Y 4
. L 11/2
F 22/4/
974

1043

974
F22/4
L 11/2
93/4

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS, 1974

GOVERNMENT
Storage
CUMENTS
JUL 30 1974
KANSAS
NIVERSITY
A11600 684809

HEARINGS

BEFORE THE

SUBCOMMITTEE ON EMPLOYMENT, POVERTY, AND MIGRATORY LABOR

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

S. 2070

TO AMEND THE FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963 BY EXTENDING ITS COVERAGE AND EFFECTUATING ITS ENFORCEMENT

S. 3202

TO AMEND THE FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963 TO PROVIDE FOR THE EXTENSION OF COVERAGE AND TO FURTHER EFFECTUATE THE ENFORCEMENT OF SUCH ACT

AND RELATED BILLS

FEBRUARY 8, 1974
FRESNO, CALIF.

APRIL 8 AND 9, 1974
WASHINGTON, D.C.

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

U.S. GOVERNMENT PRINTING OFFICE
33-491 WASHINGTON : 1974

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

COMMITTEE ON LABOR AND PUBLIC WELFARE

HARRISON A. WILLIAMS, New Jersey, *Chairman*

JENNINGS RANDOLPH, West Virginia
CLAIBORNE PELL, Rhode Island
EDWARD M. KENNEDY, Massachusetts
GAYLORD NELSON, Wisconsin
WALTER F. MONDALE, Minnesota
THOMAS F. EAGLETON, Missouri
ALAN CRANSTON, California
HAROLD E. HUGHES, Iowa
WILLIAM D. HATHAWAY, Maine

JACOB K. JAVITS, New York
PETER H. DOMINICK, Colorado
RICHARD S. SCHWEIKER, Pennsylvania
ROBERT TAFT, JR., Ohio
J. GLENN BEALL, JR., Maryland
ROBERT T. STAFFORD, Vermont

MARIO T. NOTO, *Staff Director*
ROBERT E. NAGLE, *General Counsel*
ROY H. MILLENSON, *Minority Staff Director*
EUGENE MITTELMAN, *Minority Counsel*

SUBCOMMITTEE ON EMPLOYMENT, POVERTY, AND MIGRATORY LABOR

GAYLORD NELSON, Wisconsin, *Chairman*

EDWARD M. KENNEDY, Massachusetts
WALTER F. MONDALE, Minnesota
ALAN CRANSTON, California
HAROLD E. HUGHES, Iowa
JENNINGS RANDOLPH, West Virginia
WILLIAM D. HATHAWAY, Maine

ROBERT TAFT, JR., Ohio
JACOB K. JAVITS, New York
RICHARD S. SCHWEIKER, Pennsylvania
PETER H. DOMINICK, Colorado
J. GLENN BEALL, JR., Maryland

RICHARD E. JOHNSON, *Counsel*
WARREN SAWALL, *Professional Staff Member*
JOHN K. SCALES, *Minority Counsel*

CONTENTS

Text of:

	Page
S. 2070	3
S. 3202	8
S. 3336	20

CHRONOLOGICAL LIST OF WITNESSES

FRIDAY, FEBRUARY 8, 1974

Sinclair, Guinn, Sinclair Co., President of the Farm Labor Contractors Association ---------- 31, 113

Rhine, Barbara, attorney, United Farm Workers of America; accompanied by Debra Peyton, United Farm Workers of America; Pablo Garcia, farmworker, Imperial Valley; Jesus Solano, farmworker, Imperial Valley; Jessie de la Cruz, farmworker, Fresno, Calif.; Pablo Espinosa, farmworker and local director of Arvin-Lamont office of the United Farmworkers Union; Daniel Boone, attorney, United Farmworkers Union, Calexico, Calif.; and Daniel Castro, interpreter; a panel ---------- 34

de la Cruz, Jessie, farmworker, Fresno, Calif ---------- 38

Murguia, Guadalupe, farmworker and director of the Delano Boycott ---------- 42

Espinosa, Pablo, farmworker and local director of Arvin-Lamont office of the United Farm Workers Union ---------- 44

Boone, Daniel, attorney, United Farm Workers Union, Calexico, Calif ---------- 47

Garcia, Pablo, farmworker, from Imperial Valley, Calif ---------- 51

Solano, Jesus, farmworker, from Calexico, Calif ---------- 53

Macias, Scono, area supervisor, Western Conference of Teamsters ---------- 56

Gallegos, Arthur V., Denver, Colo., senior investigator, Colorado Department of Labor and Employment ---------- 60

Fresques, James, Denver, Colo., director, division of Housing for the State of Colorado ---------- 67

Burkdoll, Bruce, president, Central California Farmers' Association, Dinuba, Calif ---------- 68

Reyff, Albert, assistant labor commissioner for California; accompanied by Seward Young, compliance officer, and Ruth Spiers, senior deputy commissioner, a panel from the California Department of Labor ---------- 75

Young, Seward, senior special investigator, Fresno office of State Labor Law Enforcement ---------- 95

Spiers, Ruth, senior deputy labor commissioner, division of Labor Law Enforcement, Department of Industrial Relations, San Francisco, Calif ---------- 97

Flores, Gilbert R., senior investigator, California Rural Legal Assistance; accompanied by Ruben Rodriguez, investigator, California Rural Legal Assistance ---------- 99

Danielson, Luke, former investigator for Colorado Legal Services Agency ---------- 101

MONDAY, APRIL 8, 1974

DeLury, Bernard, Assistant Secretary of Labor for Employment Standards; accompanied by Warren D. Landis, Acting Administrator, Wage-Hour Division; William Hoffman, Eugene Bonfiglio, and W. J. Easterly, Wage-Hour Division Staff; and Harold C. Nystrom, Associate Solicitor of Labor for General Legal Services ---------- 116

Vizzard, Rev. James, representing United Farm Workers of America ---------- 152

Fields, C. H., Assistant Director, Congressional Relations, American Farm Bureau Federation; accompanied by John C. Datt, Director, Congressional Relations. American Farm Bureau Federation ..... Page 154
Sweeney, David A., director, Department of Legislation and Political Education, International Brotherhood of Teamsters; accompanied by Bartley M. O'Hara, Legislative Counsel, International Brotherhood of Teamsters 165
Burkdoll, Bruce, Central California Farmers Association, Dinuba, Calif.—Continued 169
Sinclair, Guinn, National Association of Farm Labor Contractors, Fresno, Calif 178
Fretz, Burton, representing the migrant legal action program 185

TUESDAY, APRIL 9, 1974

Stephen, Hon. James B., State Senator from the State of South Carolina; introduced by Hon. Ernest F. Hollings, a U.S. Senator from the State of South Carolina 212
Samudio, Alcario, migrant division, Wisconsin State Department of Labor 217
Juarez, Rudy, Homestead, Fla 224
Boone, Elijah, regional director, community action migrant program, Immokalee, Fla 229
Mascarenas, Mabel, wife of farm labor contractor, Biola, Calif 243
DeAvila, Alfredo, organizer, United Farm Workers of America, San Juan, Tex 247

STATEMENTS

Boone, Daniel, attorney, United Farmworkers Union, Calexico, Calif 47
Boone, Elijah, Regional Director, Community Action Migrant Program, Immokalee, Fla 229
Prepared statement 235
Burkdoll, Bruce, Central California Farmers' Association, Dinuba, Calif 68, 169
Prepared statement 176
California Department of Industrial Relations, H. Edward White, director, Robert E. Howard, labor commissioner, and Albert J. Reyff, assistant (prepared statement) 206
Danielson, Luke, former investigator for Colorado Legal Services Agency 101
Prepared statement 107
DeAvila, Alfredo, organizer, United Farm Workers of America, San Juan, Tex 247
de la Cruz, Jessie, farmworker, Fresno, Calif 38
DeLury, Bernard, Assistant Secretary of Labor for Employment Standards; accompanied by Warren D. Landis, Acting Administrator, Wage-Hour Division; William Hoffman, Eugene Bonfiglio, and W. J. Easterly, Wage-Hour Division Staff; and Harold C. Nystrom, Associate Solicitor of Labor for General Legal Services 116
Prepared statement 143
Espinosa, Pablo, farmworker and local director of Arvin-Lamont office of the United Farm Workers Union 44
Fields, C. H., Assistant Director, Congressional Relations, American Farm Bureau Federation; accompanied by John C. Datt, Director, Congressional Relations, American Farm Bureau Federation 154
Prepared statement 158
Flores, Gilbert R., senior investigator, California Rural Legal Assistance; accompanied by Ruben Rodriguez, investigator, California Rural Legal Assistance 99
Fresques, James, Denver, Colo., director, Division of Housing for the State of Colorado 67
Fretz, Burton, representing the migrant legal action program 185
Prepared statement 188
Gallegos, Arthur V., Denver, Colo., senior investigator, Colorado Department of Labor and Employment 60
Garcia, Pablo, farmworker, from Imperial Valley, Calif 51
Juarez, Rudy, Homestead, Fla 224

Page

Macias, Scono, area supervisor, Western Conference of Teamsters 36
Mascarenas, Mabel, wife of farm labor contractor, Biola, Calif 243
Murguia, Guadalupe, farmworker and director of the Delano Boycott 42
Reyff, Albert, assistant labor commissioner for California; accompanied by Seward Young, compliance officer; and Ruth Spiers, senior deputy commissioner, a panel from the California Department of Labor 75
Rhine, Barbara, attorney, United Farm Workers of America; accompanied by Debra Peyton United Farm Workers of America; Pablo Garcia, farmworker, Imperial Valley; Jesus Solano, farmworker Imperial Valley; Jessie de la Cruz, farmworker, Fresno, Calif.; Pablo Espinosa, farmworker and local director of Arvin-Lamont office of the United Farm Workers Union; Daniel Boone, attorney, United Farm Workers Union, Calexico, Calif.; and Daniel Castro, interpreter; a panel 31
Samudio, Alcario, migrant division, Wisconsin State Department of Labor 217
Sinclair, Guinn, Sinclair Co., president of the Farm Labor Contractors Association 31, 113, 178
Prepared statement 179
Solano, Jesus, farmworker, from Calexico, Calif 53
Sorn George F., manager, Labor Division, Florida Fruit and Vegetable Association (prepared statement), February 12, 1974 196
Spiers, Ruth, senior deputy labor commissioner, Division of Labor Law Enforcement, Department of Industrial Realtions, San Francisco, Calif. 97
Biography 98
Stephen, Hon. James B., State Senator from the State of South Carolina; introduced by Hon. Ernest F. Hollings, a U.S. Senator from the State of South Carolina 212
Sweeney, David A., director, Department of Legislation and Political Education, International Brotherhood of Teamsters; accompanied by Bartley M. O'Hara, legislative counsel, International Brotherhood of Teamsters 165
Vizzard, Rev. James, representing United Farm Workers of America 152
Young, Seward, senior special investigator, Fresno office of State Labor Law Enforcement 95

ADDITIONAL INFORMATION

Articles, publications, etc.:
Directory of Registered Farm Labor Contractors, July 1973 121
Florida Farm Labor Registration Law (crew leader law) 202
The Farm Labor Contractor—Demon or Den Mother? (with enclosures) 262
Communications to:
Nelson, Hon. Gaylord, a U.S. Senator from the State of Wisconsin, from:
Almy, Albert A., legislative counsel, Michigan Farm Bureau, April 17, 1974 (with enclosure) 254
Arnold, Daryl, executive vice president, Western Growers Association, Newport Beach, Calif., April 3, 1974 257
Burkdoll, Bruce, president, Central California Farmers Association, Inc., Dinuba, Calif., February 12, 1974 73
Gallegos, Arthur, senior investigator, Department of Labor and Employment, Migratory Labor Section, Denver, Colo., April 5, 1974 252
Phelan, Joseph D., executive vice president, National Council of Agricultural Employers, Washington, D.C., April 29, 1974 259
Spiers, Ruth M., senior deputy labor commissioner, Division of Labor Law Enforcement, San Francisco, Calif., April 4, 1974 (with enclosures) 79

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS, 1974

FRIDAY, FEBRUARY 8, 1974

U.S. SENATE,
SUBCOMMITTEE ON
EMPLOYMENT, POVERTY, AND MIGRATORY LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Fresno, Calif.

The subcommittee met, pursuant to notice, at 9:10 a.m., in courtroom No. 2, Federal Building, 1130 O Street, Senator Gaylord Nelson of Wisconsin (chairman of the subcommittee), presiding.

Present: Senator Nelson.

Committee staff present: Warren Sawall, professional staff member.

Senator NELSON. The Subcommittee on Employment, Poverty, and Migratory Labor will open its hearings on S. 2070.

There is considerable significance that this hearing today is being held before the Senate Subcommittee on Employment, Poverty, and Migratory Labor. As you know, until last year this subcommittee consisted of two separate entities—one subcommittee of the Senate dealing with employment and poverty, and another ad hoc subcommittee dealing strictly with migratory or seasonal farm labor.

To a certain degree the two subcommittees were joined together simply because of organizational demands. But their unification also makes sense because the Employment-Poverty Subcommittee has for some time now been involved with programs designed to help migrant or seasonal farmworkers relocate permanently in urban areas and in different vocations. Thus, the staff of the one subcommittee was doing substantial work in areas affecting the other subcommittee, and it made sense to unite them.

The relocation programs for farmworkers, which have now been transferred from the Office of Economic Opportunity to the Department of Labor, are based on the premise that mechanization is reducing the need for seasonal farm labor and that it is socially desirable to retrain and relocate farm workers.

That premise, I believe, remains valid even though there are experts who now believe that the energy crisis will cause reexamination of the trend toward mechanization in American agriculture. Even if the demand for farm labor remains at the same level or increases, we should have programs that will help farmworkers to relocate if they so desire.

Equally as important as the relocation programs is the need to make certain that those who remain in the migrant streams are treated with dignity, labor in safety, and receive a livable wage.

That is what this hearing is about. In 1963, the Congress passed the Federal Farm Labor Contractor Registration Act in recognition of the unique role played by farm labor contractors in affecting the farmworker. Everything of importance to the farmworker is affected by the labor contractor—how he gets a job, the terms of his employment, his transportation to and from work, his housing and that of his family, medical services—the whole gamut of his relationship with his ultimate employer, the grower.

Complaints have grown through the years that this first effort of the Congress was lacking in several areas—insufficient coverage of farm labor contractors, ineffective enforcement procedures, inability of the farm laborer to gain redress. My bill and a similar bill in the House of Representatives by Congressman William Ford of Michigan were introduced in the hope of rectifying these omissions in the act.

Testimony already taken on Representative Ford's bill from the Department of Labor, and from representatives of the United Farm Workers and the Teamsters, indicates that our efforts, if anything, are still somewhat remiss—that the bill before you today in this hearing can be strengthened further.

Thus, I hope that the several witnesses before us today will give us their expert testimony not only on the specifics of the bill before us, but that they will not hesitate to indicate its shortcomings. Our interest is not to impair the rights of the contractors or the growers, but to provide full assurance that American farm laborers can work with the same dignity and achieve the same rewards that are the rights of all other American workers.

This testimony that will be taken here today will be printed in the hearing record and then will be available to the members of the Senate Labor Committee and to all Members of the Senate, and interested parties. Those of you who have prepared statements, your statements will be printed in full in the record. You may read it or extemporize from it, however you wish to present it, but, in any event, your prepared remarks will be printed in full in the record as though given.

[A copy of S. 2070 and related bills follows:]

93D CONGRESS
1ST SESSION

S. 2070

IN THE SENATE OF THE UNITED STATES

JUNE 26 (legislative day, JUNE 25), 1973

Mr. NELSON introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Registration Act Amendments of 1973".

SEC. 2. Section 3 (b) of the Farm Labor Contractor Registration Act of 1963 (hereinafter referred to as the "Act") is amended by striking the word "or" at the end of subparagraph 3 (b) (3) and by striking the period at the end of the section and inserting in lieu thereof the following: "; or (5) any person who contracts and/or hauls farmworkers to a place of employment on a daily basis only.".

2

SEC. 3. Section 3 (d) of the Act is amended by striking the following words: ", when such service or activity is performed by an individual worker who has been transported from one State to another or from any place outside of a State to any place within a State".

SEC. 4. Section 5 (a) (1) of the Act is amended by striking the words "subscribed and sworn to by the applicant".

SEC. 5. Section 5 (a) (2) of the Act is amended by striking therefrom the language "but in no event shall the amount of such insurance be less than $5,000 for bodily injuries to or death of one person; $20,000 for bodily injuries to or death of all persons injured or killed in any one accident; $5,000 for the loss or damage in any one accident to property of others"; and by inserting in lieu thereof the following: "but in no event shall the amount of such insurance be less than $10,000 for bodily injuries to or death of one person; $50,000 for bodily injuries to or death of all persons injured in or killed in any one accident; $10,000 for the loss or damage in any one accident to property of others".

SEC. 6. Section 5 (c) of the Act is amended by striking from the last sentence the words "each calendar year" and substituting in lieu thereof "every third calendar year".

SEC. 7. Section 6 (a) of the Act is amended by striking the semicolon at the end and inserting in lieu thereof the

following: "and shall be denied the facilities and services authorized by Act of June 6, 1933 (48 Stat. 113; 29 U.S.C. 49, et seq.), commonly referred to as the Wagner-Peyser Act, upon refusal or failure to exhibit the same;".

SEC. 8. Section 7 of the Act is amended by adding at the end thereof the following: "The Secretary or his designated representative may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary, or any agent designated by him for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. In case of contumacy or refusal to obey a subpena, any district court of the United States within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary or his designated representative, shall have jurisdiction to issue to such person an order requiring such person to appear before the Secretary or his designated representative, to produce evidence if so ordered, to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof."

SEC. 9. Section 9 of the Act is amended by striking the period at the end of the section and adding the following:

", sentenced to not more than six months in jail, or both. In addition, the Secretary or his designated representative shall have power to petition any district court of the United States within any district where any violations of any provision of this chapter or any regulation prescribed hereunder is alleged to have occurred or wherein such person resides or transacts business, for appropriate injunctive relief. Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Secretary or his designated representative such temporary or permanent relief or restraining order as it deems just and proper.".

