording processors the protection which they should have in connection with marketing order programs.

2. Both H.R. 2454 and H.R. 5825 would deny processors the right to vote on a marketing order program. Processors should have the right to vote on the use of a marketing order where they supply a sizeable portion of the outlet since they will have invested, *before the product is sold*, three to four times the value of the raw product paid to the growers. They will have paid the grower, added the value of processing, containers, labels, storage, insurance, marketing and promotion, and eventually sales and distribution. They, therefore, have three-four times the economic interest of those who grow the raw product. This makes it unwise for the growers to leave them out.

3. Recent experience under enabling legislation covering marketing orders for red tart cherries for canning or freezing shows convincingly that processors can act in a responsible manner when the statute includes a provision for processor voting. In this instance, 64% of the processors of cherries for canning and freezing voted in favor of the program. We would submit that processors of pears for canning or freezing would under a set of facts similar to those that existed for the red tart cherry industry also exercise their voting rights for the benefit of the entire industry.

4. Only the processor knows how well and how fast his markets are developing. No committee of growers such as would be established under H.R. 2454 can know his needs for quality of product required. Only the processor knows what quality product he needs to provide for the type of customers his company has developed, nor does anyone else know for what end-product he plans to utilize this raw product. Different qualities of varieties of fruits, vegetables, citrus, seafood, etc., are required to make specific end-products. If this were not so, there would have been no need to have the USDA develop different grades for different products and for processing use versus fresh market sales.

5. Although a marketing order on pears for processing is said to involve only the interests of the producers, the fact is that any control program would indirectly control the marketing of the processed product.

6. Under a marketing order there is the danger of a disproportionate increase in prices of growers' products which will bring of necessity higher costs to processors and a resultant passed on higher price of frozen foods to the consumer. Consequently, consumers will turn to other foods which they would consider to be a better value. Reduced sales will result in reduced purchase of pears from growers and reduced employment in processing plants. When this happens the effect of the marketing order is to aggravate rather than solve the supply problem.

Accordingly, we respectfully request that this Subcommittee recommend against the enactment of both H.R. 2454 and H.R. 5825. Thank you.

NATIONAL GRANGE,
Washington, D.C., June 9, 1971.

Hon. THOMAS S. FOLEY,

Chairman, Subcommittee on Domestic Marketing and Consumer Relations, Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The National Grange supports H.R. 5825, which adds pears for canning and freezing to commodities eligible for Federal marketing orders; permits checkoff for marketing promotion projects, including paid advertising; and provides for 50-50 processor-producer representation on the board.

As Master of the National Grange, I appreciate this opportunity to make a statement in regard to H.R. 5825, and to re-emphasize the Grange's historical support (over 30 years) for market order legislation.

We believe that any commodity group should have authority under the Agricultural Marketing Agreement Act of 1937 to decide whether or not they want to regulate themselves. The law has proven to be very beneficial for the producer groups that have been permitted and have chosen to use it.

History has proven that producers have raised their income and improved the quality and grade of their product without having any adverse effect on the ability of the consumer to buy plentiful supplies of the regulated products at reasonable prices.

The producers of pears, through their several organizations, have determined that there is a great need for them to have authority to submit a "market order" proposal to their members. As you know, items (1), (2) and (3) of the bills merely extend to the producers of pears the opportunity to do what the producers of the other commodities embraced within the law are already authorized to do.

I would call your attention to (4) Sec. 8c (19) on page 2 of the bill. The provisions of this section provide for the preservation of the identity of state groups. This provision truly protects the rights of the minority. This section is especially significant in a crop such as pears where there is a concentration of production in a few states and the need for a marketing order may vary very significantly from state to state or from one region to another.

In the past such legislation has always been found objectionable to the processors. However, the provision in item (3), Section 8c(7) (C) of the Act as proposed should be of benefit to processors and go a long way in removing their fears over such legislation.

At the last Annual Session of the National Grange, the delegate body once more endorsed the marketing order approach to improving farmer marketing and therefore farm income:

"MARKETING ORDERS"

"The National Grange recommends that the marketing order approach to improving producers' market prices be strengthened. To this end, enabling legislation should be made available to a greater variety of commodity producers that would:

"(1) aid in allocating aggregate market supply among markets in time, space and form;

"(2) regulate trading practices, such as grade and standards, unfair trading practices, and containers and

"(3) provide for research and education programs to expand market demand by finding new uses for farm products."