SEC. 10. The Farm Labor Contractor Registration Act of 1963 is amended by adding at the end thereof a new section which reads as follows:

"SEC. 16. Any person claiming to be aggrieved by the violation of any provision of this chapter or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to the citizenship of the parties. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. If the court finds

that the respondent has intentionally violated any provision of this chapter or any regulation prescribed hereunder, it may award damages up to and including $500 for each and every violation. The court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. Any civil action brought under this section or under section 9 hereof shall be subject to appeal as provided in sections 1291 and 1292 of title 28, United States Code.".

SEC. 11. Section 6(b) of the Act is amended by renumbering (3) to (4), (4) to (5), (5) to (6), and inserting as (3) the existence of a labor dispute or strike if there be one.

93D CONGRESS
2D SESSION

S. 3202

IN THE SENATE OF THE UNITED STATES

MARCH 20, 1974

Mr. NELSON introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Farm Labor Contractor Registration Act of 1963 to provide for the extension of coverage and to further effectuate the enforcement of such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Farm Labor Contractor Registration Act Amendments of 1974".

(b) Unless the context otherwise requires, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision the reference shall be considered to be made to a section or other provision of the Farm Labor Contractor Registration Act of 1963.

SEC. 2. The second sentence of section 3 (b) is amended to read as follows: "Such term shall not include—

"(1) any charitable, educational institution, or any full-time or regular employee thereof, or any State or political subdivision to the extent that the activity is within the definition of farm labor contractor and is within the scope of duties set forth in section 6(b) of this Act, and occurs between such State or political subdivision thereof and another State or political subdivision thereof, except that in a case where a State or political subdivision thereof directly recruits, hires, or transports ten or more migrant workers from another State, territory, or foreign nation at any one time in any calendar year the exception provided herein shall not apply;

"(2) any farmer, processor, canner, ginner, packing shed operator, or nurseryman (A) who personally engages in any such activity for the purpose of supplying migrant workers solely for his own operation or (B) who indirectly engages in any such activity through an agent or by contract, where he first observes in the immediate possession of the person so engaged a certificate from the Secretary that is in full force and effect at the time he contracts with such persons so engaged;

"(3) any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States if the employment is subject to—

"(A) an agreement between the United States and such foreign nation, or

"(B) an arrangement with the government of any foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for through the United States by an instrumentality of such foreign nation; or

"(4) any full-time or regular employee of any person holding a certificate of registration under this Act.".

SEC. 3. Section 3(d) of the Act is amended to read as follows:

"(d) The term 'interstate agricultural employment' means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)).".

SEC. 4. Section 5(a) is amended by—

(1) striking the word "and" after paragraph (2),

(2) striking the period at the end thereof and inserting in lieu thereof a semicolon, and

(3) adding the following new paragraphs:

"(4) has posted a bond with the Secretary in such

manner and in such amount (but not less than the sum of $5,000), as the Secretary may from time to time prescribe, which bond shall provide security against liability in such farm labor contractor to any third person, including any employer, employee, or person recruited, solicited, or transported by him while engaging in activities as a farm labor contractor;

"(5) has filed, under such terms as the Secretary may prescribe, a statement identifying each vehicle to be used by the applicant for the transportation of migrant workers, and all real property to be used by the applicant for the housing of migrant workers, during the period for which registration is sought, along with proof that every such vehicle and all such housing currently conform to all applicable Federal and State safety standards; and

"(6) has consented to designation of the Secretary as the agent available to accept service of summons in any action against such farm labor contractor at any and all times during which such farm labor contractor has departed from the jurisdiction in which such action is commenced or otherwise has become unavailable to accept service, under such terms and conditions as are set by the court in which such action has been commenced.".

33-491 O - 74 - 2

SEC. 5. (a) Section 5 (a) (2) is amended by striking out "$5,000" each time it appears and inserting in lieu thereof "$50,000".

(b) Section 5 (a) (2) is further amended by striking out "$20,000" and inserting in lieu thereof "$750,000".

SEC. 6. Section 5 (b) is amended by—

(1) striking "or" at the end of paragraph (9);

(2) striking the period at the end of paragraph (10) and inserting in lieu thereof "; or"; and

(3) adding after paragraph (10) the following new paragraph:

"(11) is not in fact the real party in interest in any such application or certificate of registration and that the real party in interest is a person, firm, partnership, association, or corporation who previously has been denied a certificate, or has had a certificate revoked or suspended.".

SEC. 7. Section 5 is amended by adding at the end thereof the following new subsection:

"(d) Persons issued a certificate of registration under this section shall provide to the Secretary a notice of each and every address change within ten days after such change. The Secretary shall maintain a public central registry of all persons issued certificates of registration under this section.".

SEC. 8. Section 6(a) is amended by inserting immediately before the semicolon at the end thereof the following: "and shall be denied the facilities and services authorized by the Act of June 6, 1933 (29 U.S.C. sec. 49), upon refusal or failure to exhibit the same.".

SEC. 9. (a) Section 6(b) is amended by inserting the words "in writing" immediately after the word "disclose", by striking the word "and" before clause (5), and by inserting before the semicolon at the end thereof the following: ", and the minimum period of employment;".

(b) Section 6(b) is further amended by inserting after clause (2) the following: "(3) the existence of a strike or other concerted stoppage, slowdown, or interruption of operations by employees at a place of employment which he knows or would discover in the exercise of reasonable diligence, or which has been so certified by an authorized agency of Federal or State Government, (4) the existence of any arrangements with any owner, proprietor, or agent of any commercial or retail establishment in the area of employment under which he is to receive a commission or any other benefit resulting from any sales provided to such commercial or retail establishment from the migrant workers whom he recruits.".

(c) Clauses (3), (4), and (5) of such section are redesignated as clauses (5), (6), and (7), respectively

7

SEC. 10. Section 6 is amended by—

(1) striking "and" after paragraph (d),

(2) striking the period at the end of paragraph (e) and inserting in lieu thereof a semicolon, and

(3) adding at the end thereof the following new paragraphs:

"(f) refrain from recruiting, employing, or utilizing the services of any person whom he knows or should know to be in violation of the provisions of the Immigration and Nationality laws of the United States; and

"(g) refrain from recruitment of workers for employment which is the subject of a strike, slowdown, or labor-management dispute where the effect of such recruitment is to interfere with such strike, slowdown, or labor-management dispute on behalf of the employer.".

SEC. 11. Section 7 is amended by adding at the end thereof the following: "The Secretary or his delegate may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary, or his delegate, may administer oaths and affirmations, examine witnesses, and receive evidence. In case of contumacy or refusal to obey a subpena, any district court of the United States within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or re-

fusal to obey is found or resides or transacts business, upon application by the Secretary or his delegate, shall have jurisdiction to issue to such person an order requiring such person to appear before the Secretary or his delegate, to produce evidence if so ordered, to give testimony touching the matter under investigation or in question, any failure to obey such order of the court may be punished as a contempt. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary with respect to which the Secretary commences an investigation. The Secretary shall continually monitor and investigate activities of farm labor contractors in such manner as is necessary to enforce the provisions of this Act.".

SEC. 12. Section 9 of the Act is amended by inserting the letter "(a)" at the beginning thereof and by adding at the end thereof the following: ", sentenced to a prison term not to exceed one year, or both, and upon conviction for each subsequent violation of this chapter, shall be punishable by a fine not to exceed $10,000 or a prison term not to exceed three years, or both. Every violation of any provision of any section of the chapter shall be considered a subsequent offense for the purposes of this section if the person convicted shall previously have been convicted of a violation of any provision of any section of this chapter. Prosecution for the violation of

any section of this Act shall not bar prosecution for a violation of any other section of this Act, or of any law, statute, or ordinance proceeding from any action of the offender.

"(b) Any farmer, processor, canner, ginner, packing shed operator, or nurseryman who indirectly engages in activity as a farm labor contractor either through an agent or by contract, who fails to satisfy the requirements of section 3 (b) (2) (B) of this Act shall be liable for any damages arising from the acts or omissions of anyone engaging on his behalf in activities as a farm labor contractor without a certificate of registration as required herein, in any action brought under the Act, regardless of whether the farm labor contractor is an independent contractor or an agent of such person.

"(c) If, upon inspection or investigation, the Secretary or his authorized representative believes that a person has violated a requirement of this chapter or of any rule or regulation prescribed pursuant to this chapter, he shall issue a citation to the violator or refer all evidence of such violation to the United States Department of Justice. Each citation so issued shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or regulation alleged to have been violated. Such citation shall be deemed to charge an offense triable before a United States magistrate, or other-

wise, as defined in title 18, United States Code, sections 1(3) and 3401.

"(d) Where the Secretary or his authorized representative be in possession of prima facie evidence of a violation of subsections (b)(1) through (b)(6) of section 5 or subsection (e), (f), or (g) of section 6 of this Act, or of any rule or regulation promulgated pursuant to said subsections, the Secretary shall take such action as is reasonably necessary to carry out the enforcement of this Act which, at a minimum, shall include the suspension of the registration of the farm labor contractor against whom such evidence is discovered.".

SEC. 13. (a) The Farm Labor Contractor Registration Act of 1963 is amended by inserting after section 11 the following:

"CIVIL RELIEF

"SEC. 12. (a) Any person claiming to be aggrieved by the violation of any provision of this Act or any regulation prescribed hereunder may file suit in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to the citizenship of the parties.

"(b) Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize

the commencement of the action without the payment of fees, costs, or security. If the court finds that the respondent has violated any provision of this Act or any regulation prescribed hereunder, it may award damages up to and including $500 for each and every violation. The court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. Any civil action brought under this section shall be subject to appeal as provided in sections 1291 and 1292 of title 28, United States Code.

"(c) The Secretary, or his delegate, may petition any district court of the United States within which violations of this Act are alleged to have occurred for appropriate temporary or permanent injunctive relief.

"PROHIBITED ACTIONS

"SEC. 13. (a) It shall be unlawful for any person to terminate, suspend, demote, transfer, or take adverse action against any employee in retaliation for the exercise, by such employee, of any rights secured under this Act.

"(b) A presumption that an action is retaliatory shall arise from any action described in subsection (a) of this section which occurs within a period of one hundred and eighty days following an action by an employee which constitutes an exercise of a right secured to such employee under this Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 14. There are authorized to be appropriated to carry out the purposes of this Act $5,000,000 for the fiscal year ending June 30, 1975, and a like amount for each fiscal year thereafter."

(b) Sections 12, 13, 14, and 15, are redesignated as sections 15, 16, 17, and 18, respectively.

SEC. 14. The Act is amended by addition at the end thereof of the following new section:

"NONWAIVER PROVISIONS

"SEC. 19. Any agreement by an employee purporting to waive or to modify his rights hereunder shall be void as contrary to public policy, except a waiver or modification of rights or obligations hereunder in favor of the Secretary or his duly authorized agent shall be valid for purposes of enforcement of the provisions of the Act.

93D CONGRESS
2D SESSION

S. 3336

IN THE SENATE OF THE UNITED STATES

APRIL 9, 1974

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Fair Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Labor Contractor Registration Amendments of 1974".

SEC. 2. (a) Section 2(b) (relating to the findings of Congress) of the Farm Labor Contractor Registration Act of 1963 (78 Stat. 920) is amended by striking the word "for" the second time it appears, and by inserting in lieu thereof the words "in or affecting".

(b) Section 3(b) (relating to definition of farm labor contractor) of such Act is amended to read as follows:

"(b) The term 'farm labor contractor' means any person who, for a legal consideration, either for himself or on behalf of another person or business entity, recruits, solicits, hires, furnishes, or transports ten or more seasonal or casual laborers at any one time during any calendar year for agricultural employment, including day-haul agricultural employment. Such term shall also include individuals, corporate farmers, growers, processors, canners, packing shed operators, nursery operators, landowners, or associations, where they engage directly in the supply of seasonal agricultural employment solely for their own purposes. Such term shall not include any person who engages in any such activity for the purpose of obtaining migrant workers of any foreign nation for employment in the United States, if the employment of such workers is subject to (1) an agreement between the United States and such foreign nations, or (2) an arrangement with the government of any United States territorial possession, Commonwealth, or foreign nation under which written contracts for the employment of such workers are provided for and the enforcement thereof is provided for in the United States by an instrumentality of such entity. In any case in which an individual or corporate farmer, grower, processor, canner, packing shed operator, nursery operator, or landowner or association engages in such activity for the purpose of supplying seasonal farmworkers solely for

his or its own operation, or in which an employee thereof engages in such activity, the term 'farm labor contractor' means such individual, corporate employer, or association to the extent that he or it engages directly in the activities of a farm labor contractor.".

(c) Section 3 (d) (relating to the definition of agricultural employment) of such Act is amended to read as follows:

"(d) The term 'agricultural employment' means employment in any service or activity included within the provisions of section 3 (f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (f)) or section 3121 (g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121 (g)) where such service or activity involves employment of ten or more migrant workers (excluding members of the employer's immediate family) at any one time during any calendar year, and where any such service or activity involves the act of soliciting, promising, transporting, or assisting in transporting, any person for the purpose of performing farm labor where any transportation of such person to the jobsite occurs, or is to occur (1) from one State to another, (2) from any place outside of a State to any place within a State, (3) intrastate, where such person resides more than fifty miles from the jobsite, or (4) in any case where the party conducting recruitment furnishes or bears the cost of transportation of a farmworker from the place of

permanent residence of such farmworker to the area of farm labor employment.".

(d) Section 5(a)(2) (relating to insurance coverage) of such Act is amended by striking out "$5,000" wherever it appears and inserting in lieu thereof "$25,000", and by striking out "$20,000" and inserting in lieu thereof "$100,000".

(e) Section 5(b) (relating to refusal, suspension, and revocation of a certificate) of such Act is amended by striking "or" at the end of paragraph (9); by striking the period at the end of paragraph (10) and inserting in lieu thereof "; or"; and by adding at the end thereof the following new paragraph:

"(11) is not in fact the real party in interest in holding such certificate of registration and that the real party in interest in any such application or certificate of registration is a person, firm, partnership, association, or corporation who previously has applied for such certification and has been denied such certification, or who previously had been issued a certification of registration which subsequently was revoked, suspended, or not renewed by the Secretary.".

(f) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The acceptance of a certificate of registration

shall constitute an autohrization by the person named in such certificate that the Secretary is designated as the agent for such person for the purpose of accepting a summons in any action against such person arising out of the provisions of this Act where such person cannot be served within the jurisdiction where the course of action arose.".

(g) Section 6(b) (relating to obligations and prohibitions) of such Act is amended to read as follows:

"(b) provide to each worker or head of each worker's household at the time of recruitment a written contract of employment, either for himself as employer or as designated agent for another employer, stating the terms and conditions of employment in a manner calculated to be understood by the person to be employed in such form and in such manner as the Secretary may prescribe, including—

"(1) the area of employment,

"(2) the crops and operations in which he may be employed,

"(3) the transportation, the housing, and insurance to be provided the worker or workers,

"(4) the wage rates to be paid, the period and total hours of employment,

"(5) the charges to be made by the contractor for services,

"(6) the nature of any strike, slowdown, or labor-management dispute occurring at the place of employment, or which is expected to occur during the term of employment solicited, regardless of whether such strike, slowdown, or dispute is conducted by a collective-bargaining agent recognized by the employer.".

(h) Section 6(e) (relating to payroll records) of such Act is amended by striking the word "interstate" wherever it appears.

(i) Section 6 of such Act is further amended by striking "and" at the end of subsection (d) and by striking the period at the end of subsection (e) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new subsections:

"(f) promptly pay or contribute when due to the individuals entitled thereto all moneys or other things of value entrusted to the farm labor contractor by any third person for such purpose, and comply on his part with the terms and provisions of all legal agreements and contracts entered into between himself in his capacity as a farm labor contractor and any third person;

"(g) refrain from recruitment of workers for agricultural employment where such employment is the subject of a strike, slow-down, or labor-management dis-

pute where the effect of such recruitment is to interfere with such strike, slow-down, or labor-management dispute on behalf of the employer.".

(j) Section 7 (relating to information) of such Act is amended by adding at the end thereof the following new sentence: "The Secretary shall in conducting such investigations respect the confidentiality of the identity of any employee who files a complaint or communicates information to the Secretary with respect to which the Secretary commences an investigation. In addition the Secretary shall monitor and investigate the activities and operations of farm labor contractors as described in this Act without respect to specific complaints, at such times and in such manner as is reasonably necessary to assure the enforcement of the provisions of this Act.".

(k) Section 9 (relating to penalties) of such Act is amended by inserting before the period at the end thereof a comma and the following: "sentenced to a prison term not to exceed one year, or both, and, upon conviction for each subsequent violation of this Act, shall be punishable by a fine not to exceed $10,000 or a prison term not to exceed three years, or both. Every violation of any provision of any section of this Act shall be considered a subsequent offense for the purposes of this section if the person convicted shall previously have been convicted of a violation of any

provision of any section of this Act. Prosecution for the violation of any section of this Act shall not bar prosecution for a violation of any other section of this Act, or of any other law, statute, or ordinance proceeding from any action of the offender.".

(l) (1) Section 14 (relating to rules) of such Act is amended by striking the words "RULES AND REGULATIONS" in the caption thereto and inserting in lieu thereof the words "RULES, REGULATIONS, AND DUTIES OF THE SECRETARY".

(2) Such section is further amended by adding at the end thereof the following new sentence: "The Secretary shall report and refer all information concerning such violations or probable violations of section 4 and subsections (b), (e), or (g) of section 6 of this Act to the Attorney General. The Secretary may suspend the registration of the farm labor contractor against whom evidence of a violation of this Act is discovered until such time as he is satisfied that the basis for such suspension no longer exists.".

SEC. 3. The Farm Labor Contractor Registration Act of 1963 is amended by adding at the end thereof the following new sections:

"RETALIATORY ACTS

"SEC. 16. (a) It shall be unlawful for any farm labor contractor to terminate, suspend, demote, transfer, or threaten, or take adverse action against any employee in

retaliation of the exercise by such employee of any rights secured under this Act or any other provision of Federal law.

"(b) In any civil or administrative proceeding, a presumption that an action is retaliatory, shall arise from any action described in subsection (a) on the part of a farm labor contractor, which occurs within a period of sixty days following the exercise by an employee of any right secured under the provisions of this or under any other Federal law which establishes the rights of persons engaged in agricultural employment or which establishes duties of employers of persons engaged in agricultural employment.