H.R. 5825 as proposed should remove the objections of those who had dissenting views on previous bills introduced in the 90th and 91st Congresses to accomplish the same objectives.

We therefore respectfully request that you and members of your Committee use your influence to have H.R. 5825 enacted into law.

We commend you for holding hearings and ask that this letter be made a part of the hearing record.

Sincerely,

JOHN W. SCOTT, *Master.*

Mr. FOLEY. I think this record will be a very useful one for the subcommittee and perhaps for the full committee to consider. The Chair wishes to thank all of those in attendance for their courtesy and patience.

The chairman would like to recess the subcommittee subject to the call of the Chair.

(Whereupon, at 4:15 p.m., the subcommittee was adjourned subject to the call of the Chair.)

ALLOW FOR IMPOSITION OF RESTRICTIONS ON IMPORTS OF UNSHELLED FILBERTS

WEDNESDAY, JUNE 2, 1971

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

The subcommittee met, pursuant to notice, at 2:20 p.m., in room 1302, Longworth House Office Building, Hon. Thomas S. Foley (chairman of the subcommittee) presiding.

Present: Representatives Foley and Link.

Also present: Martha Hannah, subcommittee clerk.

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

The subcommittee meets this afternoon for consideration of H.R. 4874, sponsored by Mr. Wyatt of Oregon, to allow for the imposition of restrictions on the imports of unshelled filberts.

(The bill referred to above follows:)

[H.R. 4874, 92d Cong., first sess.]

A BILL To allow for the imposition of restrictions on the imports of unshelled filberts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(e) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, is amended by inserting after "oranges, onions, walnuts, dates," the following: "unshelled filberts,".

SEC. 2. The amendment made by the first section of this Act shall be effective with respect to all marketing orders of the Secretary of Agriculture pursuant to section 8(c) of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, which are issued after the date of enactment of this Act.

Mr. FOLEY. At this time, the chair has planned to recognize Mr. Wyatt, the author of the legislation. Mr. Wyatt is on the floor, and we are expecting him momentarily, and he will be attending the committee meeting a little later in the hearing.

I would like at this time to call Mr. John Jossy of North Plains, Oreg., and Mr. Glenn Hansberry of Salem, Oreg. If you would like, you gentlemen can come up together to the witness table. Mr. Jossy is the past president of the Oregon and Washington Nut Growers Society and present chairman of their marketing committee. Mr. Hansberry is the president and general manager of the Oregon Filbert Growers, Inc. Mr. Jossy, perhaps we will begin with you. We are very happy to have your statement at this time.

STATEMENT OF DON JOSSY, NORTH PLAINS, OREG., PAST PRESIDENT, OREGON AND WASHINGTON NUT GROWERS SOCIETY AND PRESENT CHAIRMAN, MARKETING COMMITTEE AND GLENN HANSBERRY, SALEM, OREG., PRESIDENT AND GENERAL MANAGER, OREGON FILBERT GROWERS, INC.

Mr. Jossy. All right. Thank you very much.

I am pleased indeed to appear before you today in behalf of the 2,000 filbert growers in Oregon and Washington and express our vital interest in the passage of H.R. 4874 which will assure us of a basis of quality standards in competition with foreign imports. For the past 16 years, I have been growing filberts and I now have 150 acres in production.

The Oregon and Washington filbert industry has a long record of self-help programs. In 1949 the growers voted in the marketing order program and in 1951 the Nut Growers Society was successful in passing legislation forming the Oregon Filbert Commission which had the job of conducting research on industry problems and later the authority to promote filberts. As you can see, the Oregon and Washington filbert growers have not been unwilling to tax themselves to develop a strong industry.

Through the Oregon Filbert Commission the growers have spent a considerable amount of money to develop a better product through research by Oregon State University and their extension offices in the filbert producing counties. The cultural practices developed by these agencies to improve size and quality have been generally adopted by the growers of the Pacific Northwest. Recognizing that proper storage was vital to maintaining the quality of filberts, the Oregon Filbert Commission, in cooperation with other State and Federal agencies, financed storage studies at Oregon State University.

The filbert is ideally suited to the valleys of western Oregon and Washington and planting of filberts has been increasing because of the desperate need for a profitable crop to grow on our farmland. This past year the crop returned better than \$5 million to growers. As new plantings start to produce, this will increase and, when processing costs are added to this figure, we believe we have a pure air producing industry which is vital to the economy of our two States.

Attached is an enterprise cost sheet showing recent production costs of producing filberts. This statement clearly shows that we are close to the break-even point and growers face real problems with constantly rising production costs. We have survived economic crisis during the past few years by adopting new cultural practices that have increased production and have kept our costs down by use of new mechanical methods, but we have now virtually reached the end of these cost cutting methods and must turn to better market conditions to survive. Our buyers tell us imports are holding our grower prices down in spite of all their efforts to try to get more money on the market.

All we are asking in this legislation before you is a regulation to give us equal treatment with imports and the assurance that as we improve our quality our markets in the United States will not be diluted by poor quality at a cheaper price. At the present time, we have the disadvantage of competing with domestic nuts which have a tariff advantage over filberts. For example, almonds have become

a \$100 million industry in California primarily because of a 16.5-cent tariff on shelled almonds compared to an 8-cent tariff on shelled filberts. It is possible that filberts could have the same success story if given the same tariff regulation. Without this privilege, your support of H.R. 4874 is essential at this time.

I extend to this committee both my thanks and appreciation for hearing me today and have tried to relate to you the necessity of a law to regulate quality standards of filbert imports as a marketing tool in assisting us to build a substantial agricultural industry in our great Northwestern section of the United States.

(The information referred to above follows:)

OREGON STATE UNIVERSITY—COÖPERATIVE EXTENSION SERVICE

FILBERTS, ENTERPRISE DATA SHEET

	Inputs per acre					Total cost
	Labor		Machinery	Other		
	Hours	Value		Quantity	Value	
Cultural operations: ¹						
Prune.....	6.0	18.00				18.00
Brush removal.....	.5	1.50	1.65			3.15
Fertilize (2 lb. N per tree).....	.2	.60	.65	Fertilizer.....	21.60	22.85
Fertilize (potash) ²	.4	1.20		do.....	6.30	7.50
Herbicide spray.....	.25	.75	.90	Chemical.....	3.05	4.70
Chemical suckering (4X).....	1.0	3.00	3.60	do.....	.60	7.20
Aphid control.....	.4	1.20	1.45	do.....	2.25	4.90
Solubor spray.....	.4	1.20	3.20	do.....	.65	5.05
Leaf roller control ³	.2	.60	1.60	do.....	2.25	4.45
Filbert worm spray (2X).....	.8	2.40	6.40	do.....	9.00	17.80
Flailing (7X).....	2.3	6.90	12.65			19.55
Orchard floor maintenance ⁴	1.0	3.00	1.50			4.50
Harvest costs:						
Sweeping.....	1.25	3.75	11.40			15.15
Picking.....	1.0	3.00	10.00			13.00
Bulk handling.....	1.0	3.00	3.30			6.30
Hauling (\$3.50 per ton).....				Custom.....	2.10	2.10
Drying (\$30 per ton).....				do.....	18.00	18.00
Other charges:						
Interest on land (with bearing orchard)						
\$1,600 per acre at 7 percent.....					112.00	112.00
Taxes on land ⁵					10.00	10.00
Interest on operating capital, 8½ percent.....					4.70	4.70
General overhead ⁶					3.25	3.25
Total cash costs.....		18.00	23.30		79.75	121.05
Total noncash costs.....		32.10	35.00		116.00	183.10
Total costs (cash and noncash).....		50.10	58.30		195.75	304.15
Cost per pound (cents):						
At 1,200-lb. yield.....						25.3
At 1,500-lb. yield.....						20.6
At 900-lb. yield.....						33.2

¹ Consult your county agent for recommendations on specific cultural practices.

² This is ¼ the cost of 1 application as this is done (by hand) about once every 4 years.

³ This operation is performed about once every 2 years.

⁴ Rodent control, hand leveling, etc.

⁵ Based on farm use value.

⁶ Approximately 5 percent of cash costs excluding custom harvest.

Note: Based on: (1) 80 acres mature bearing orchard; (2) 1,200 lbs.; expected average yield; (3) 108 trees per acre; (4) Operator's labor at \$3 per hour; and (5) 45 hp. tractor at \$3 per hour.