"PRIVATE RIGHT OF ACTION

"SEC. 17. (a) Any person claiming to be aggrieved by the violation of any provision of this Act or any regulation prescribed thereunder may file an action in any district court of the United States having jurisdiction of the parties without respect to the amount in controversy or without regard to the citizenship of the parties. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. If the court finds that the respondent has intentionally violated any provision of this Act or any regulations prescribed thereunder, it may—

"(1) order reinstatement of such employee;

"(2) order payment of wages not paid as a result of the violation in question;

"(3) award damages in an amount equal to three times the amount of the wages determined to be due under clause (2) or $500 for each violation, whichever is greater;

"(4) allow the prevailing party a reasonable sum for attorney's fees and court costs.

Any civil action brought under this section or under section 9 of this Act shall be subject to appeal as provided in sections 1291 and 1292 of title 28, United States Code.

"(b) Any agreement by an employee purporting to waive or to modify his rights hereunder, shall be void as contrary to public policy, except that a waiver or modification of rights or obligations created under section 6 of this Act shall be valid when contained in a bona fide collective bargaining agreement.

"(c) Nothing in this Act shall limit the rights of any employee to sue directly or through an assignee for any wages or other damages or for the enforcement of any rights secured to him under this Act. It shall not be a defense to any such action that such employee or assignee has failed to exhaust any administrative remedy provided hereunder prior to commencement of such action.

"(d) A respondent in an action brought under this section may be required to post a bond in an amount not less than $5,000 for each alleged violation of this Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 18. There are authorized to be appropriated to carry out the purposes of this Act $5,000,000 for the fiscal year ending June 30, 1975, and a like amount for each fiscal year thereafter."

Senator NELSON. Our first witness this morning, of the eight witnesses we will hear today, is Mr. Guinn Sinclair of the Sinclair Co., Fresno, representative of an association of farm labor contractors.

Mr. SINCLAIR. Thank you, Senator Nelson.

STATEMENT OF GUINN SINCLAIR, SINCLAIR CO., PRESIDENT OF THE FARM LABOR CONTRACTORS ASSOCIATION

Mr. SINCLAIR. I am president of the National Farm Labor Contractors Association. We have approximately 180 members located principally in California and Arizona. The association has been in operation for 9 years—we are in our 9th year. To my knowledge, we are the only association of farm labor contractors, at least in the Western United States.

Senator NELSON. Is that a dues-paying organization?

Mr. SINCLAIR. Yes, it is.

Senator NELSON. What are the annual dues and how many members do you have.

Mr. SINCLAIR. The dues are $50 and we have 180 members.

Senator NELSON. And approximately what is the size of the migratory labor market that these contractors are dealing directly with themselves?

Mr. SINCLAIR. We feel that we have all of the major contractors who are operating in California, the majority of the major contractors who are operating in California.

Senator NELSON. That represents how many laborers?

Mr. SINCLAIR. Senator, we don't have those figures.

The Farm Labor Contractors of California wish to express their thanks for being given the opportunity to discuss this pending legislation.

We will first direct ourselves to the amendment of section 5 of the Farm Labor Contractors Registration Act of 1963. We strongly support the increase of insurance limits. However we wonder if the proposed increases are sufficient. Since this legislation is directed to bus operators hauling other than their own employees, then this insurance will probably represent the primary means of recovery by passengers for bodily injuries or death. Since many of the buses haul over 40 passengers, $50,000 limits on the insurance is pretty low. Last month in the Imperial Valley a contractor's bus had an accident in which 19 people were killed and several seriously injured. We understand that the insurance company writing the workmen's compensation insurance has set a claim reserve of $2,500,000. While the entire reserve may not be paid, it indicates a close figure of the loss. Perhaps you would consider higher limits are justified. As an example, the California Public Utilities Commission's requirements on a large bus would be $700,000.

Under section 2, we would like further clarification of the "day hauler" so that the exemption would clearly include contractors with their own employees who are covered by workmen's compensation. Since the laws governing contractors in California are much stronger and broader than the act of 1963, we are sure it is not your intention to weaken the State's position here.

We are concerned by your statement, Senator Nelson, that "My bill also would make it mandatory that a contractor inform prospective laborers of any labor dispute or strike that is in progess at the site for which they are being recruited."

That quote, Senator, is in a letter than you directed to me. I should have made that clear. You wrote me a letter on January 18, and it is the fifth paragraph in that letter.

Senator NELSON. Your objection isn't to informing an employee that there is a labor dispute; your problem is the definition of what is——

Mr. SINCLAIR. I have a very brief explanation, Senator.

Senator NELSON. Go ahead.

Mr. SINCLAIR. Since there is almost a complete lack of legislation in the agricultural field, what, then, constitutes a labor dispute? Why should a contractor be the judge when our courts have issued conflicting decisions?

A couple of examples might be helpful to explain what we mean. Does a labor dispute exist when the United Farm Workers Union issues a boycott of lettuce and table grapes? If it does, then about half of California is off limits to the contractors who operate under the act of 1963. This also means that the contractor could not bring labor to a grower under a Teamster agreement, even if the grower has had a Teamster agreement for 10 years. Is it fair to bring this pressure upon the grower? Does a labor dispute exist when both the Teamsters and the United Farm Workers claim jurisdiction and yet no laws exist to determine the will of the workers themselves?

The contractor under proposed amendment of section 16 is liable up to $500 to each worker. We could go into many more examples and into greater detail, but we believe that you and your committee are already knowledgeable in these matters.

Senator NELSON. May I interrupt again? The provision is simply that the employee be informed. That doesn't mean that the contractor may not transport them, once they are informed, to an area where there is a labor dispute, if they are willing to go.

Mr. SINCLAIR. Yes, but we still get back to the definition of what is a labor dispute, Senator. As I point out, is it where one union claims jurisdiction when another union has already claimed jurisdiction? I think that you will recognize that in labor disputes there is one problem that you continually run into and that is one union could plant employees in the contractor's group and then create a situation where he claims the contractor is in violation of this law.

According to the law, as it is written, as you are amending it, the U.S. Government would bear all expenses every time one of the workers filed a complaint. This would put the contractor at a great disadvantage in that he has to pay for his defense and there could be multiple actions against the contractor. Since the worker himself doesn't have to put out one penny to file his complaint, it would be a form of heckling, Senator. You know, this goes on in labor disputes all of the time, where they try to heckle the other side, the opposition.

We see that it poses a serious problem for the contractor because he still has to determine that a labor dispute exists. Now, he can put a sign on his bus, Senator, and say there may be a labor dispute

wherever we are going, and that might satisfy the law, but I don't think that is what you want. He could just make a press release and every time somebody got on a bus hand them something that there may be a labor dispute.

We are trying to get down to the heart of it, and to finish this statement now. We believe that agriculture labor legislation is needed and that Congress should take immediate action along these lines. However, piecemeal legislation can only cloud and confuse more an already deplorable situation. This proposed amendment might be extremely harmful not only to the contractor and grower——

Senator NELSON. May I interrupt you. When you say, "this amendment", are you referring to the various propositions in the legislation?

Mr. SINCLAIR. No; no, this is the one that refers to——

Senator NELSON. The labor dispute aspect?

Mr. SINCLAIR. Yes, the labor dispute aspect.

Senator NELSON. Please proceed.

Mr. SINCLAIR. This proposed amendment might be extremely harmful not only to the contractor and grower but to organized labor as well. The farm labor contractors are in favor of agricultural union legislation, whether it is tied in with the Taft-Hartley law or as separate legislation, whether it is by the Congress of the United States or by the California legislature. But whatever the legislation, we want balanced and complete legislation. We hope you concur.

Senator NELSON. On the question of the definition of a labor dispute, supposing you had a provision that provided for the State to certify—suppose the State government or the Federal labor department certified those instances where they concluded there was a labor dispute?

Mr. SINCLAIR. Yes; Senator, I think if a judicial means was taken to determine—yes, I think that that would satisfy the requirement, whether it would be by the State or the Federal Government to determine the situation, but I don't think the contractor should be the one to decide that there is a dispute.

Senator NELSON. All right. Did you have any comments on other aspects?

Mr. SINCLAIR. No; that is the only comment I have, Senator.

Senator NELSON. Thank you very much, Mr. Sinclair. We appreciate your taking the time to come.

Mr. SINCLAIR. Thank you, sir.

Senator NELSON. Our next witnesses are Barbara Rhine and Debra Peyton for the United Farm Workers of America.

Are they present?

If each of you would identify yourself for the reporter so that any comments any of you make would be properly identifiable in the printed record.

Ms. RHINE. Senator Nelson, I would like to read a prepared statement, at the end of which I would identify them as a specific panel, or I could identify them now.

Senator NELSON. Why don't you identify them now so the reporter would be able to make a note of them.

Ms. RHINE. Let me start by saying that I think one of our people had car trouble, so we expect one more who will probably be coming in a minute.

Senator NELSON. Go ahead and present your statement.

STATEMENT OF BARBARA RHINE, ATTORNEY, UNITED FARM WORKERS OF AMERICA; ACCOMPANIED BY DEBRA PEYTON, UNITED FARM WORKERS OF AMERICA; PABLO GARCIA, FARMWORKER, IMPERIAL VALLEY; JESUS SOLANO, FARMWORKER, IMPERIAL VALLEY; JESSIE DE LA CRUZ, FARMWORKER, FRESNO, CALIF.; PABLO ESPINOSA, FARMWORKER AND LOCAL DIRECTOR OF ARVIN-LAMONT OFFICE OF THE UNITED FARM WORKERS UNION; DANIEL BOONE, ATTORNEY, UNITED FARM WORKERS UNION, CALEXICO, CALIF.; AND DANIEL CASTRO, INTERPRETER; A PANEL

Ms. RHINE. I am making this statement to you, Senator Nelson, and the rest of the Senate Subcommittee on Migratory Labor on behalf of Cesar Chavez, president of the Farm Workers Union. Mr. Chavez sends his regrets at being unable to attend today. There are others here from the union, farmworkers themselves, who will speak on their own behalf.

We in the Farm Workers Union approach these hearings with no small amount of anger and cynicism, because we have seen the farm labor contractors all over the country suck sweat, health, money, and even life itself out of our people for years. The labor contractor traffics in human beings, women and men and children, brown, black, and white. He conducts a modern-day slave trade—he did so long before the passage of the Farm Labor Contractor Registration Act, he has done so since that act was passed, and, if the only measure taken against him is the passage of the amendments being discussed today, he will do so long into the future.

The labor contractor's job is to be the middleman between the grower and the worker, and his goal is to make as much profit from that task as he can. He does not earn his living by the work of his own hands, but rather by providing cheap, docile labor to the rich and powerful men who control agricultural production in this country. The tools of his trade are his broken-down, unsafe trucks and buses, like the one whose seats were so poorly attached that 19 farmworkers were killed in January of this year near Blythe, Calif.; his beer cans and string bean cans that contain the tepid water for workers in the blazing fields; his overpriced cheap wine, soda pop and sandwiches, made of one slice of baloney between two of white bread, to sell to the workers, miles away from the nearest store. Sometimes he throws housing into the bargain, and, true to form, it is of the same bad quality.

What is always missing is the certificate of registration that he's supposed to show to everyone before he hires them, the statement that he's supposed to make about how much he's getting paid by the grower, the written version of the terms of employment to be posted in a conspicuous place, and any similar requirements applied by the

law of his home state. What is always there are the women, men, and children who toil in the fields.

I wonder how many of the members of this committee and its staff have ever been to the "shape-up" area that exists in every major town in the great California valleys. That is the place where the people gather to find out whether there will be work that day, sometimes as early as 2 a.m., always in the pitch dark. If there is a lot of work available, or, if the town is near the Mexican border where thousands of immigrants stream across every day in search of work, then the area will be filled with milling crowds of all ages. Many of these people have gotten up even earlier and traveled just to get to the shape-up area, where, if they are lucky enough to get a day's work, they'll travel miles and miles more to begin.

The contractor—or more often his representative because, after all, why should he get up that early—will have the pick of the lot. He will choose the strong, the young, the healthy, the people his crew-pushers, or speedup men, can push the hardest to make the biggest margin of profit. Or the attractive women who have to turn a pretty face and act at the driver's bidding, bring some extra lunch, or even give sexual favors to get the day's work they need to live. Or the illegal alien, whom he can have taken back by the border patrol before he pays the day's wages. If there is not so much work, or if the people in the area have a strong union history that makes them too proud to be picked over, then the shape-up area will be filled with the local winos, the sad, stumbling men and women who are so abject that all it takes is the promise of wine to get them into the fields.

And so the people get on the buses and hard-seated trucks and try to sleep on their way to work. If they get miles into the fields and find that it's not the first picking that they have been promised, or that there are no toilets and drinking water, or that the gloves to protect their hands are torn, missing, or not provided at all, then their choice is to work anyhow or walk back to town and miss the whole day. If they complete the day's work, they frequently get paid less than the promise, with deductions made for fees and transportation. If they get their slips showing the deductions for social security and disability, they find out later when they are old and sick that the money somehow never found its way to the proper State or Federal agency. If they get home safely, it is well after the twilight of a long summer's day, with only the time to eat and sleep before starting over again, never certain that they'll find work, never certain what it will get them if they do.

This is the history of the people who seek to be represented by our union; these are the conditions under which the people you see here worked for years before our union came into existence. And the labor contractor benefits from all of this—a trafficker in human trade.

But someone else benefits more—the corporate growers. When they use the contractors, they need take no responsibility for the conditions under which their crops get planted, pruned, picked, or harvested. They need not be bothered by the workers' needs or the workers' anger. They keep even the contractors at each others' throats, so they, the growers, are the only ones who make the big money. They size up

the contractor market and offer little enough that if the contractor doesn't believe that workers are slaves, and tries to supply them with water, toilets, decent wages, and food, then that contractor is the one who goes out of business. He leaves behind the rapacious ones—the traffickers in human trade.

So, then, this is the group that the Registration Act seeks to regulate, with the enforcement task thrown by the Nixon administration into the lap of the Wages and Hours Division of the Department of Labor, which has no extra personnel or budget designated for this task. It is a law that everyone here claims and knows is not enforced. Today we are discussing the amendments that claims to strengthen the law. One of the proposed amendments eliminates day-haul carriers, a major element of the contracting trade, from the act's coverage. Another changes the time of registration from once a year to once every three. It is difficult to understand how the effect of these amendments can be to strengthen the law in any way, since they have the two effects of diminishing coverage and weakening the efficacy of regulation of the few contractors who actually register under the act.

Senator NELSON. If I might interrupt to say that I think you are correct under those two provisions, and I don't think they will be part of any legislation that is adopted.

Ms. RHINE. I am happy to hear that, sir.

Some of the amendments are better—extension of the act to intrastate carriers, raising the amount of insurance, giving the Secretary of Labor subpoena and injunctive powers, adding a 6-month jail sentence to the $500 fine now provided for violation of the act—all admirable enough, but just not sufficient.

Other proposals have come to our attention which include a prohibition on contractors acting as strikebreakers, and make the penalties for repeated violations stiff enough to mean something. The union feels that these proposals by Senator Kennedy would constitute serious legislation aimed at doing something about these exploiters of our people.

But legislation of any sort, even with more appropriations and more people charged with enforcement, is inadequate to the task at hand. It is the growers who are the ultimate exploiters of farmworkers, and it is the growers who are responsible for the maintenance of the labor contractor system. The contractors never inform the workers of the existence of a labor dispute before they arrive at the field and have to lose a full day's work if they refuse to break a strike, and so they become part of the grower's arsenal of strikebreaking weapons, although that requirement is already present in existing California law.

Last summer, as Gallo prepared to sign a contract with the Teamsters after months of bad-faith negotiations with the Farm Workers Union, he knew his permanent employees would go out on strike in response. So he let it be known to all of the local contractors that he would be asking for their services. In fact, at present it is a Teamster organizer from Sanger who now acts as one of Gallos' contractors in furtherance of the unholy alliance between grower and Teamster in California.

The history of organized labor in this country has shown that it is only when workers organize and demand their rights and are vigilant enough to see to their own enforcement through union officers that the working conditions improve. It is only then that legislation goes through with the measures and appropriations to get the job done, along with the aid of worker vigilance. That is what we in the union have done—we have organized farmworkers. All of our contracts include the one way to control labor contractors—abolishment and replacement by a hiring hall with a seniority system. This means that the workers themselves, through their union, control the hiring system, and rationalize it so that those who have worked for years in the fields are not left jobless when they are no longer young and strong enough to catch the contractor's eye. They rationalize it so that people go to the same ranches over and over instead of never knowing where they'll be from day to day and having to move all over California from month to month.

You have here before you today representatives of the two groups who have combined to destroy the Farm Workers Union—the growers and the Teamsters. These are the people who are doing everything they can to wipe out the only union that has ever truly represented farmworkers, a fact evidenced by our calling the largest agricultural strike in California's history last summer against these same two powers. These are the people trying to destroy the only union that can really do something to remedy the manifold evils of the labor contractor system. And the Teamsters are the people guilty of the ultimate sellout of California farmworkers—the signing last March of a 2-year contract with the Farm Labor Contractors Association, from whom this committee has just heard, a group with an estimated 800 members—traffickers in human trade. The purpose of this agreement, according to Guinn Sinclair, the association's representative, was to deal a death blow to the hiring hall and Chavez's ambition to be commissar of California.

I might add, this makes his claim of neutrality in the midst of conflicting labor unions somewhat suspect.

The grower and Teamster representatives will probably tell you that your amendments are good, that they will help us all to control the evils of the contractor system, that they too want to regulate the contractors, all the more since the Teamsters plan to continue using them in their nonadministration of the sweetheart contracts they have signed. They will discuss each provision in detail—raise legalistic objections to some and praise others. None of them will support Senator Kennedy's proposals. They will make you feel that you are doing a good and useful job.

But if you really want to do something about the problem, go back to Washington and start drafting and passing legislation to abolish the farm labor contractor system outright, by requiring that all payrolls be paid directly by the grower, that the grower be responsible for compliance with Federal and State laws, and that whoever recruits labor for the grower is nothing more or less than his employee, which after all, is, in fact, an accurate statement, anyhow.