Source: These data were obtained and computed by County Agent Lloyd Baron and Farm Management Technologist Stanley Miles in cooperation with Washington County growers, December 1970.

Mr. FOLEY. Thank you very much, Mr. Jossy. Your attachment to your statement, is this based on a particular operation or is it a hypothetical typical operation?

Mr. Jossy. I thought it said on here. This was a survey made by Mr. Lloyd Baron, the horticultural extension agency in my county, which is Washington County, through an interview of 12 growers

that took a hypothetical 80 acres and applied their costs, actual costs per acre to arrive at the figures.

Mr. FOLEY. Well, this represents a composite model of the 80 acre filbert operation?

Mr. Jossy. We had to have some basis to get an acre basis, and actually 80 acres is a large acreage for growers in our area. Our average would probably be closer to 15 or 20 because we have a number of small growers. So, this actually shows the basis of a commercial grower. The smaller growers, of course, are having more difficulty, but our interest in this is the commercial type operation.

Mr. FOLEY. Can you tell me approximately how many filbert growers there are in the Oregon-Washington area?

Mr. Jossy. Yes, sir. That was in my first statement. I am representing approximately 2,000.

Mr. FOLEY. I am sorry.

Mr. Jossy. It is on my first line.

Mr. FOLEY. That is the membership of the nutgrowers association?

Mr. Jossy. No, no. Those are the producers.

Mr. FOLEY. Total producers?

Mr. Jossy. That many producers.

Mr. FOLEY. Your statement indicates that there is strong support for this legislation among the filbert growers.

Mr. Jossy. Yes.

Mr. FOLEY. Is there any opposition among the growers that you know of?

Mr. Jossy. I have never heard of any. I would not think there would be any.

Mr. FOLEY. Thank you very much, Mr. Jossy. You can just remain at the council table if you would like, and we would be very happy to have your statement now, Mr. Hansberry. Before that, excuse me, Mr. Link, did you have any questions?

Mr. LINK. Thank you, Mr. Chairman. Mr. Jossy, are you an actual grower? Do you operate?

Mr. Jossy. Yes. It is in my statement. I operate 150 acres producing filberts.

Mr. LINK. That is right. What is the average size of an operation, would you say?

Mr. Jossy. Well, I would think of the two States that the majority of our industry is a part-time enterprise, with most people. It is changing now to commercial, but 15 to 20 acres, and I do not have the figure of an average, but that would be my estimate of about what an average would be.

Mr. Hansberry might have an opinion on that too.

Mr. LINK. How long does it take to get a nut orchard into production?

Mr. Jossy. To bring an orchard into specifically full production, in my enterprise, I have been planting for several years, and of my new plantings, the oldest is 11 years old now, and we are not at full production. And it is my opinion in observing these trees that it will be another 4 or 5 years. It is going to be 15 years before we will reach full production. We reach a cost return basis at about 6 to 7 years and we will begin to get our actual cash into this crop back out, our fertilizer and supply and so forth, but to get it to a profitable basis, it takes about 15 years.

Mr. LINK. And then for how many years is this planting productive at the point where it is economical to maintain and operate it?

Mr. Jossy. I believe that that is unknown. I have orchards 50 years old, and we continually have some decline and death of trees in this orchard, but you replace them, and it is a small percentage. It is my opinion that they would last forever. You may over a long period of years have completely renewed, but you would not have noticed it materially in your production.

Mr. LINK. I gather, though, that truly this kind of crop is one that is almost a life-time project, and the operators who are growing these crops now cannot suddenly shift from one crop to another and this is why under the economic pressures you find yourself, you feel you need this relief?

Mr. Jossy. Yes, it is. I suppose like many you invest your money in an industry like this because you believe it has a long life, and that it would be profitable to you for many, many years. If it is not, it is disastrous to the person that is involved in it. So there is no shifting of this crop. It is either you farm it or you bulldoze it out and you are back to bare ground and you start with something else. It is the only alternative.

Mr. LINK. Thank you, Mr. Jossy. Thank you, Mr. Chairman.

Mr. FOLEY. Mr. Hansberry.

STATEMENT OF GLEN HANSBERRY OF SALEM, OREG., PRESIDENT AND GENERAL MANAGER, OREGON FILBERT GROWERS, INC., REPRESENTING ALSO THE ASSOCIATED NUT PACKERS OF OREGON

Mr. HANSBERRY. Thank you, Mr. Chairman.

As representative of the Associated Nut Packers of Oregon, an organization composed of independent and cooperative packers, and as a handler of filberts in Oregon for the past 17 years, I cannot over-emphasize the concern of Oregon packers, when they face the problem of competing in the United States with imported filberts that may, or may not, be of the same quality, as that packed by the Oregon industry. We are often asked to compete on various price levels with imported filberts, without knowledge as to whether we are competing on comparable standard and quality levels, and we are sure that foreign countries are up against this same problem. Certainly uniform standards on all filberts consumed in the United States would correct this problem.

Since 1949, the Oregon packers have been packing in-shell filberts on a uniform standard with quality being specified by a Federal marketing order. The Oregon industry is now reviewing its shelled filbert standards.

As a part of that review, we are taking into consideration the proposed standards for shelled filberts which are not up for adoption by the European economic community. World production of filberts has increased from 158,700 tons average between 1956-61, to an average of 271,460 tons between 1966-70. Along with this large increase in world production we also note a very high quality standard being required by the European economic community. This could leave the United States with a serious problem. Certainly, those shelled filberts which do not

meet the high quality standards prescribed by the EEC, will have to be shipped to other countries, and the United States could be the recipient for a bulk of these, when no reference by the United States to standards is required.

Foreign production today, and most likely in the future, will be supplying a good portion of the shelled filbert consumption in the United States. While proper packaging may not seem directly affiliated with the grades and standards mentioned in H.R. 4874, we are distressed to learn that foreign shelled filberts are being shipped to this country in open burlap bags. We believe in protecting quality, through the distribution process to the consumer, by shipping our shelled filberts in sealed containers.

It is unfortunate our Oregon industry does not have equal tariff protection with other domestic tree nut industries. Passage of H.R. 4874 will at least give us protection from imports of poor quality.

On behalf of the filbert packers of Oregon, I wish to thank you for this opportunity to appear before you. Our only request is that you give your domestic filbert industry an opportunity to compete on a fair and equitable basis.

Thank you, sir.

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

Mr. Link.

Mr. LINK. Thank you, Mr. Chairman. In each case when we are considering tariffs and the imposition of a tax on commodities, and this is natural, the consumer interests ask the question: What will this do to the price?

Mr. HANSBERRY. Surely.

Mr. LINK. Do you have any response to that question?

Mr. HANSBERRY. Well, I think in the instance of, let us say, filberts, where they carry an 8 cent a pound tariff, that we find from Oregon we can market at equal prices with imports plus tariff, if you follow me there. This is 8 cents a pound. The almond industry, for example, comparable at 16½ cents a pound, and the walnut industry in California is 15 cents a pound. I am sure those industries are experiencing the same satisfaction we are in pricing products to the domestic consumer.

Mr. LINK. I must confess that maybe I am not as well acquainted with the bill as I should be. You referred in the final statement that it would at least provide sanitary handling standards. Is there anything more that the bill will do for you than this?

Mr. HANSBERRY. No, this is all; all it does is let us have clean, comparable standards, which is all we ask, and that is all the bill provides.

Mr. FOLEY. If the gentleman will yield?

Mr. LINK. Yes.

Mr. FOLEY. The purpose of the bill is to provide the same requirements on imported filberts as are required during and under any Federal marketing order for quality and standards of the domestic market. Is that your understanding?

Mr. HANSBERRY. It is my understanding.

Mr. FOLEY. And although the legislation would not itself increase the tariff level on filberts or correct this imbalance between almonds and filberts, it would guarantee that imported filberts coming into the United States would have to meet the same general standards of quality

and grade and sanitation that are required of the domestic products, so it would enable the standardization of marketing for filberts. And the problem I think that Mr. Hansberry raised as to the possibility of an influx of lower quality filberts because of the high standards that are going to be imposed by the EEC is something probably we should take note of.

This is not the first bill; it is merely a bill that adds filberts to a list of commodities that are under similar protections.

Mr. HANSBERRY. That is right.

Mr. FOLEY. We do have the objections occasionally of legislation of this kind that it constitutes a kind of no-tariff barrier. Sometimes on the floor of the House, we have opposition; and we have had opposition on previous bills on these grounds from Members who are fearful that it will establish a precedent in restricting imports unduly.