But we are not waiting for you to do that; we are not counting on you. The workers struck the fields last summer, and they will strike

again. Right now they are spending the winter in major cities across the country, fighting for the boycott of grapes, iceberg lettuce, and Gallo wine. We have won this way before, and we will win this way again, because we have the power of the working people in the fields—the Chicanos, the Filipinos, the Arabs, the Portuguese, the blacks, the Hindus, the Puerto Ricans, the poor whites—and that is a power that the combined forces of grower, Teamster, and labor contractor can never turn back.

Now, I have already introduced to you the people on the panel who will discuss with you the farm labor contractor system, the effects of your proposed amendments, the effects of the union hiring hall and the seniority system.

They will each give a brief presentation, and we will all be happy to answer any questions that you may have.

Senator NELSON. Thank you very much.

Ms. RHINE. We will begin with Jessie de la Cruz, a farmworker from Fresno.

STATEMENT OF JESSIE DE LA CRUZ, FARMWORKER, FRESNO, CALIF.

Ms. DE LA CRUZ. Senator Nelson, ladies and gentlemen: I would like at this moment to thank you for giving me the opportunity to speak here. I will talk about my experiences working under a labor contractor, as I have done most of my life, until about 4 or 5 years ago.

I will talk about two types of labor contractors, the licensed and the unlicensed. We have both types here in the valley and all over.

We are never informed of any labor dispute by a labor contractor. Mr. Sinclair painted a beautiful picture of what should be happening, and it is not. These labor contractors will take anybody out to work, whether they are skilled or not, and I am not talking about the 1930's, I am talking about up to date, the 1960's and 1970's. I had a few days to work under a labor contractor who drove us to Paso Robles and out in the fields there was a crew, about 15 or 20 of us, Chicanos, whites, and blacks. I was the only woman in the crew. I was there for the purpose of just seeing what was going on. It was about 100, over 103 degrees in the heat and the labor contractor hadn't shown up with the water yet, so all of us were thirsty. We needed water.

As soon as he drove up, his wife rushed out. She told us, don't walk from here, don't move. I will bring the water out here. She went up to the truck and she filled a gallon jug, a glass jug, and she came to the first person working in the first row and she said, "Do you want some water?" He was thirsty. He drank out of the jug. She went to the next one and the next one. She got to me, my mouth was as dry as can be, but I had never seen these people before—I am not a person who will not drink out of a glass of water from people that I know, that I see, but to have this lady come up and ask me if I wanted some water, I just couldn't take the water. I told her, "No, thank you."

Another experience I had was in El Centro in June 1972. I was out there working, picking tomatoes. These men out there saw some of us women were turning the vines over. They said "You are just a bunch of cattle working out here." I stood up and I said, "Sir, I'd

like to know where the restroom is." He said, "Do you see that white building out there, that's a restroom." It was about a half mile away. Why don't you take photographs and issue us one of them for all the good it is doing standing out there.

We know that there is a law, it had been in existence for years. We had enforced this law for sanitary restrooms and individual drinking cups, yet the labor contractor still refuses to abide by this law. He will take a restroom out to the field, but it is never kept clean. It is filthy. You just walk into those restrooms out there.

As for individual drinking cups, you will never find them. You will find an old can to drink out of. As soon as we run out of the first can of water, we ask him, we tell him we need some water. He says, "I have sodas and beer if you want to buy some." I ask you, do you think this is fair for the farm workers?

Us women, we are not the rumbling and tumbling type. We are excluded from work. They let those young or old women who will cater to them, bring them half their lunch, or just kid around with them.

Last summer my sister-in-law went to work for a labor contractor in Mendota. She was working out there and they ran out of water. She asked the labor contractor for water, and he said, "There isn't any more water. You can buy some sodas." She said, "I want water. I don't want any sodas. I could have brought my own." They have to pay twice the price for a can of soda out in the field that they would out at the store.

So finally they started for home after work. The bus had a flat tire between here and Mendota. Ain't nobody fixed that tire, so all the crew had to walk home. That included women, children, and men, teen-agers, who had to walk and they got home after dark.

She finally quit, and after driving three or four times to this labor contractor's home to ask them for her pay, his wife came out and said, "He is not home." She didn't get paid until about 2 weeks later.

Another thing that the labor contractor is doing is competing with each other. The harder they push the people, they know that they will get the job for the next year. I know this because my husband used to be a labor contractor. He was a contractor for 3 or 4 years in the 1940's and part of the 1950's on the west side of Fresno. Since he refused to cheat any of the people out of their wages, he just had to quit. He wasn't making anything. He quit. He said, "I can't rob these people out of their wages."

The labor contractor never goes out to work. In many cases we didn't never see the labor contractor. He hires a man to drive a bus and push the people and he is called a field boss. They pay every day. Most of the labor contractors pay cash every day. Some of these labor contractors give out a statement as to how much money you earned, but they don't write down how much deducted. They deduct, under miscellaneous, they will write 75 or 150, but that is to take them to work and back. That is charging a fee to these workers to take them out to the field.

Another thing they do, where they have these people out in those buses, they will have water cans, they will have hoses which are sharp

and people can get hurt. These are the labor contractors who pay their dues or are licensed.

Now, in Huron there is a Mr. Minnell Grammos, who gave a petition for anybody to work to have to sign a Teamster card. Some of our own people had to sign with him because they needed work. They came back to our office and they said they didn't want the union. They just retracted their signatures. They said their signature was not valid, but they had to work.

There was an announcement last Friday, a week ago today, a labor contractor asking on radio KXEX, I think it was KXEX, he was recruiting for onion planters. In these words he said, "Bring your children. You can make a lot of money planting onions." I think there are laws that say that children cannot work out in the fields under 12, but you will go out there and you see 7-, 8-, even 5-year-old kids planting onions and picking chiles under a labor contractor and getting exploited along with their parents.

If I am to go out there and weed beets, which I have done, with a short hoe handle, the labor contractor probably gets about $16 an acre to thin these beets, and he will pay us $1.50 or $2 a row, which in the end will amount to about 6 or 8 dollars an acre. That means he is keeping more than half of our wages. They will never ask for gloves or protective garments for the farmworkers.

The only changes that we have seen is through our union. We have a seniority list where our names are called as soon as we are needed to work. We will go out there, the workers choose a steward, and this steward is there to see that we get protective garments, that we are not made to walk as pigs in a mudhole doing our work. We get gloves. If there is anybody hurt, the steward takes care of that. She will get a form out for these workers to go see the doctor. We can stay in one place, send our children for better education, instead of having to migrate all over the State as we used to do.

We have become skilled on any type of job that is required of us and we are not asked to ride along with the labor contractor after working hours to join him at a bar. The labor contractor goes out during the grape-picking season. He buys picking pans and knives by the dozen and he will sell them to the workers at over twice the price that he paid for them. He also will take you out to pick. The farmer might tell him, "I will pay 7 cents a tray." In turn he turns back and tells the people, "You will be getting 5 cents a tray." That is besides what he is being paid by the farmer, which might not be enough, but if he is not satisfied why not join us to work instead of just standing around and watching us work? He can work; he can support his family out of the same sweat out of his forehead that we have to shed every day when we go out to the field.

In contrast, most of these labor contractors own these half a dozen trucks. I know Mr. Gordon Meil does, and he owns property that he has been able to pay for, beautiful homes, out of the sweat of the farmworkers.

About 3 years ago, I think the newspapermen and some of the people who were here at this time will recall that one of the black labor contractors shot one of our pickets out on the picket line when we were picketing the Videll Ranch in Caruthers. We already told the sheriff's department that these men had a gun. He followed him

one time and came back and told us, that is a toy gun he is carrying around. The second time he took out a shotgun and he pointed it at us. We told the sheriff and the sheriff followed him and told us that it was a shotgun but it was not loaded. The third time the man was shot.

We can thank God when these labor contractors are out of business. If it wasn't so sad, I would probably think it was funny or that it came out of a fiction book, but it is a sad thing to have to live through and watch your children exploited along with us.

Thank you.

Senator NELSON. In those cases where there are violations that you mentioned, children working under age or violations of the law or inappropriate sanitation facilities and so forth, does anyone report those?

Ms. DE LA CRUZ. We do.

Let me tell you about an instance where Mr. Nicholl Engar had a restroom out in the field. Some of the women came to me and told me, he does have a restroom but he doesn't take it out to the field to us. He keeps it in the shed. It is brand new. So I called the Sanitation Department here in Fresno and I told them. I heard a report that this grower had restrooms and wash basins and water in individual drinking cups the next day when the Health Department was out there. The Health Department told him they were coming, which happens in many instances when we report anything like this with the Health Department or the Immigration Department. They let them know that they are coming.

After the Health Department left, this restroom went back to that shed and stood there for weeks and weeks. It doesn't do any good to report anybody. Nothing is done about it. The only way it will be done is through the union, as I mentioned before. Where I work, some ladies, when we first started working there, they had their children in the car. So all of us, all of the women there said, "You either pay a baby-sitter or you stay home and take care of them." The next day she didn't bring them out. There are no children out in the fields at all where we have a signed contract with the grower. We see to it. We the farmworkers see to it, and we see to it that we have clean restrooms, that we have clean drinking water, that we have individual drinking cups, everything that is needed. The labor contractor will never do it for us.

Senator NELSON. Who handles the payment of the workers and who handles the transportation?

Ms. DE LA CRUZ. The transportation is supplied by us. We drive our own cars to work and back. But if I get sick during the day working for a labor contractor, he is not going to drive me back during half of the day. In the union we have our own cars. We go out there and drive back.

Senator NELSON. Wait a minute. Everybody doesn't have a car?

Ms. DE LA CRUZ. We get a ride with some of our neighbors.

Senator NELSON. So you do not have any bus transportation?

Ms. DE LA CRUZ. No, not where I work. There might be some at other places, but not where I work.

Senator NELSON. Who keeps the time records and pays the workers?

Ms. DE LA CRUZ. We have a crew boss who is a union member. He is there with us all day long seeing that we do a job that is required and he keeps track of all the vines that we tie or the hours that we put in and that we do a good job. He hands this report in to the supervisor and the supervisor hands it in to the man at the company who gets out the payroll, and the supervisor comes out once a week and he goes from row to row giving us our check. As a matter of fact, we got our check yesterday.

Senator NELSON. Thank you very much.

Ms. DE LA CRUZ. Thank you.

Ms. RHINE. The next person to testify will be Guadalupe Murguia, who is a person who has not yet been introduced, a farmworker and director of the Delano Boycott.

Daniel Castro will translate.

STATEMENT OF GUADALUPE MURGUIA, FARMWORKER AND DIRECTOR OF THE DELANO BOYCOTT

[Mr. Murguia spoke in his native tongue, translated by Daniel Castro.]

Mr. MURGUIA. First of all, I would to thank the Government officials for coming here. It is time that the Government is to be concerned and something is to be done for the migrant farmworkers.

I would like to talk about the contractors. In 1965 I was working for a contractor in Mendota. I was promised that I would be paid $1.50 an hour for picking cotton.

Senator NELSON. This is 1965?

Mr. MURGUIA. 1965, yes, sir. I was promised that I would get paid $1.50 an hour for driving a cotton-picking machine. In the mornings I picked alfalfa and rye straw. When the time for getting paid came, the contractor told me that I would get paid $1.25 and that he would give me half of it in cash. I became very upset. I told him to keep that money because he had promised to pay me $1.50. Three days later I went to his house. I demanded that he pay me and he shut the door in my face and said that he would not pay me.

I went to see a friend that I had in Fresno who told me to file a complaint with the labor commission. So we filed a complaint and 2 weeks later I got my money, but in the process of getting my money I had already lost 4 days of work.

There was another case in which I went to work for a contractor who picked up and took over the migrant labor in the ranch where I was working and discovered that they were paying $2 a row and each one of the workers was getting paid $1 a row. This contractor did not provide water for the workers, did not provide toilets, did not provide drinking cups.

In order for the women to go to the bathroom, they would have to form circles to enclose the person who wanted to go to the bathroom, or they would have to walk way far into the fields to go to the bathroom.

In 1967 I moved to work for a man and the rows were a half mile long. Water was always placed at the other end of the row, so if we wanted to drink water, we had to walk all the way, we had to finish the row first before we got to drink water. Now, if we wanted cold

water, we would have to pay 5 cents a head so the contractor could buy ice so that we could drink cold water.

In 1967 I moved to Delano. I had been then a member of the union for 4 years. That year I went to work for a man in Bakersfield. I discovered that the contractors were using illegal aliens to work. They were paying half of the salary that we were getting, which was then $1.40 an hour. We had to get up early, at 4 a.m., and wait for the buses and at 5 a.m. when we would be picked up by these buses or even by the contractors. Once we would get to the field we would have to wait for 2 hours before the field would dry up because otherwise we would get too wet if we went on working. We weren't provided with any kind of clothing to protect us against the wet fields.

OK, at that time in 1967 the union came to organize workers in Delano. We asked to meet with Delano. We met with him. We asked him to raise our salary 10 cents an hour. We called him and he said that he had no money to pay us. But he said that if Chavez would come into the fields he had $3 million to fight, available to fight against him, to defeat our strike.

So in August we went out on strike. The contractors remained in the fields using illegal aliens as laborers. I can think of two contractors who recently have broken our strike in Coachella and Lamont. A week before we went out on strike, these people pulled me out of the car that I was in, beat me, and sent me to bed for a week. I went to a policeman there and to this day I am expecting to get some sort of satisfaction. I filed a complaint and nothing has been done.

I believe it is time that the government do something to eliminate the contractors. The contractors are the torturers of the farmworkers. They torture the farmworker for the grower. These people not only exploit the farmworker but also the owners, because in their payrolls they use grandchildren, great-grandchildren, children. As an example, we discovered that the contractors had people on the lists who had been dead for 4 or 5 years. That is one of the reasons why Freeman Ranch had always signed with the union.

Senator NELSON. What is the advantage of the contractor carrying somebody on the rolls who is deceased?

Mr. MURGUIA. The advantage is that the contractors do piecework. They work by contract work, what is known here as contract work. The company pays for the people that the contractors has on his payroll, so the advantage would be that these dead people are made to pass as if they were actively working, so the company is paid for these people working.

When the supervisor checks and asks for these people, the contractor tells him that these people are somewhere else, that they are somewhere among the vines or something like that. The work is done by the people hired by the contractor because the contractor pushes these people to finish the work.

That is all. Gracias.

I hope that the things that I have told you will be useful in helping create a law to eliminate the contractors from the fields.

Senator NELSON. Thank you.

Ms. RHINE. The next person will be Pablo Espinosa, farmworker and local director or Arvin-Lamont.

33-491 O - 74 - 4

STATEMENT OF PABLO ESPINOSA, FARMWORKER AND LOCAL DIRECTOR OF ARVIN-LAMONT OFFICE OF THE UNITED FARMWORKERS UNION

Mr. ESPINOSA. Senator Nelson and members of this committee:

I want to thank all of you for my opportunity. I am going to share some of my personal experiences. I have been in the State of California for 12 years. I am the father of five kids. I have worked in these areas with various growers, with various labor contractors. I have had many experiences.

I will talk about one of the labor contractors, when he came into Tulare County, he was just as poor as any one of us. But he learned his way how to make a living out of the toil of the farmworkers. I can't tell you briefly how we the farmworkers are screwed by the labor contractors combining with the grower. You see, when you pick wine grapes you pick it by the gondolas or the tank.

Senator NELSON. You mean you get paid by the amount you——

Mr. ESPINOSA. You get paid, you see, the grower pays the labor contractor by the ton, but we get paid by the tank. OK, you are supposed to put in a tank 2,000 pounds and you get paid—I don't remember exactly because this happened in 1964 or 1965, whether it was $6.50 or $7 a ton. Anyhow, we don't have any scale. We just fill up the gondola to where we more or less think it is 2,000 pounds. The labor contractor always forces us to overfill the gondola. We get paid, let's say, $7 for a ton, and on many occasions we take out of the gondolas a ton and a half, and we only get paid for 2,000 pounds.

At least with the union, the Christian Brothers, the people have a scale. The people get paid for what they pick. Before they put it in the gondola, they weigh the tank with the grapes in the gondola. If you have one or two tons or whatever, you get paid for that.

Senator NELSON. Is that scale right?

Mr. ESPINOSA. Yes, it is checked by the company, and not only by the company, it is checked by both parties, the ranch committee and the company.

Senator NELSON. Is the scale right there at the field?

Mr. ESPINOSA. Oh, sure, it is in the field. That hand has got to be straight on the zero. It doesn't go forward or backward. They have a ranch committee and the scale is inspected by the ranch committee and by the company managers.

Senator NELSON. You must have a state inspection, too?

Mr. ESPINOSA. Yes; yes, it does. That is one way, I mean, to eliminate the abuses from the labor contractor.

Now, we can talk also about here in the State of California 7 or 8 years ago they had State minimum wages. That law is violated over and over and over, hundreds and thousands of times every single day. They have 10– or 20–minute rest periods during the day. That law is violated, you know, every single minute out in the fields.

The toilets, those toilets are dirty and stinking. During the summer, 105 or 110 degrees, nobody could go in and stand one second inside of that toilet. Many times we are forced against our will to use it because of necessity, we have got to use it.

All of those people that work outside of the union contract still carry water in gallon jugs. You have seen those jugs that Clorox

comes in. They carry the water out in those jugs out in the field. The labor contractor says it stinks.

For the labor contractor, first comes the money, then comes the human. For the grower, first comes the crop, then comes the human being.

The labor contractor and the grower will join forces against the worker and against the union. I have a letter with me from a grower by the name of John Cavalovich. He had working for him a labor foreman by the name of Gregoria. This guy was working as a working foreman. On December 23 I wrote a letter to Mr. Cavalovich. The reason for my letter was because this guy was getting an incentive. He was working as a working foreman. Anyone who works under the union as a working foreman, you cannot get an incentive. You get a straight rate. You don't get so much a tree or so much a bush.