The Chair is now going to take note of the presence of the distinguished gentleman from Oregon, the author of the legislation, Mr. Wyatt. And Mr. Wyatt, if you would like to come forward, we would be happy to receive your testimony. Mr. Jossy and Mr. Hansberry have testified and given very useful statements on the position of both the growers and the packing industry in the State of Oregon; and I know that your concern, which has been expressed to the Chair, and personally in a number of communications, is going to be impressive to the members of this subcommittee.

STATEMENT OF HON. WENDELL WYATT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WYATT. Thank you, Mr. Chairman. I am most grateful to you and to Mr. Link for the opportunity of appearing today, particularly when we all know that there is important business in the House for which we are all awaiting the bill momentarily. I do deeply appreciate your giving us a hearing on this bill because it does represent a problem that is of critical importance to a relatively small, but very important part of the economy of our State, and a very, very important industry in the Northwest.

I would ask, Mr. Chairman, that my statement be submitted for the record. I do not believe I can add anything to what has already been said.

(The statement referred to follows:)

STATEMENT OF HON. WENDALL WYATT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. Chairman, I appreciate this opportunity to submit testimony in support of this bill to protect domestic filbert growers.

For many years buyers of filberts have maintained that they would like to buy Oregon and Washington filberts, both inshell and shelled, but that imports were cheaper. This is primarily because of the superior quality of the domestic product.

In past years importers have sold two and three year old lots of filberts to the detriment of future sales. The world supply of filberts is at an all time high and large tonnages are being carried over by the producing countries. Proper storage is important and should be part of any quality control. If any quality is to be maintained in the U.S. Market, something has to be done and soon. Section 8e of the Agricultural Marketing Agreement Act of 1937 would provide a means of establishing quality controls on both domestic and imported filberts. It would also make it easier for the buyer to define what grade he was buying whether

it be domestic or imported and should help stabilize the market which has been steadily declining.

The future of the filbert industry in Oregon and Washington is dependent on the acceptance of filberts, both shelled and inshell, by the manufacturer and consumer. Both imports and domestic filberts can only obtain that acceptance by furnishing the buyer a product which has a uniform quality from one year to the next.

I urge favorable action on this legislation.

Mr. WYATT. I am sorry I was not here at the start of the hearing to introduce my friends and constituents. I would like to say that I would anticipate that we would not have enthusiastic support for this measure from the State Department because of the fact that historically the bureaucracy has always opposed anything that looked like it was in any way any kind of a trade barrier. We do not feel it is a trade barrier. We view it as an equalizer that will permit our local growers to operate on an equal basis with foreign competition. That is all they are asking, that they operate on an equal basis with imports of filbert nuts. So, I think in the real sense of the word, this is not a trade barrier. However, as I have indicated, I would expect that we would have not enthusiastic support and probable opposition from the State Department; but, I have never seen them favor anything of this nature in any event. I have run into their opposition in many areas, and I think that regardless of which administration is in power, that they are very unrealistic as far as considerations of the problems of some of our own citizens are concerned.

Now, again, Mr. Chairman, I would like to express my very deep appreciation for your having this hearing under what I am certain are very trying and hazardous circumstances. Thank you very kindly.

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

Mr. Link.

Mr. LINK. Off the record.

(Off the record discussion.)

Mr. LINK. In your reference to section 2, "the amendment made by the first section of this act shall be effective with respect to all marketing orders of the Secretary of Agriculture pursuant to section 8(c) of the Agricultural Adjustment Act, as reenacted and amended," and so forth, does this then carry with it implications that go beyond the intent of the measures that I understand are for improving the standards of quality in the marketing of filberts? You referred to a grandfathering in. I am not sure I quite understand.

Mr. WYATT. Well, Mr. Link, I have now been advised that section 2 is not necessary.

Mr. LINK. And this is the parent act, so to speak, that provides for standards of handling of the other products and commodities?

Mr. WYATT. Yes, sir. That is my understanding, and those were my instructions to the legislative counsel which prepared this at my request for that specific purpose.

Mr. LINK. Thank you, Mr. Chairman. That is all.

Mr. FOLEY. Thank you, Mr. Link.

I think all that the Chair would like to say at this point is that the witnesses, who have come a great distance to testify here, have provided the committee with a very useful basis for considering the importance of the legislation, and I would like to ask perhaps one or two additional questions about the industry. What is the average com-

mercial size? You indicated the average size of the filbert orchard was about 15 or 20 acres, and some growers are part-time growers, and other growers are full-time commercial growers. What would be the minimum size, 80 acres?

Mr. JOSSY. 80 to 100 on a commercial basis.

Mr. FOLEY. And how many of the 2,000 filbert growers would you estimate were part time and how many full time?

Mr. JOSSY. Well, I would estimate 90 percent part time and 10 percent full time. The trend, however, as I tried to point out in my testimony, is to these larger acreages, increased plantings, to get this higher returning crop on their farm land, and it is my opinion that in the future, and our real interest in this bill, is this production is going to increase because of this trend, and protection becomes more important as we have more production.

Mr. FOLEY. What is the average value of good filbert acreage or orchard acreage?

Mr. JOSSY. A good, well-kept producing orchard is from \$1,500 to \$2,000 an acre.

Mr. FOLEY. And is the harvesting mechanized?

Mr. JOSSY. Yes, all mechanized.

Mr. FOLEY. Entirely mechanized?

Mr. JOSSY. Yes.

Mr. FOLEY. Is that done by custom harvesting or what?

Mr. JOSSY. On the larger acreages they are nearly all owner-operated harvesting. There is custom harvesting, which is an important part of our business, to harvest these smaller acreages that do not have enough to afford the harvesting equipment.

Mr. FOLEY. So, there would be a substantial investment, then, I assume, from your testimony for commercial filbert acreage including both the cost of the land and the machinery necessary, and the preparation for the crop?

Mr. JOSSY. It shows on this cost sheet. I think it shows the per acre cost of investment.

Mr. FOLEY. Well, thank you very much. I have no further questions. Do you have any further questions?

Mr. LINK. Nothing further.

Mr. FOLEY. We will now hear from our final witness, Mr. John Farrell, president of the Berner Co., Chicago. Mr. Farrell.

STATEMENT OF JOHN FARRELL, PRESIDENT, BERNER CO., CHICAGO, ILL.

Mr. FARRELL. In my opinion this meeting is for the purpose of discussing a problem between the filbert growers of Washington and Oregon and the U.S. Government to adopt grade standards on both shelled and inshell filberts which are grown domestically only in Oregon and Washington.

I represent the firm of Robert L. Berner Co. of Chicago, Ill., Mobile, Ala., and Cornelious, Oreg. We have been merchandising all kinds of nuts for 35 years. We have been cooperating with the Department of Agriculture for many years helping them to establish standards on all kinds of nuts, mainly to establish quality rather than price. Filberts are the only nut which are not restricted to standards for imports. I am

convinced if we don't adopt standards, it will be impossible to compete with foreign filberts brought into the United States which do not have to comply with any grade standards.

In order for us to compete with imported shelled filberts, the growers in Washington and Oregon suffer losses from 6 to 10 cents per pound and this has been going on for years. Contrary to this we have no problem with California almonds and California walnuts, which are protected by grade standards and a 16½ cents a pound duty where filberts have only an 8 cents a pound duty. If this favoritism or whatever it's called continues to exist, it is only a matter of time until these growers in the Northwestern United States will be forced to discontinue growing filberts. Thank you.

Mr. FOLEY. Mr. Farrell. Do you have any personal knowledge of how this differentiation in tariff arose?

Mr. FARRELL. Gee, I really do not know. I think probably, and it has been my opinion that because California has much stronger legislation, than Oregon, and, in fact, I think California has favoritism in most crops. I suppose it is a bigger State and a bigger population.

Mr. FOLEY. Filberts are a nut that is competitive with almonds, are they not, in many ways?

Mr. FARRELL. Yes, yes; they are competitive. All nuts are pretty much associated with each other, and prices seem to make a difference.

Mr. FOLEY. It would seem to me that it would be difficult to justify, at least at the level of my knowledge, so wide a spread in the tariff on these two classes of nuts. Perhaps our counsel can enlighten us on why.

Mr. FARRELL. That is right. It is difficult for anybody to understand why people who are close to the nut business, why the filbert has been allowed such a small tariff, and the small amount of tonnage that they grow in Oregon and Washington compared to the tonnage that is grown in other States of other nuts. It is just almost impossible to believe that they cannot sell the crop and make a profit as long as they are sold in the shell. That part that is sold in the shell they do all right on, but it is the part that is set aside by the Government order that has to be sold in competition with Turkey and Italy. They are never bothered too much by imported inshell filberts. Their quality is not as nice looking as the Oregon, so the industry does not go along with it. But the shelled part is the one we have the problem with, and this is where the grower loses the money.