This guy was getting a salary. On top of the salary, he was getting so much a tree, 50 cents a tree or 25 cents or 40 cents a tree. I asked Mr. Cavalovich what was the position of Mr. Gregoria with the company because I knew he was a labor contractor. Mr. Cavalovich answered to me, he said, In answer to your letter on December 23, Mr. Gregoria—another supervisor, Mr. Manuel is the company field timekeeper and also a supervisor of certain jobs. Mr. Gregoria is a supervisor in the fields, work operations. At the present time he is supervising a crew.

Mr. Gregoria was a labor contractor before the union came in. We thought we eliminated the guy. Mr. Cavalovich covered him by stating he was a union supervisor. He worked for a long period of time down there. We found out that Mr. Gregoria was a labor contractor.

They have refused to negotiate a second-term contract with the union. He got Mr. Gregoria to declare himself again and went back again to Mr. Cavalovich as a labor contractor and bought people and broke the strike.

Many times the labor contractor does not only steal money from the worker, but he steals money from the grower. With the union we can eliminate these people. No more deaths; nobody claims dead people.

Some of the people mentioned awhile ago, they said that the labor contractor, when they go to work for the grower, the grower doesn't come around. I used to work for a labor contractor where he used to come and tell me, put two or three more people on the books. Put so and so and so on. Well, so and so don't exist, I would say. Well, you put them on. Who pays for that? The grower. It happens here in this area. I know of some growers and I know of some labor contractors, people who used to be foremen for labor contractors, do the same thing. People who died 20 years ago are on the books, the people paid for it.

Another thing, many labor contractors have boarding houses where they are boarding people, where the food—many times the dogs wouldn't even eat the food because it is bad, that bad. They bring wine to the labor camps, which is a violation, without any license. They sell cigarettes without a license. A bottle of wine that sells for 39 cents, 29 cents, a guy who has a habit pays $1. If they sell cig-

arettes, they double the price. That not only happens here but all over the State where the labor contractors are and where there are migrant labor camps.

I know of two labor contractors who quit and gave up their license because guys have told me that in order to make a living you have to steal, and whoever stands in front of you you have to steal, otherwise you can't make a living. These people gave up their license because they didn't have God's will to steal farmworkers' money and they gave up their license.

We can talk about it here—I can talk to you for 24 hours and probably that wouldn't be enough even. In the 6 or 8 years that I have worked in the fields, we suffered a lot of experience. Here in this county there have been more violations of child labor law than any other place in the State.

Senator NELSON. How often do those violations get reported to the California authorities or to the Wage and Hour Division of the Labor Department?

Mr. ESPINOSA. Senator Nelson, we are tired of making reports and nobody does anything. You can ask the Labor Commission in Fresno, how many reports they make. What do they do if they see there is a place with no toilet? They go and ask the grower, what happened to the toilet? Oh, they say, I forgot. They bring it down. People move out to the next field and the toilet stays there where they brought it the first time. Then you report again to the Labor Commission. The Labor Commission comes for the second time. Do you know what they tell the grower—don't do it again, bring the toilet. But nothing has happened. Our wives and our daughters, you know, they still have to hide behind the cars as a toilet and behind the trees. How many labor contractors do they want to be true, if they are doing really a necessity or want to take a break.

Those things probably might be hard for you to believe. but it is not hard for us because we suffered those experiences on a daily basis. The grower knows about it, too. If you go to a grower that has a labor contractor working under his supervision, you ask the labor contractor, how come he doesn't have toilets. He says, it is the grower who is supposed to have toilets. The grower says that is what he paid the labor contractor for. They are arguing back and forth.

It is as much blame to the labor contractors as the grower. There is no doubt whatsoever that the grower prefers to have labor contractors because you know it is against the law to bring in winos. people whose mind is not normal, because he is an alcoholic, and that person has to climb 8 to 10 feet on a ladder.

I hope that you will have time, and I can take you right down to the fields and show you what we are talking about is true. It is not something that we read in the books, it is something that we suffer on a daily basis, every time we go out to the fields.

How many people still leave their kids in the cars? How many kids are still crouching under the vines and under the trees while their parents earn their living?

Anyhow, one other point that I want to point out. I know a labor contractor in Fresno County who used to work as a grower, Mike Del Monte. The year before we came in, he did the thinning on tree fruit. Then we came in the second year and we asked how much he

was going to pay in the thinning on the tree fruit. He said, "I am going to pay what I paid last year." None of us knew what he was paying last year, and he was paying on the labor contract. I said, "We have got a labor contract. You have to give it to the people at 51½ percent." He said, "No; no, I am not paying more than I paid last year." Then finally we gave up the argument and finally I asked him, "Well, how much did you pay him last year?" He said, "I paid $1.75 a tree."

O.K. Do you know how much this guy, Mike Del Monte, was paying to the worker, $1.25 a tree, and how much was he making a tree, 50 cents a tree, and the people were making from 30 to 40 trees a day.

Senator NELSON. Do you mean the contractor was being paid a dollar what per tree?

Mr. ESPINOSA. $1.75.

Senator NELSON. What kind of fruit was this?

Mr. ESPINOSA. Peaches.

Senator NELSON. He was paid $1.75 and what were the workers paid?

Mr. ESPINOSA. That is a flat rate, $1.75, and the workers, out of $1.75, were getting $1.25.

Senator NELSON. How many trees a day?

Mr. ESPINOSA. The workers a day, 60 trees some of them, not all You have workers who make 8 or 20 and others make over. It all depends on the worker, fast or slow.

We came in and we eliminated that contract. The worker was getting $1.75 straight. We encouraged them, you have to do a good job. The labor contractors, they were carrying a big stick, about four feet long, ruining the tree completely. When we came in, we told the workers, we want you to do a good job, because the grower will be paid more and that money will have to come out of the peaches. That labor contractor, the company terms him as a supervisor and he was getting an incentive underground.

I want to thank all of you for your time and for hearing my short statement. I hope that the information that we have given to you will not take another 37 or 38 years, I hope that soon there will be a law to eliminate these exploited people.

Senator NELSON. Thank you very much.

Ms. RHINE. Next will be Daniel Boone, an attorney for the Farm Workers Union in Calexico.

STATEMENT OF DANIEL BOONE, ATTORNEY UNITED FARM WORKERS UNION, CALEXICO, CALIF.

Mr. BOONE. Calexico, Calif., is right on the border of Mexico. You have been interested today in the responsiveness of Government agencies to law violations or the plight of the farmworker. I would like to speak briefly this morning about one example of what we would see as the callous disregard for violations of the law.

On about 3 a.m. on January 15, 1974, there was a crash of a bus owned by labor contractor Jesus Ialia. Most of these workers on the bus lived across the border in Mexicali and came across the border each day to work. They are authorized to work in the United States

although they are Mexican citizens. Their destination was a lettuce field. They were to be bussed there by the labor contractor.

Senator NELSON. Was this just for daily work?

Mr. BOONE. They are hired on a day-to-day basis. The fact that I as a farmworker would be hired today is no assurance that I would be hired tomorrow, and they were paid $16 a day and that $16 was for their 8 hours of work and no pay for the 4 or 5 hours of transportation to and from the fields.

The driver of the bus had the job of driving 100 miles to and from the fields, servicing and gassing the bus, and also working in the field during the day. The day before this accident he had gotten home about 7 p.m. from taking the trip up to Blythe and back. He was a regular employee. He went to bed about 9 o'clock. He got up at midnight to gas and service the bus and prepare it to pick up the workers at 3 o'clock, so his work day was something in the neighborhood of 19 hours.

Sometime about 6 a.m. on the 15th the Ialia bus plunged into a drainage ditch about a mile from the field in Blythe, California, killing 19 and injuring the remaining 28 workers. The bus failed to make a right turn and flew some 68 feet in the air at an estimated speed of 55 miles per hour before crashing head first into the bank of the canal. Then it came to rest on its left side straddling the bank of the canal. All of the windows broke, allowing water to flow freely into the bus.

The growers and labor contractors and government authorities in the past few weeks since this happened, their uniform response has been, well, accidents happen. The man was driving too fast. It is one of those things. And it wasn't anybody else's fault.

The farmworkers in the Calexico area know that these deaths and these injuries resulted from criminal actions on the part of the growers and labor contractors, and that could have been prevented but for the system we are all describing this morning.

There were many, many safety violations existing in this bus. The bus was overloaded. The capacity written on the side of the bus was 45 and there were 47 people in the bus. People were sitting on water cans in the front of the bus. The emergency breaking system in the bus was inoperative. The voltage regulator was defectively installed. The wiring in the vicinity of the lights and ignition was in very poor condition. The exhausts from the engine were not released from the exhaust pipe underneath the bus but behind the bus so it came up in the passenger seats. There were holes as large as three or four inches in the fire wall between the engine and the passenger section, right in front of the driver, so carbon monoxide and other gasses could come right into the bus.

Mr. Ialia, the contractor, was transporting minors to and from the fields without work permits as required by the law. Most seriously, when the bus came to rest in the canal, it was straddling the canal, and only 28 inches of the bus were under water, yet in that 28 inches of water 19 people drowned. You might ask why so many in so little water? At the impact of the bus, as the bus hit into the bank of the canal, every single seat in the bus came off the floor, crashed into the front of the bus, and as the bus went on its side, all went to the left. People were crushed and buried.

The bus seats were held to the floor by screws 3/8 of an inch long and 5/16 of an inch long. California law requires that bus seats be securely fastened. There is a California law against all of these other violations.

No one disputes, none of the investigations that have been carried on so far disputes, the fact that these people would not have been drowned if the seats had remained in place. There have been no prosecutions of Mr. Ialia as a result of this accident. His license was renewed 11 days after the accident.

The California Highway Patrol (CHP) response to the inquiry as to why the seats were not fastened to the floor, the law required that they be "securely fastened", and the CHP response was, well, they were fastened. This is an unusual impact; the law has been complied with. But we know that the laws are not enforced. Mr. Ialia is probably going to have a lot of trouble as a result of this, so we don't want to give him any more trouble. It would single him out if we were to take the unusual step of enforcing the law in his case.

When asked about the accident, the High and Mighty Company—a fitting name, I think—the people were being taken to the fields of the High and Mighty Company. They said they didn't know anything about it. The company foreman had just asked contractor Ialia to bring up a Mexicali bunch for his day's need of labor. The company by the use of the contractor had insulated itself from any responsibility for the actual payment of the workers, withholding of disability and unemployment insurance, disability of workers either in the field or on the buses. The labor contractor was given the task of hiring and firing and transporting the workers and taking care of all of those other matters.

The fact that the grower would tell the labor contractor where the people would work, how many workers were needed, that they would be fired if they didn't work properly, and the direction and the course of their work is not recognized by the law.

All of the testimony today would bring home the concrete and painful fact that labor contractors are used by the real employers, the growers, to maximize the economic insecurity of the worker, by adding this additional level of competition, and the competition leads inevitably to the contractor cutting corners. It cheats the growers some and cheats the workers more, cutting corners as to safety, cutting corners as to bookkeeping, keeping records. If Social Security payments are not paid, the man or woman has no record that he or she worked for years and years, so sometime when there is a disability or old age, write into the Social Security, it turns out that somebody has only worked two quarters although they have been working for years and years because the records have never been kept.

Senator NELSON. There is a provision in the law that if you can prove, in fact, that you have worked, as I recall it, you could still collect your social security even though there were not proper or appropriate records. Do you have many of those kinds of cases?

Mr. BOONE. Many of these people are being paid on a cash basis from one day to the next. Maybe pay stubs are paid over a period of

time. People do carry around their pay stubs with them because it is the only proof that they have worked. It is again kind of a problem.

Senator NELSON. The labor contractor under the law is required to file a quarterly statement on social security, isn't he?

Mr. BOONE. I don't have as much direct experience as some of the other people have to respond to how often that is or is not done, but people are oftentimes paid either on a cash basis or they receive pay stubs. I have seen many pay stubs where either income tax or social security is not reflected in the pay stub. They are written in English; people don't understand. It doesn't even reflect that any money was withheld.

California has a wide variety of laws dealing with interstate labor contractors, with day haulers. Many provisions are involved with the various amendments and proposals before the committee now; these sections of the California Labor Code specifically dealing with labor contractors require licensing, insurance, posting of bond, revocation of license for failure to pay unemployment insurance, revocation of license for giving false or misleading information to workers, failure to give them pay stubs, failure to inform the workers that there is a strike in existence and, of course, all of the other safety violations that we are talking about.

Violations of these sections are misdemeanors. In the Annotated Labor Code for California, under these particular sections, 1682 to 1699, there has been no litigation under any of these sections. Annotated codes have a list of the cases; there is not one single case involving the interpretation, the application, or the dispute around any of these sections. The reason is that there hasn't been any enforcement.

Just as I think one of the documents that we have sent out said that, although under the Federal law there had been some investigation by the Department of Labor, there had been no prosecutions and no convictions.

Am I correct, there had been no convictions?

Ms. RHINE. No. There had been 100 percent violations. Every single investigation showed a violation, 100 percent. There not only have been no prosecutions or convictions, but nobody had their license revoked or suspended. That was in the materials that were sent out with regard to the Kennedy proposals.

Mr. BOONE. Based on all of this, it seems, I guess, clear, that it is no accident that deaths and injuries like this take place. It is no accident that 20-year-old buses with the kind of safety violations we are talking about exist. Mr. Ialia's bus is far from the worst. It is no accident that High and Mighty Co. refuses responsibility for this.

Senator NELSON. What are the California State standards for buses that transport people other than the owners?

Mr. BOONE. Senator, there are laws having to do with busing of children in terms of safety violations. There are requirements probably for interstate buses and utilities.

One exception to many of those rules had to do with farm labor buses. There is an exception, I believe, in the California law having to do with farm labor buses. Even under just the general vehicle

code sections, there are proposed laws that require, for instance, that the seats be securely fastened.

Senator NELSON. But there is an exception—they don't require standards of safety of the equipment that are imposed upon a common carrier like Greyhound or a schoolbus?

Mr. BOONE. I do not believe that the same rules applying to a Greyhound bus would apply to labor contractor buses.

Senator NELSON. Do you have a State automobile inspection law in California?

Mr. BOONE. Yes, there is an administrative code which sets out particular regulations specifying general requirements in the California vehicle code, and there are no particular inspection procedures for buses.

Senator NELSON. There is no formalized requirement that a bus that hauls people, other than the owners, for hire, must be inspected on some annual or semiannual basis?

Mr. BOONE. Certainly not for the licensing requirement of the labor contractor. The highway patrol has said that they have done some spot checks in the Imperial Valley. They found that every bus they inspected had a violation. They said their practice was not to inspect buses during the day when they were being used because they didn't want to interrupt the transport of the workers to and from work, so it is done, I think, when reporters went to see them. They said that several months ago they had inspected four buses. There are hundreds of buses that go out of Calexico every day, of course.

Finally, as in many other cases, we would contend, and I think others more persuasively, that it is no accident that these injuries and deaths occur and that, coming from our perspective, we can feel so strongly. I mean, this whole panoply of laws that exist in California, to the reality of it, they are words on a page, and we need something more.

Thank you.

Ms. RHINE. Next is Pablo Garcia, a farmworker from the Imperial Valley.

STATEMENT OF PABLO GARCIA, FARMWORKER, FROM IMPERIAL VALLEY, CALIF.

Mr. GARCIA. Good morning, Mr. Nelson.

In the first place, I would like to tell you that I came here in 1952. I worked for a contractor named Syval Espinosa. I worked 2 months and when I asked for my salary he told the police and I was arrested for being an illegal. I was going to get 10 days, but, when I explained my situation to the judge, I got an extra 5 days in Fresno, Calif.

I was told by the judge that it was outside his jurisdiction and that I should explain my problem to Immigration. I served the 15 days. I went finally to see Mr. Espinosa to demand my salary, and he threatened me with calling the police. At that time I didn't wait around. I left.

I would like to talk about social security now. I am a migrant worker from the Imperial Valley. I work in plums, cucumbers, garlic. When I work picking cucumbers, we never get a check stub. The contractor takes the social security number of the whole family. From

my check he discounts a certain amount of money for social security. At the end of the harvest, he gives us back the money that he had taken for social security. That way we have no protection, no social security protection, for our old age.

Senator NELSON. I am not sure that I exactly understand that. There is more than one member of the family working, and they take social security deductions from all members and then return this tax?

Ms. DE LA CRUZ. He gets his check, but when he starts working, all social security of the whole family is written down. On payday he gets one check for the whole family, everybody who works, and social security is deducted from his check. After the end of the crop, on this statement, Mr. Ishimoto, or whatver his name is, spreads the social security that he deducted from his check to all of the social security in the family. Then he sends in the statement.

Senator NELSON. Let me understand this. Does Mr. Garcia in this case get credit for his social security and the other members of the family do not, is that what you are saying?

Ms. DE LA CRUZ. They get credit, right. At the end of the harvest or when the statement is due, this grower, say, he deducted $150 from his check for the work of the whole family——

Senator NELSON. You are talking about social security?

Ms. DE LA CRUZ. Yes. He deducts social security from the work done by the whole family in his check under his name. When he sends in the statement, the $150 deducted from him is spread for all of the social security, which does not give him a certain amount of money under social security to send in to the State.

Senator NELSON. I still don't follow you. The law requires a separate withholding statement to be filed by name, by social security number, for each individual employee. You are now saying that the contractor withholds all of the social security from all five members of the family, and then when they make out the report, what does the contractor send to the Social Security Administration?

Ms. DE LA CRUZ. He is talking about where not each member of the family gets a check. It is only one check made out for him for the whole family.

Senator NELSON. You are talking about social security?

Ms. DE LA CRUZ. Yes, and social security is deducted from that certain amount that he gets paid and toward the end of the year this money goes under each social security number, even though they didn't get a check. This check was made out to him and the money was deducted from his paycheck. The grower explains to him that in order for him not to have to pay social security, the grower will not pay social security, he pays it out among all of the social security numbers.

Senator NELSON. This is because they don't earn enough money to require the payment of social security?

Ms. DE LA CRUZ. Yes.

Senator NELSON. I see. All right.

Mr. GARCIA. Some of the women are left with large families. The foremen and contractors make sexual offers to these women. If these women do not accept, then they are threatened with being fired, and they are fired.