Mr. FOLEY. Either you or Mr. Hansberry might be able to tell me, what percentage of the domestic filbert consumption is represented by imported products?

Mr. FARRELL. Well, I would say—do you have those figures?

Mr. HANSBERRY. I would be very glad to answer, if I may. The average is normally about 25 percent of all shelled filberts are produced domestically; 75 percent are imported. On the inshell side, we do 100 percent of that.

Mr. FOLEY. And between the two classes, what is the percentage of the market between inshell and shelled filberts? I imagine the shelled filberts are much higher?

Mr. HANSBERRY. Yes.

Mr. FARRELL. Yes, and, of course, that shelled part varies up and down depending on the set-aside that is established, and depending on the size of the crop. If the crop is a real large crop, the set-aside

is larger, and the bigger the crop, the more this set-aside, and the more that has to be shelled, and that is the item they lose the money on. If we could sell the whole crop in the shell, then there would be no problem.

Mr. FOLEY. Has the import level, I take it the import level has been rising in recent years? I notice the figures, in I think your statement, Mr. Hansberry, which indicate that the world production of filberts has almost doubled in the last decade.

Mr. HANSBERRY. That is right.

Mr. FOLEY. And I would assume that there have been heavier imports, increasingly heavier imports of filberts into the United States, is that correct?

Mr. HANSBERRY. This is correct, in recent years.

Mr. FOLEY. Mr. Link, do you have any questions of Mr. Farrell?

Mr. LINK. Mr. Farrell, in what form do the nuts keep the best, in the shell, or after they are shelled and in containers?

Mr. FARRELL. They keep better in the shell, of course, they all have to be refrigerated in warm weather. It is desirable to have them in 32° or 35° F.

Mr. LINK. Even if they are handled in the best possible method for storage, what is the accepted length that they can be kept and still maintain an acceptable standard?

Mr. FARRELL. Oh, I would say if filberts are kept in the right storage and humidity, they could be kept a couple of years and it would not affect them too much. A real critic might be able to tell a little difference there, but I doubt it. I am just not that critical.

Mr. FOLEY. A filbert connoisseur.

Mr. LINK. That is all, thank you, Mr. Chairman.

Mr. FOLEY. Well, thank you very much, Mr. Farrell, and I want to thank you all for coming to the hearing today.

Mr. FARRELL. Thank you.

Mr. FOLEY. The subcommittee will stand adjourned subject to the call of the Chair, and we will set a date for executive consideration.

(Whereupon at 3 p.m. the subcommittee was adjourned subject to the call of the Chair.)



in fact, and the higher the report the more it is not helped in the long run to be shelved, and that is the main thing. The main thing is that we could not the whole crop in the shell, and that would be the problem.

Mr. Board: I have to report that I take it the report level has been rising in recent years. I notice the figures in I think your statement. Mr. Board: which indicates that the world production of fiber has almost doubled in the last decade.

Mr. Board: That is right.

Mr. Board: And I would assume that there have been no other points, in fact, heavy imports of fiber into the United States is that correct?

Mr. Board: This is correct in recent years.

Mr. Board: I think you have any question of Mr. Board?

Mr. Board: Mr. Board, in your report you have said that the fiber is not as good as it used to be, and that is the main thing.

Mr. Board: I am not sure in the shell, of course, they will have to be rejected in some degree. It is desirable to have a certain size of fiber.

Mr. Board: I think it is that they are handled in the best possible method for a long time, and I am not sure that they can be kept and still maintain acceptable standards.

Mr. Board: Oh, I would say it is better to keep in the shell, and if it is not good, they could be kept a couple of years and it would not affect them too much. I am not sure if it is better to keep in the shell, but I don't think I am just not sure.

Mr. Board: I think you are right.

Mr. Board: That is right, Mr. Board.

Mr. Board: I think you were making Mr. Board and I want to thank you all for coming to the meeting today.

Mr. Board: Thank you.

Mr. Board: The subcommittee will stand adjourned subject to the call of the chair, and we will see you at the executive committee.

(Whereupon at a point the subcommittee was adjourned subject to the call of the chair.)