If an older person comes to us for work, they laugh at him. They say, if you have pretty daughters, we will give you work; if you don't, we won't. If a woman complains to the police or to H. & D. employment office, it is the same as complaining to either one, because their voices are not heard. H. & D. has protection for everybody but the worker.

Under union contracts, there is no distinction of age, sex, religion, or national origin. Having union contracts there is due protection, consideration, and security. Without a union, like the gentleman whose name I don't know said, the contractors write down ghost names. They write down the names of their lovers and their daughters.

Many young women who have nobody to support them, whose parents are too old, who have children going to school, because of their need, must submit to the whims of their contractors and the foremen.

That is everything I have to say. Thank you.

Senator NELSON. Thank you, Mr. Garcia.

Ms. RHINE. The last person to speak on the panel will be Jesus Solano, a farmworker from Calexico.

STATEMENT OF JESUS SOLANO, FARMWORKER, FROM CALEXICO, CALIF.

Mr. SOLANO. I am going to speak about three subjects. First it is about improper toilets and the use by the contractor of pushers and laws not enforced except for the growers and contractors.

First, what is a pusher? A pusher is a person who is paid $2 or $3 extra of their daily salary to push the people to work harder and faster. In this way the growers and contractors obtain more work than what they should out of the people, more than what they are paid for. This helps the contractor because the contractors are paid by a percentage, by the acre and by the hour, in which the people work. Women, young people, old people cannot work at this speed because it is almost, you can call it, piece-rate speed. It is too fast for them. Automatically they have to stop or else they get fired. Also, if you are a good worker and a contract worker or forman tells you to be a pusher and you do not accept, you get fired. OK. Now I am going to go over toilets.

Senator NELSON. How can just one other worker in the field effectively push somebody else to do more work?

Mr. SOLANO. You see, these people they pay them $2 or $3 more. This way they are the last ones to be fired. This way they have their jobs secure. That is what they call it, you know, that they are the last ones to be fired from that crew.

Senator NELSON. What do they do as pushers?

Mr. SOLANO. Oh, they pull the people, you know. They give rights, especially to women or something like that, or people that are related well with the foreman or with the contractor. If you stay in the back, you can never do the work that two people can do at the same time. You can never do that. A person can never work as far as two people at the same time. If you stay behind, you get fired.

Senator NELSON. But still exactly what does he do, the pusher?

Mr. SOLANO. He is thinning or hoeing, whatever work they are doing. Just by giving you rights, you know.

Senator NELSON. He is a worker just like everybody else?

Mr. SOLANO. Yes.

Senator NELSON. He is getting an extra $2 a day for being a pusher?

Mr. SOLANO. Yes.

Senator NELSON. As a pusher, I am inquiring exactly what does he do?

Mr. MURGUIA. Senator, there are two persons, a worker plus this foreman working on the same row. They push you, they tell you to go 20 feet far from me, I will help you. He is pushing you. He is helping you. He is taking you ahead of other workers, whether you are pruning, whether you are thinning, regardless of what you do. There are two persons working in one row.

Senator NELSON. One of them has some status of a quasi-title?

Mr. SOLANO. Yes; and the other is another worker. You cannot work at the same speed as the other two persons working on one row. Do you follow me?

Senator NELSON. Yes.

Mr. SOLANO. That is why they call them pushers. They have a lot of names, jokers, pushers, man with a whip.

Ms. DE LA CRUZ. Mr. Nelson, I would like to clarify that a little. You see, that happened to me when I was working. I would be working in my row along with the other people. We were just even, maybe a few would be a few feet away from me, up front, and some behind. This pusher would come up to me and say, get ahead of the people. I will take the row right here. So I would walk ahead of the people, you know, and he would start doing my row. Then he would go to the next one that was behind and he'd say, go up ahead of the people. Then he'd come and do that row.

They don't only have one, they have two or three of these people to keep them ahead of the rest of them, to keep pulling the rest of the workers.

Mr. SOLANO. If you don't keep ahead of the people, you get fired.

Senator NELSON. I see.

Mr. SOLANO. They want to work you at piece-rate speed, but they are paying you by the hour. You see, that is the kind of people that the contractors use a lot of because they get paid by a percentage, by the acre or by the hours.

Senator NELSON. I see.

Mr. SOLANO. Instead of having two, combinations of two, one for the women and one for the men, they just have one. Most of the time they are all dirty from the inside. You can't use them. Without toilet paper, without water to wash your hands. If you wash your hands, sometimes the water has been there for months and you get infected, your face or your hands.

Most of the times, to avoid paying rent and cleaning of the toilets, sometimes they put them far away from the people so that the people will go once or not at all during the day because they say you lose working time and you have to work more.

The laws are not enforced except for the growers or the contractors. For example, you have an argument with the contractor or foreman, you get fired, unjustifiably. You have to go to the Labor Commission office. You go there and the Labor Commission office gives you a form to fill out which is to make this complaint against the grower or the contractor. The Labor Commission will tell you, come back in 1 week or 15 days. You come back and all they say is, we don't have enough proof. You have to get some more proof or we can't do nothing to help you. Even if you get some more proof, they just keep saying the same thing.

Why? Because sometimes the Labor Commission officers are related to the growers or the contractors. They are related or simply friendship or sometimes they give them money. So, you see, you can never do nothing. They never help you in any form. They just tell you to come back, come back, that's all.

Like I said before, I am a union member and I work in a union company. I think it is way better seeing there is a union contract because you get your break hours and your lunch hours at the proper time, fair treatment. You are treated like human beings, like people, not like slaves. You have protection from the growers and from the foremen. You work 8 hours a day and you are assured to work 4 hours—if you go out, if the company picks you up in the morning in the bus and takes you out to the field, you work 4 hours, if you don't work 4 hours, you are paid for 4 hours anyway.

Senator NELSON. You are guaranteed four?

Mr. SOLANO. You are guaranteed. You don't work more than 8 hours and no later than 5:30 in the evening, no later than that.

Ms. RHINE. Mr. Garcia would like to add one more point.

Senator NELSON. Mr. Garcia.

Mr. GARCIA. Mr. Nelson, I forgot to tell you about the drivers in the Imperial Valley. The contractors never check the driver's license. Mr. Lavanias, who is in charge of the employment office, has friends on the Mexican side who get drivers for him and he never checks those licenses to see if they are in order.

The drivers in most cases are forced to drink with the workers because on the way between Calexico and Blythe there are shops that carry more beer and wine than there is food, so whenever they stop there the drivers drink with the workers.

A half hour before finishing work, the water is thrown away, so the bus will stop in front of one of these stores that sells beer under the pretext that the bus is broken down.

Senator NELSON. Does it break down every day?

Mr. GARCIA. Every day, both ways they stop. What I am saying, it is really necessary to check them every day for safety, but they break down every day.

Senator NELSON. They have some excuse for stopping, in any event?

Mr. GARCIA. Yes.

Senator NELSON. Thank you, Mr. Garcia.

Mr. MURGUIA. Ask these people if they like the contractor system.

VOICES. No.

Mr. SOLANO. Also on the way from Calexico to Blythe there is a small store there and the owner is the father-in-law of the sheriff in

that town, so the sheriff, when he sees that bus stop there for beer, he doesn't do nothing because sometimes the contractors have a percentage, too, of what the people buy. If they buy a lot of beer, they get a good percentage from the store, too. Like the owner gives so much percentage to the contractor for taking so many people there to buy beer and all of that stuff, and the sheriff doesn't do nothing because he is the son-in-law of the owner. He lets them go by.

Mr. GARCIA. There are certain contractors, one such contractor is Gomez. He brings soft drinks to the people and whether they drink it or not he charges it to them at double the cost he pays.

Senator NELSON. Thank you for your testimony.

Mr. GARCIA. An inspector of H. & D., the work office, goes there and asks the contractor, how's everything? The contractor says, fine, and that is all he wants to find out. He leaves.

Ms. RHINE. Thank you, sir.

Senator NELSON. Thank you all very much for your presentation.

Mr. William Grammi, Western Conference of Teamsters, or anybody representing the Western Conference.

Mr. MACIAS. My name is Scono, S-c-o-n-o, Macias, M-a-c-i-a-s. I am the area supervisor of teamsters from the Coachella Valley to the Oregon border.

Senator NELSON. Have a chair and present your position.

STATEMENT OF SCONO MACIAS, AREA SUPERVISOR, WESTERN CONFERENCE OF TEAMSTERS

Mr. MACIAS. Our position is that we support the restrictions in this act, hoping that it will be enforced by State or Federal agencies and that those who break these restrictions will be punished to the fullest extent of the laws provided under the act.

That is our position, sir, at this point.

Senator NELSON. What is the relationship between the contractors and the Teamsters Union?

Mr. MACIAS. All right. Our position is this, that we do not allow any contractor who furnishes workers for any signatory to the agreement to make the payroll.

Senator NELSON. You do not allow the contractor to make the payroll?

Mr. MACIAS. No, sir.

Senator NELSON. Who makes the payroll?

Mr. MACIAS. The employer, the signatory to the agreement.

Senator NELSON. Should that, in your judgment, be part of the amendments to the current law?

Mr. MACIAS. Right.

Senator NELSON. Is it the position of the Teamsters that the contractors should not be permitted to make out the payroll?

Mr. MACIAS. To make out the payroll, absolutely.

Mr. SINCLAIR. I don't think he understands the question.

We have an agreement.

Mr. MACIAS. Are you saying we don't favor the contractor making the payroll? We don't favor them making the payroll.

Senator NELSON. You favor the employer?

Mr. MACIAS. We favor the employer making the payroll.

Senator NELSON. Would the Teamsters Union support that as a requirement of the law?

Mr. MACIAS. Absolutely.

Senator NELSON. Does the union have any formal relationship, by contract or agreement, with the Association of Farm Labor Contractors?

Mr. MACIAS. There was an agreement negotiated for approximately 16 or 17 contractors that Mr. Sinclair had power of attorney to negotiate with them, with the understanding that it would work under a Teamster contract, that those workers would have to become members of a union, provided the workers wanted to join the union, to protect the benefits and wages of that contract.

Senator NELSON. Are you saying that the contractor joined the union?

Mr. MACIAS. The contractor did negotiate, these 16 or 17 persons represented by Mr. Sinclair in April, I think, if I am not mistaken, a contract was negotiated. We applied it in every place where we have a contract with any grower, but we will not allow, sir, the contractor to make the payroll at all.

Senator NELSON. I didn't quite understand who became the member of a union. Does the contractor become a member of the Teamsters Union?

Mr. MACIAS. The contractors sign a union that, when he works under a teamster contract, that this worker had to come under the contract provisions and will get paid all benefits and wages under that contract.

Senator NELSON. You are talking about the farmworker himself?

Mr. MACIAS. Right.

Senator NELSON. You aren't saying that the contractor became a member of the Teamsters Union, are you?

Mr. MACIAS. No, sir.

Senator NELSON. What is your arrangement with the contractor? Does he act in the normal capacity, does he perform the functions of a business agent or what?

Mr. MACIAS. No, sir, not at all. Up to this point we have not had one in the labor industry, since June of 1973, providing workers for any grower. You hear about a crew pusher or a field man providing workers but not a contractor, because we eliminated them out of the grape industry.

Senator NELSON. Do you mean that a contractor in those areas where you have workers, the contractor doesn't furnish any workers?

Mr. MACIAS. Up to this point they haven't yet, sir. They started to, and when we required them not to make the payroll, only the employer was liable for all benefits and wages under that agreement, not the contractor.

Senator NELSON. Who furnishes the employees, then?

Mr. MACIAS. In this case most of the employees are there by themselves.

Senator NELSON. Do you mean they just come?

Mr. MACIAS. Well, yes. Let me tell you how this system works, sir. Apparently you are not aware of the farmworker end of it.

Senator NELSON. Is there a shapeup place or what?

Mr. MACIAS. No, sir. A lot of these people that are migrant workers, when they come into an area, they depend on one individual, a crew pusher or a foreman of that company, and they set the schedule all of the way up the State. They will arrive in the Coachella Valley and I will work for John Doe and from here I will go up to Lamono or any county and work for Lupe, and from there I will go to Delano and from Delano I will go to Fresno, and I will work for whatever the crew pusher's name will be. They have the schedule set up already, most of these people, without any problem of having them to go out and look for a job.

Senator NELSON. That is by prearrangement. They are working for the same employer every year?

Mr. MACIAS. The turnover in some cases is big with some employers, but the steady help in all of these areas, the turnover is very small.

Senator NELSON. And you do not have any agreements with the contractors in which the contractor makes out the payroll or furnishes the labor, then?

Mr. MACIAS. That agreement, we threw it down the drain, to be blunt about it and honest about it. We don't consider having an agreement with the Labor Contractors Association at all.

Senator NELSON. Then, in all cases where you have union members, the Teamsters have union members, whatever rights and arrangements and agreements are made are made between the union and the employer without any intervening contractor between the two, is that correct?

Mr. MACIAS. Yes.

Senator NELSON. Then who is the crew pusher?

Mr. MACIAS. The crew pusher is one that the company hires. He also comes under the agreement. The only thing that does not apply to the crew pusher under the agreement is seniority.

Senator NELSON. The crew pusher, what is his authority?

Mr. MACIAS. He is authorized to overlook—he has a crew of 15 or 20 or 25 people working under him. The field man would give him instructions on the type of work he wants. It all depends on the type of work, pre-harvest- or harvest time. We are talking about pre-harvest: I want the bunches cut this big, so many laterals, fishbone it, and the crew pusher is to be sure the job is done the way the company wants it.

Senator NELSON. He is, in effect, the foreman on the job over the crew, is that right?

Mr. MACIAS. Right.

Senator NELSON. And he is hired directly by the employer?

Mr. MACIAS. Directly by the employer is correct.

Senator NELSON. What relationship does the Teamsters Union have with the crew pusher?

Mr. MACIAS. No relationship whatsoever.

Senator NELSON. Does the crew pusher belong to the union?

Mr. MACIAS. Yes, sir.

Senator NELSON. So you have a foreman hired by the employer?

Mr. MACIAS. Right.

Senator NELSON. Who, in fact, belongs to the Teamsters Union. Who is his boss?

Mr. MACIAS. His boss is a grower. When I say they have to be members, the crew pushers—because these men are not steady workers for that company. Now, every year the practice of the company has been to have two or three or five individuals. It all depends on how big the ranch is. They have these crew pushers. The people follow them. They work on those ranches every year for a period of time, regardless of how many years it might be, 5, 6, 7, or 10 years. Now, he takes instructions from the field man. The field man takes instructions from the owner on how he wants his product prepared, and he writes the names down, social security, the amount of hours they work, and everything.

Senator NELSON. How does his function differ from the labor contractor? It seems that he is doing all of the things the labor contractor does.

Mr. MACIAS. The labor contractor can bring the grower 50 or 100 men. The next day another employer calls the labor contractor and says, "Can you give me a crew of 20?" Instead of these people working steady on this particular farm, the contractor shuffles them around, and the people never will qualify for any type of benefits under the contract. That is why we are against it. In our contract the people are required to work 80 hours with one employer to qualify for hospitalization insurance.

Senator NELSON. Do you mean if they go to work for the employer, the employer has to guarantee the minimum of 80 hours of work?

Mr. MACIAS. No, no; the employee has to work 80 hours with that employer so he can have health and welfare coverage, health and hospitalization coverage, for him and his family. With the labor contractor he will work him 2 days here, a day here, and another day there, so they never qualify for nothing. We are against that 100 percent.

Senator NELSON. Under those agreements that you have with the growers, neither the union nor the grower furnishes transportation; they all furnish their own?

Mr. MACIAS. In a lot of cases, yes. There are some companies that do furnish transportation. In the overall picture, most of the workers go to work in their own cars. I'm talking about this area now. I'm not talking about El Centro.

Senator NELSON. What is the situation at El Centro?

Mr. MACIAS. At El Centro, yes.

Senator NELSON. Do you use contractors there?

Mr. MACIAS. They commute every day from Mexico into Calexico and from there they load them up into different buses and take them to different fields in the area.

Senator NELSON. Are these people working for growers with whom your union has a contract?

Mr. MACIAS. Right.

Senator NELSON. Are labor contractors used in that circumstance?

Mr. MACIAS. We don't tell the employer who he can hire or fire, we have agreements. All we know is this man is supplying labor for this particular employer. We approach the employees, explain our program to them, our contract. It is up to them to decide if they want to belong to the union or not. They have 10 days to decide for that, sir, under the contract.

Senator NELSON. You do not have a union shop agreement with the grower?

Mr. MACIAS. No, sir.

Senator NELSON. All right. Thank you very much.

Our next witness is Mr. Arthur Gallegos, Denver, Colo., senior investigator, Colorado Department of Labor and Employment.

STATEMENT OF ARTHUR V. GALLEGOS, DENVER, COLO., SENIOR INVESTIGATOR, COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT

Mr. GALLEGOS. My name is Arthur V. Gallegos. I am a senior investigator for the Department of Labor and Employment, Migratory Branch, for the State of Colorado.

Mr. Chairman, honorable members of this committee, first, I wish to take this opportunity to thank you for your invitation to appear before this committee to testify on migrant labor. I am looking forward to making a meaningful contribution to your committee and to farm labor contractor legislation. We in Colorado certainly salute your efforts in this most needed legislation which is overdue and late in arriving.

I will start by introducing my functions as a senior investigator officer for the Department of Labor of the State of Colorado and how they relate to the testimony that I am about to present to this committee.

The Department of Labor of the State of Colorado Migratory Branch registered 75 crew leaders, also known as labor contractors, in the State of Colorado during the year 1973, under the provision that labor contractors and crew leaders employing migrant farmworkers must keep detailed payroll records and submit copies of same to the division of labor.

Senator NELSON. Is this under Federal law or State law?

Mr. GALLEGOS State law, sir. Colorado State law.

Each crew leader must give each worker in his employment a written statement of earnings and deductions. Recourse to the division of labor, wage claims authority, is provided if wages are illegally withheld or only partially paid. The department has prohibited employers from using the services of labor contractors or crew leaders who are not registered with the Colorado Division of Labor.

Senator NELSON. How effective is your prohibition?

Mr. GALLEGOS. Very effective. To everyone that we have asked to refrain, they have. Every grower that we have approached because of problems with the crew leader, he has refrained, or he has straightened the problem out.

Senator NELSON. How do you know that they are all registered? Is there any responsibility imposed upon the employer to check the credentials of the crew leader to find out if he is registered? How do you enforce it?

Mr. GALLEGOS. No, sir; it is our responsibility. We don't, as I say, get all of them, but we find the majority. We have only two investigative officers who are out in the field from the time that the season starts until it ends. We try to catch the majority. Upon complaint, sir, we also are notified.

Senator NELSON. If a crew leader must be registered, he receives some kind of certificate from the State, then, does he not?

Mr. GALLEGOS. Oh, yes, yes. You see, a crew leader is required to register by application. Upon our receiving his application and approving it and the director of labor approving it, then he is issued a card or certificate which he operates under.

Senator NELSON. I'm just wondering if it wouldn't be an effective addition to the law, at least the Federal law, to require that the employer inspect the registration certificate of the crew leader, seeing that he has one and that it is current and keeping a record of it himself?

Mr. GALLEGOS Senator, I think, as I go on down in my report, I do mention it, and I specify what we think should be done.

Senator NELSON. All right. Go ahead.

Mr. GALLEGOS. In the past, the department has directed over 25 crew leaders to refrain from engaging in certain undesirable practices. However, there have been no convictions during the past year. Ninety-five percent of the crew leaders who do business in Colorado are from Texas. The labor department's two migratory investigators traveled over 60,000 miles throughout the State of Colorado during the past year investigating problems concerning migrant labor and crew chiefs. The State of Colorado ranked 12th among the States in the use of migrant labor and 5th in the Rocky Mountain area. Our statute requires that crew chiefs register every calendar year.

The views and suggestions that I am about to present today are those of myself and James M. Shaffer, executive director of the Division of Labor and Employment of the State of Colorado. The suggestions that I will make on changes and amendments to correct the weakness in the present Farm Labor Contractor Legislation Act of 1963 are based upon my experience in the field during the past 4 years involving crew chiefs and contractors who exploit migrant workers in the State of Colorado. After I present my suggestion to this committee, I will then comment on how these weaknesses affect the migrant worker in the State of Colorado.

My presentation of the added proposed amendments are at the suggestion and invitation of Senator Gaylord Nelson.

The following are the proposed additional amendments to the act.

Section 3(b), relating to the definition of "farm labor contractor", is amended by striking the word "ten" and inserting in lieu thereof the word "one".

Section 5(a)(1), relating to issuance of certificates, is amended by adding after the word "contractor" the following: "including the localities and time periods in which he will be recruiting and contracting agricultural labor and the localities and time periods to which such agricultural labor will be provided".

Section 6(b), relating to disclosure, is amended to read as follows:

(b) provide to each worker, at the time the worker is recruited, a written contract of employment stating the terms and conditions of employment, including:

(1) the area of employment, (2) the crops and operations on which he may be employed, (3) the existence of a labor dispute or strike, if there is one, (4) the transportation and insurance to be provided him, (5) the wage rates to be paid him (6) the charges to be made by the contractor for his services, and (7) the housing secured under contract for him.

Senator NELSON. Let me ask a question now. This sounds like a very good suggestion, but does the Colorado law require that now?

Mr. GALLEGOS. I will read you my comments that will follow here on this.

Senator NELSON. I haven't had a chance to read this.

Mr. GALLEGOS. Yes. I have comments on each one of these subsections.

Section 6 is amended by striking "and" at the end of subsection (d) and by striking the period at the end of subsection (e) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new subsections.

(f) Before actually transporting the migratory workers, there shall be compliance with the "locality need for hiring" requirements, unless there is evidence of an existing agricultural employment contract and the guarantee of existing certified housing available.

(g) "Locality need for hiring" shall mean an existing seasonal agricultural employment base of employers and "certified housing" shall mean the temporary labor camps as defined under the "Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

Section 7 is amended by striking the word "may" and by inserting in lieu thereof the word "shall".

Now I am going to make my notes and comments on the sections that I spoke about.

Section 3(b) comments: In the State of Colorado it has been the experience that a majority of crews consist of an average of eight workers and therefore they are excluded from the act entirely. The Colorado act on migratory labor covers one or more workers and we feel it is more effective than the Federal act.

The Farm Labor Contractor Registration Act provisions and sanctions are avoided by the labor contractor where he recruits, hires, or transports less than 10 migrant workers at any one time.

Apparently the migrant worker would not be protected or be able to avail himself of the statutory protections guaranteed under this act. We feel that the individual worker should be protected and suggest that the act be amended to provide coverage on a one-contractor-to-a-one-worker basis. The support for this agreement is founded upon and similar to the Federal Occupational Safety and Health Act of 1970 and the recommendations of the report of the National Commission on State Workmen's Compensation laws of July 1972.

Section 5(c) under the proposed amendment to Senate bill 2070 is not good legislative practice in the control of contractors conducting interstate business. For example, the information required under section 5(b) is information that should be received annually in order that the contractor or crew leader be in compliance with this act. It should be an administrative practice that the contractor's or crew leader's record be reviewed annually, both by the State and Federal agencies. Only by annual certificate renewal can this important contact with the contractor be made to obtain such information. Under the Interstate Commerce Commission regulation for inspection of transporting vehicles and the bonding or insurance requirements under section 5(a), the contractor must comply annually. Thus the administrative control over the contractor is the reissuance or denial of his certificate.

Section 6(b) comments: On this particular amendment, the people of the State of Colorado have a deep concern with the loose methods of recruiting that exist today and the poor notification of federally registered contractors.

Let me stop here just a second and I will explain that. By this we mean when a contractor or a crew chief is registered in the State of Texas, we are not aware that this man is coming to Colorado with a crew of maybe 8 or 10 or 50. Our experience has been that he comes to the State of Colorado where there totally exists no employment, and then the problem and the trouble to us begins. It has been time and again that this contractor contracts and recruits the people in Texas where he is already aware that there is no employment in Colorado, and yet, because of advanced money by the growers in the State, he charges these people so much by the head and brings them into the State of Colorado and the growers just want to be sure that they have ample supply of labor. If they need 1,000, they want to be darned sure they have 2,000, and this is our headache and our problem when they arrive in Colorado. This is why we mention particularly notification.

Senator NELSON. Wait a minute there. The employer will pay a crew leader money to bring workers for whom there are no jobs?

Mr. GALLEGOS There is no employment, sir, yes, sir.

Senator NELSON. But to guarantee they are on hand in case he did need them?

Mr. GALLEGOS. In case labor problems exist, yes. I will go on with this——

Senator NELSON. And the grower pays them enough, obviously, so that is it profitable for the——

Mr. GALLEGOS. For the recruiter to recruit them.

Senator NELSON. For the recruiter to recruit them and bring them up?

Mr. GALLEGOS. Right. He charges them so much per head for bringing them up besides what he charges the employer for recruiting them.

Senator NELSON. When they arrive there, where are they housed?

Mr. GALLEGOS. They aren't sometimes. This is the problem that we run into. I am going on here to explain what the problem is.

Senator NELSON. That is still a problem in Colorado?

Mr. GALLEGOS. Very much so. Housing isn't as much of a problem. I will be followed by Mr. Fresques who will explain more on the housing situation.This was oversupply of help that wasn't needed.

Senator NELSON. Please proceed.

Mr. GALLEGOS. Their performance from one State to another has caused a tremendous hardship on migrant workers who are sometimes fictitiously contracted for and transported from one State to another on a false contract that consists of no more than a mere working order. It is my strong suggestion that the act be amended under section 6(b) to provide a written contract of employment stating the terms and conditions of employment. I refer you to the proposed amendment language I have suggested.

I have here with me proposed language that we intend to introduce to amend the statute in the legislation in the year to come in order that we might have a better control of the contractor doing business

in the State of Colorado, which could be used as a guideline in Federal legislation. "Article 22—Unlawful Recruitment Practices 80–22–1"——

Senator NELSON. This is a proposed amendment?

Mr. GALLEGOS. This is a proposed amendment, yes, sir.

Recruitment practices—labor contract or agreement. (1)(a) Any field labor contractor, crew leader as defined in Section 80–8–1 (7), or any other person who, for a fee or as part of his regular gainful employment, either for himself or on behalf of another person, recruits, solicits, hires, furnishes, or transports one or more workers during any calendar year for seasonal employment in agriculture in this state, shall submit to the director of the Division of Labor the name and address of the employer for whom he is recruiting, and a statement of the number of workers to be recruited for each such employer prior to recruiting workers for seasonal employment in agriculture in this state.

Senator NELSON. Does this apply only intrastate?

Mr. GALLEGOS. No; whether they recruit them in Texas or whether they recruit them—well, it will require interstate is what I am saying.

Senator NELSON. Immediately some employer who is a Texas contractor, that contractor, before he brings anybody into the State, must file with the State Department of Labor, whatever it is?

Mr. GALLEGOS. The Division of Labor.

Senator NELSON. The Division of Labor, the name of the employer for whom he is recruiting, the name of the employer and the number of employees, is that right?

Mr. GALLEGOS. Right.

Senator NELSON. Go ahead.

Mr. GALLEGOS [continuing].

Prior to the time that any such worker commences work in Colorado, one copy of the labor contract or agreement under which he is recruited shall be filed with the Division, including a correct Spanish translation. One copy of said agreement or contract, including the correct Spanish translation, shall be furnished to each worker or head of an immediate family, if a family unit. One copy, including the correct Spanish translation, also shall be retained by the field labor contractor, crew leader, or the person recruiting such worker or such family unit and shall be produced for inspection upon request by an agent of the Division of Labor or a law enforcement officer. Such contract or agreement shall contain:

(a) The name and address of the person, firm, association, or corporation for whom the worker or family unit is to work;

(c) The date of the agreement or contract:

(d) The signatures of the field labor contractor, crew leader, or other person who recruited the workers, the signatures of the workers recruited, and the final terms of employment insofar as they can reasonably be ascertained at the time the agreement or contract is executed by the parties thereto;

(e) Whether housing is to be provided for each worker, such housing to be registered with the Division of Housing of the Department of Local Affairs;

(f) The hourly wage rate, which shall be not less than the hourly rate specified by the Secretary of the United States Department of Agriculture, pursuant to the Sugar Act of 1948, Title 7 U.S.C., Section 1131(c)(1), as amended: and

(g) A list of any deductions that may be made from the hourly wage rate of such workers for housing or other purposes.

I have with me today documented facts which are available to this committee for their inspection. Due to an undesirable practice of a crew leader in Colorado, one migrant worker received a net pay of 39 cents and another of 5 cents after 3 day's work. This came about by advance credit by the crew chief leader to the worker requiring him to pay for his own transportation and tools. This ad-

vancement was fraudulent and was a financial hardship on the worker. The contractor overrecruited workers for the grower and took the grower's advancement for transportation, still charging the worker separately for this transportation and failed to refund such costs to the worker and failed to make provision for return transportation when no work was available. Needless to say, this contractor no longer works in Colorado.

Time and again it has been our experience in Colorado that the crew leader or contractor knowingly has misrepresented, made false statements to the worker in Texas, guaranteed employment in Colorado, where it didn't exist. For example, a situation existed in the sugar beet area in Burlington, Colo., where there were 1,100 workers needed for the preharvest season and 2,000 workers were recruited to fill them. Fortunately, the State Division of Labor and the Governor's office were alerted to this situation and the hardships the migrant laborers were suffering due to overrecruiting were alleviated. Assistance was given by the Governor's office, the Colorado Department of Labor, the Colorado Department of Social Services, and the Colorado Department of Health, so they could return to their homes in Texas.

Again, I have documented facts and sworn statements from migrant workers who were promised jobs by crew leaders, but upon arrival in Colorado no such job existed. However, the crew leaders had charged these people so much per person to transport them to Colorado where they were suppposed to be employed by a grower.

Here, gentlemen, is where I ask you to take a good look at our suggestion to amend section 6 (f) and (g).

Section 7 comments: Our experience has been in Colorado that if a complaint by the worker was filed against the contractor or crew chief and if it required Federal action under the section regarding violations under the act, because of the word "may" in the statute, it has been impossible to require investigation action or prosecution by the Federal agency.

The suggestion made is that the act be amended to insert the word "shall" in lieu of the word "may" to require mandatory Federal enforcement of the provision of the act.

Section 16 comments: My comments on S. 2070 to this committee, and again speaking in behalf of the Colorado Division of Labor, are that we certainly share your views on all your changes to the present law, other than the one I commented on, which was section 5(c).

We from the Division of Labor compliment this committee for a job well done and a step in the right direction in improving the conditions that the migrant workers have to live with.

We feel the new amendment to the Federal Farm Labor Registration Act, Section 16, is a needed one. The State of Colorado enacted similar provisions in its statute some years ago and they have proven a tremendous benefit on behalf of the migrant worker.

May I now leave these thoughts with you. The purpose of this report is to provide the members of this committee with a summary of some of the problems, issues, attitudes, and suggested approaches concerning contractors and migrant workers that will be facing the

Congress, the grower, the contractors, and migrant workers and their families during the years to come.

Of course, some of my legislative items are not new and have been debated by the Members of the Congress for a number of years. Nevertheless, these items have been listed in order to provide a single reference of measures and problems that Members may encounter in this 1974 legislative year.

And, as I conclude, the migrant workers are at the bottom of the economic ladder. Gentlemen, let's try to help these people climb that ladder.

Thank you.

Senator NELSON. Thank you, Mr. Gallegos.

What is the practice in Colorado? Do the crew leaders or contractors handle the payroll themselves?

Mr. GALLEGOS. Yes. When they do become a contractor or a crew leader, they always handle the payroll. In other words, according to the statutes of Colorado if they do not handle the payroll they do not come under the act. They have to, in turn, contract from the grower and handle all of the money and the payroll, then they are under the act. If the grower handles the payroll, they are excluded from the act.

Senator NELSON. But your statute in Colorado does require the furnishing of the employee with the specific information on withholdings and——

Mr. GALLEGOS. Right.

Senator NELSON. Both in Spanish and English?

Mr. GALLEGOS. Yes, both in Spanish and English.

In Colorado, Senator, our problem isn't as much with the growers as it is again with the crew leaders; 75 to 80 percent of our problems in the labor field with migrant workers come from the crew leaders.

Senator NELSON. Of course, your employer is involved with your crop and he is paying a crew leader to bring in employees he doesn't need in that respect?

Mr. GALLEGOS. To a degree. We always withhold a migrant worker's wages—we always, according to Colorado's wage claim law, hold the grower responsible. If we don't get it from the crew leader, we go to the grower. Under our wage claim section, we get it from the grower.

Senator NELSON. If, in fact, a crew leader cheats a worker and disappears, the grower ultimately must pay if you can't get the crew leader to pay?

Mr. GALLEGOS. Right, and the same with our Workmen's Compensation Act. We are one of the few, I believe, in the United States who do have workmen's compensation enacted for the migrant worker, and have had for about 2 years. Again, we hold the grower responsible if there is an accident; even if the crew leader or contractor brought in the help, the grower is still responsible.

Senator NELSON. Thank you very much, Mr. Gallegos, for your very good statement and for some very good, specific suggestions for amending the law. I think they will be quite valuable to the committee.

Senator NELSON. Our next witness will be Mr. James Fresques, Denver, Colo.; director of the division of housing for the State of Colorado.

Mr. Fresques.

STATEMENT OF JAMES FRESQUES, DENVER, COLO., DIRECTOR, DIVISION OF HOUSING FOR THE STATE OF COLORADO

Mr. FRESQUES. Senator Nelson, I appreciate the opportunity to present some views. I am not going to repeat what Mr. Gallegos has reported because the Governor's office participated in the development of both his unit and the remarks and interchanges which he made.

First, in order to qualify myself, I am James Fresques, director of the division of housing and executive assistant to the Governor.

In my earlier days I was a migrant worker. Several years ago we had a meeting in the Governor's office similar to what you have here today. As a result of that meeting, the Governor directed me to make the changes necessary and to set up the necessary machinery to abate the bad situations which had been presented to us. Accordingly, I found that, while Colorado had a skeleton of statutes that provided the vehicle under which we could operate, I found that, even though the statutes were enacted in 1963, they had not been enforced, and this was 1968.

So in talking to the then director of the employment service, he said, well, the legislature did not appropriate any money, so I didn't enforce it. So we took money from the Governor's emergency fund and we gave it to the Department of Labor. In the meantime, we had merged the Employment and Labor Departments and put a director serving at the pleasure of the Governor, so that the Governor was able to make the changes that were needed.

We established the unit of which Mr. Gallegos has spoken and started enforcement of the statutes. Of course that is one thing that I want to emphasize here, whether it is federal law, whether it is Occupational Safety and Health Act—OSHA—law or State standards, if you don't have enforcement, you don't have anything.

We want to bring in two other situations, even though they are facets of the overall problem not directly connected with perhaps what you are considering here—recruitment and registration and so on. We have two situations. I think that these situations exist in other States where migrant laborers work. One is that we need supplemental social service welfare funds for localities that do not have resources to take care of stranded migrant workers when they come into a State or a local situation. By that I mean that, even though the Supreme Court of the United States has said that any citizen or anyone who demonstrates the need must be taken care of——

Senator NELSON. No residency required?

Mr. FRESQUES. That's right, but the Federal Government has not provided the money to cover those needs, so it falls upon the local government on general assistance, and most of these counties that these workers go into are in economically depressed areas and areas where general assistance funds are either nonexistent or very meager,

so that the only welfare that some of these people can get when they are stranded in Colorado or elsewhere are food stamps, which are not sufficient to meet their entire needs.

So I would suggest that you pass on or that your committee consider the problem of supplementing funds through the State Social Services Departments to take care of that kind of a situation.

The other situation which is bad is the housing situation. In order to abate that situation, I went to the legislature and I have received a half million dollars in two increments of $250,000, and we have started and have housing built. The report is on the table there—(indicating). It is a cooperative effort through the State and the grower through nonprofit corporations. We set up a nonprofit corporation and the grower puts half the money in the corporation and we put up the other half. We have built enough housing for 1,800 workers in the State of Colorado in the last year and a half.

Senator NELSON. For migratory workers?

Mr. FRESQUES. Yes, and others, too, in agricultural rural areas.

Senator NELSON. The employer and the State are participating in bearing the expense of the construction?

Mr. FRESQUES. That is correct. We have stretched the money by doing most of it in rehab., taking good sound shells and rehabilitating them to meet the July 1, 1974 OSHA standards that will be in effect next July. We have housing that is in compliance with that now.

I have a bill going through the legislature for $1 million to carry out the rest of this program and to solve the housing problem.

I would suggest, then, that the Federal Government consider through the Department of Housing and Urban Development, or Farmers Home, giving grants to States, where they have migrant housing problems so that they can carry out a program such as this. This could even include the local government, such as we have projects there where cities have put up land and other services to supplement both State funding and the funding from the growers.

I have given copies of the report to your aide, and I certainly would appreciate your committee giving it a good look.

Thank you.

Senator NELSON. Thank you very much for your presentation.

We will recess until 1 o'clock and resume the hearing then.

[Whereupon, the subcommittee recessed at 12:05 o'clock p.m., to reconvene at 1 o'clock p.m.]

AFTERNOON SESSION

Senator NELSON. The subcommittee will be in order.

Would you state your name and identify yourself for the record and then speak loudly enough so that the reporter can hear you.

STATEMENT OF BRUCE BURKDOLL, PRESIDENT, CENTRAL CALIFORNIA FARMERS' ASSOCIATION, DINUBA, CALIF.

Mr. BURKDOLL. I am Bruce Burkdoll. I live at Cutler, Calif. I am a grower there. I am also president of Central California Farmers'

Association, an organization of approximately 800 growers in our area.

Senator NELSON. Are most of these independent, family-owned farms?

Mr. BURKDOLL. Practically all of our members are growers, family-owned farms, and some of our members are also contractors.

Senator NELSON. Contractors for labor?

Mr. BURKDOLL. For labor, yes.

Senator NELSON. And what would be the average size of the farms that your association of which you are president represents?

Mr. BURKDOLL. They range from 20 acres, I would say, up to 1,000 acres. I would say the average size would be probably close to 100 acres.

Senator NELSON. What is the size of your farm operation?

Mr. BURKDOLL. My personal operation is approximately 100 acres.

Senator NELSON. Why don't you go ahead and present yourself on the issues which we have been discussing here.

Mr. BURKDOLL. Yes. I'm sorry, Senator, that I didn't know about this in time to prepare a prepared statement from which to testify, but in listening to the testimony here today I felt that the family farm was probably being excluded from this to the point where we feel here that the contractor does supply a need in our area because many of our growers do use contractors during harvest time, during pruning time, during thinning time.

Senator NELSON. Do most of the family farm operations have the farm labor brought to the farm once a day or do they have housing or is there a mixture of situations?

Mr. BURKDOLL. No, they are brought every day. There is no housing.

Senator NELSON. Usually from how far away?

Mr. BURKDOLL. I would say it would range from 2 or 3 miles maybe up to 20 miles.

Senator NELSON. All right, go ahead. Let me say, if you wish to supplement your statement on behalf of yourself or your association of 800 farmers, the record will be open. You could prepare a statement or add anything you wish and send it to me in Washington. All pertinent information will be made a part of the hearing record.

Mr. BURKDOLL. Thank you.

We coordinate our labor here through our association, and we have an insurance program which is administered through a trust fund of which the association is trustee. The contractors that are members of our association participate in the hospitalization plan. Any migrant or anyone else that works for either a contractor or any member that participates in the insurance plan, when they work for 80 hours, are eligible. Our benefits are identical to the Teamster plan. The only difference in our plan and the Teamster plan is that we qualify our people at 80 hours, whenever they work for anyone that is participating in our insurance program.

Senator NELSON. If I may interrupt you, is this an insurance plan that your association of 800 growers has?

Mr. BURKDOLL. Yes.

Senator NELSON. And do all members of the Central California Farmers' Association participate in the health insurance plan?

Mr. BURKDOLL. I'm sorry to say they do not.

Senator NELSON. What percentage do, or what number, do you know?

Mr. BURKDOLL. 80 per cent; approximately 80 per cent.

This is in conjunction with another association which is known as the Nisi Farmers Union. We work this program together, the two of us.

Senator NELSON. So anyone who works for any grower who is a member of the association and also has the insurance coverage——

Mr. BURKDOLL. The insurance is a voluntary program.

Senator NELSON. Anyone who has it, then, is it available or is it provided or what? Is it optional?

Mr. BURKDOLL. The grower pays 10 cents an hour into the trust, and that covers the family.

Senator NELSON. Does the family participate in any contribution?

Mr. BURKDOLL. No.

Senator NELSON. To accumulate the 80 hours to qualify, did I understand you to say that could be two or three different growers, if they belong to the association?

Mr. BURKDOLL. Yes.

Senator NELSON. I mean, if they are covered by the plan?

Mr. BURKDOLL. Yes. They could work 20 hours for you, 20 hours for me, and 60 hours for someone else, as long as all three are participating, and they would be qualified.

Senator NELSON. Once they qualify, how long are they qualified? If there is a break in the season——

Mr. BURKDOLL. Yes, if they work the 80 hours the preceding month and they are qualified the following month.

Senator NELSON. Then if there is no work for a month or so, they would have to get the 80 hours in again to qualify?

Mr. BURKDOLL. Yes, they would. However, if a family, say they run back to Texas or Mexico for a 3-month period, which many do in this area, if they wish they may pay $16.50 a month for the coverage and be covered for the period of time that they are away from here until they come back and then again work 80 hours and continue on and it is paid by the grower.

Senator NELSON. Go ahead. I interrupted your statement.

Mr. BURKDOLL. Through our contractors and our members last year we had 2,600 families covered under this program. We think that our contractors by coordinating our labor, which many of the small growers may need a crew of 20 people for 2 days only, they would never qualify for a thing like that, but by working through a contractor they can be qualified. If they are in the area, say, for 9 months, they are qualified for the entire 9-month period if they are working for anyone that is covered under this program.

Senator NELSON. And do most of the 800 members of your association use labor, farm labor, I mean, that is furnished by contractors?

Mr. BURKDOLL. I would say 60 percent at least.

Senator NELSON. How many contractors would there be involved in the 800 farms in your association, do you have any notion?

Mr. BURKDOLL. I can't answer that.

Senator NELSON. Go ahead.

Mr. BURKDOLL. In some of the testimony that we have heard here today, we have heard testimony that they would like to eliminate the contractor entirely. We definitely would be very much against this.

As far as regulations are concerned, the State of California, and I'm not fully acquainted with the laws controlling contractors, but the State of California does have many laws regulating them, and contractors do have to be licensed. However, once in a while you will find, as the Mexican people say, a coyote, that probably is a contractor without a license. But in my experience in the last 10 years here, and I have been farming for 37 years, in the last 10 years, I would say, I have not heard of an incident where a contractor that was contracting labor did not have a license or wasn't qualified.

When our contractors go to work, they either take the field toilets with them or the grower furnishes them. Most of the time the grower furnishes them. I would say it would be very hard to go to a field today and not find a field toilet in the field.

As far as water is concerned, practically all of the people furnish Igloo cans. There are cool cans, either 5 or 10 gallons. Water is furnished, and in the summertime most of it is iced.

Senator NELSON. Are you talking about those independent, family-owned farms that you are familiar with in your association?

Mr. BURKDOLL. Yes.

Senator NELSON. Obviously these experiences testified to by the witnesses here this morning were experiences they had some place on farms, though.

Mr. BURKDOLL. Yes. Of course I can't testify to all places. I won't sit here and tell you that all places do, either, but I am telling you that most places do. It is a State law in California that you must furnish drinking water, and you must furnish individual cups. You must have field toilets in the field for your workers. I have had my own ranch checked a number of times by the Department of, I believe it is the Department of Health, to determine whether or not we are abiding by these things.

Senator NELSON. How much farm labor would the farms the size of yours, for example, use in a year?

Mr. BURKDOLL. Last year on my farm, and I just completed my income tax yesterday, last year on my farm of 100 acres I employed $4,100 worth of labor on that.

Senator NELSON. What kind of hourly rate is that?

Mr. BURKDOLL. Some of the work done is piecework, but on hourly work we pay $2.30 an hour to the worker. On piecework the people earn, I would say, an average from $3 to $4.50 an hour. During harvest time we work on piecework. At this time of year, in pruning or tying, myself, I hire my people by the hour. I pay $2.30 an hour plus 10 cents an hour for hospitalization.

Senator NELSON. And then are they transported there by——

Mr. BURKDOLL. They come in their own automobiles.

Senator NELSON. So the contractors in the area that you are talking about mostly don't supply any of the transportation?

Mr. BURKDOLL. I know of no contractor, nor did I see a contractor's bus last year, that brought people in a bus last year.

Senator NELSON. Well, what function does the contractor perform that you consider valuable?

Mr. BURKDOLL. Well, the people that come here from away from the area, what we are referring to as migrants, most of them come here from either Mexico or Texas. They will remain here for approximately 9 months. They then will return back to their homes, wherever they came from, for a 3-month vacation. This is what they tell me. They say, "We have a 3-month vacation."

If they go to a contractor they don't have to secure the job because the contractor secures the job. He pays the people and the grower pays the contractor.

Our association checks up on these people occasionally. If we ever receive a complaint that a contractor has shorted someone's wages or there is something wrong, we check into it right away. We have never found anything that was founded.

Senator NELSON. You haven't among the contractors that your association is dealing with, you haven't found any who shortchanged anyone?

Mr. BURKDOLL. No, sir, not a one.

Senator NELSON. Have you had complaints?

Mr. BURKDOLL. I had one complaint last year.

Senator NELSON. This came to you as president of the association?

Mr. BURKDOLL. Yes, it did. The man that brought me the complaint, I asked him who was complaining, and it was a hand-me-down thing from about three or four people. Then I asked him to bring the person to me, that I wanted to talk to him, because I was acquainted with the contractor and I had high regard for the contractor. He said, "Well, this man has already gone back to Mexico."

Senator NELSON. That is the only complaint that you are aware of that you have received?

Mr. BURKDOLL. Yes.

Senator NELSON. Did you have anything else that you wanted to tell me?

Mr. BURKDOLL. No, thank you.

Senator NELSON. May I ask one more question? Some testimony this morning suggested that if a contractor who has recruited workers for a grower should cheat the employees out of some of his wages or social security, the grower for whom the contractor is acting as agent, if they can't find the contractor, should have to pay. What do you think of that?

Mr. BURHDOLL. I would agree with that. I would agree with that 100 percent because the worker in no way should be jeopardized. However, in our area if we get one report of a contractor that this happens to, he won't be in business.

Senator NELSON. Would you in your association have an agreement that nobody would use that contractor; is that it?

Mr. BURKDOLL. Absolutely.

Senator NELSON. Did you have anything else?

Mr. BURKDOLL. No, that's all.

Senator NELSON. Thank you very much.

[Additional information subsequently supplied for the record follows:]

Central California Farmers Association, Inc.

A NON-PROFIT FARM LABOR ASSOCIATION

OFFICE—
42767 ROAD 80
DINUBA, CALIF. 93618

MAIL—
P. O. BOX 627
DINUBA, CALIF. 93618

PHONE—
AREA CODE 209
591-4860

Feb. 12, 1974

The Honorable Senator Gaylord Nelson
Farm Sub-Committee on Employment,
Poverty and Migratory Labor
201 Senate Annex
Washington D.C. 20510

Dear Senator Nelson:

Persuant to my statements made at the hearing on proposed amendments to the Farm Labor Contractors Registration Act of 1963, held in Fresno February 8, 1974, permit me to add the following supplements to my testimony.

As I mentioned briefly in my testimony, there are a number of Farm Labor Contractors who are members of the Central California Farmers Association. These contractors work almost entirely for our grower membership, their workers going from one grower to another member grower doing pre-harvest work and harvesting the crops. The Farm Labor Contractor receives a commission of from 16% to 20% of his payroll for the workers he furnishes the grower for this labor, depending on the type of work being performed. From this commission he pays the Social Security Taxes and Workmens Compensation Insurance for his workers, also, ten cents per hour for each hour worked by each of his employees for Hospital, Medical and Surgical Insurance coverage on the worker and his dependents.

There was considerable testimony given and allegations made by members of the United Farm Workers Union at the hearing, stating that in a number of instances Farm Labor Contractors do not pay their workers wages commencerate with the scale being paid in the area in which they are working, do not pay the wages they had promised prior to the workers going into field, make deductions from the workers wages for such items as transportation to and from the fields, beverages furnished while they were working and various other "charges" for things the contractor claimed he furnished those workers he employed. Statements were also made that no toilet facilities were furnished by the contractor and cool drinking water was seldom available within the immediate area where workers were performing their duties; that sanitary and health conditions are deplorable and in general, the farm labor contractor lies, cheats, steals, molests the female farm worker and exploits all farm workers to his own advantage. I have found these statements and allegations to be unfounded and false in the majority of cases. The Farm Labor Contractors employed by our grower members in Fresno, Tulare and parts of Kern and Kings Counties, are required by those growers using their services to strictly adhere to the State Laws, requirements and regulations governing the operations of Farm Labor Contractors. He must furnish adequate sanitary toilet facilities, easy available iced drinking water with individual paper cups in each instance where these facilities are not furnished by the grower himself. In no instance is the farm worker denied these conveniences. Also, our member farm labor contractors are required to pay the going wage rate paid to other farm workers in

the area where they are working. This past year farm workers were paid a minimum of $2.30 on an hourly basis and at least an average of $2.30 per hour for piece work. Most workers working on a piece work basis, earned an average of from $3.50 to $4.00 per hour. If the Farm Labor Contractor in the San Joaquin was guilty of the exploitation and ill treatment of the farm worker, as stated in the testimony given by UFWA representatives at the hearing, he would soon find himself without workers for whom he could contract their labor.

The majority of the workers employed by farm labor contractors in the area our Association services, are residents in the various farm communities in the Counties mentioned above. Many of those migratory workers employed during the pre-harvest and harvest season, are related to, or are friends of the resident workers and in a number of instances, live with or reside on property owned by the resident workers, when they are working in the area.

Our grower membership rely on farm labor contractor furnished workers to perform the pre-harvest and harvest work in the majority of cases. They have found that labor furnished from this source is more proficient, reliable and economical. The majority of workers hired by farm labor contractors have been employed by that labor contractor for a period of years. The small farmer, which I represented at the Hearing, normally employees from two to six permanent workers, depending upon the size of his ranch. He supplements these full time employees with workers furnished by labor contractors. This gives him a work force that is mobile and can be utilized for the period of time needed and then move on to another farm without loss of work time or wages, and can return to each grower as needed.

The Farm Labor Contractor and his workers are a necessary and integral part of agriculture here in the Valley and elsewhere, on small, medium or big farms. In utilizing farm labor contract workers, I have not experienced any serious difficulty either with the worker or the contractor employing him. In no instance has a worker been victimized or exploited by the farm labor contractor. To the contrary, in most cases there is a very good employer-employee relationship in this business. We would be hard put should the farm labor contractor be forced out of business as a result of the false charges and allegations made by certain self-righteous individuals and groups concerning the manner in which the majority of contractors operate, especially when such charges are made by those with selfish interests and motives.

Sincerely,

Bruce Burkdoll

Bruce Burkdoll, President

Senator NELSON. Our next witnesses will consist of a panel representing the California Department of Labor, Mr. Albert Reyff, Deputy Labor Commissioner of California, Mr. Seward Young, Compliance Officer and Ms. Ruth Spiers, Senior Deputy Labor Commissioner.

Is Mr. Young here?

Well, why don't you proceed to present your comments however you desire on the issue we are discussing.

Will you be kind enough to start, Mr. Reyff?

STATEMENT OF ALBERT REYFF, ASSISTANT LABOR COMMISSIONER FOR CALIFORNIA; ACCOMPANIED BY SEWARD YOUNG, COMPLIANCE OFFICER; AND RUTH SPIERS, SENIOR DEPUTY COMMISSIONER, A PANEL FROM THE CALIFORNIA DEPARTMENT OF LABOR

Mr. REYFF. Senator Nelson, I am Albert J. Reyff, Assistant Labor Commissioner for California. With me on this panel are Ruth M. Spiers, Senior Deputy Labor Commissioner in charge of licensing, and Seward Young, Senior Special Investigator based in our Fresno office. We represent the California Division of Labor Law Enforcement which, under State Labor Commissioner Robert E. Howard, is responsible for the issuance of licenses to farm labor contractors and for the enforcement of California labor laws pertaining to their licenses and operations.

In California at the present time there are approximately 845 licensed farm labor contractors. In 1951 and 1952, which were the peak years, there were 1,400 such contractors. The number declined to 749 in 1971, but has been slowly increasing since that date. Over half of all the contractors in the State are based in the Fresno area which comprises six counties.

Senator NELSON. When you referred to licensed contractors, are there unlicensed contractors?

Mr. REYFF. There are unlicensed contractors, and in the previous year, Senator, we had 51 violations with 8 prosecutions. The number of unlicensed contractors has dropped sharply over the years, so we feel that we have most of them licensed. There are some contractors or some persons who will act as contractors during brief periods of the year, but for all practical purposes are not labor contractors.

In order to acquaint the committee with some of the laws pertaining to California contractors, I have listed the basic requirements:

1. A $5,000 surety bond, mainly for the protection of the workers' wages.

2. A $75 license fee.

3. An examination covering knowledge of basic laws relating to wages, child labor, health and safety, and other general operating requirements.

4. Workmen's compensation insurance if the contractor is the employer.

5. Personal liability and property damage insurance in the amounts of $15,000, $30,000, and $5,000 for each vehicle. This insurance does not cover personal injury or property damage for the

33-491 O - 74 - 6

employees; however, the compulsory workmen's compensation insurance does cover employees for personal injury or death.

Senator NELSON. And they are covered going to and from work?

Mr. REYFF. That's correct. Ninety-eight percent of the farm labor contractors operating in California are considered to be the employers, therefore they are required to carry compulsory workmen's compensation insurance.

6. A charter party carrier permit issued by the California Public Utilities Commission for a day hauler. Under California law, a day hauler is a farm labor contractor who transports workers who are not his own employees. The PUC regulations for this type of permit require insurance which covers both personal liability and property damage for the passengers in amounts ranging from $100,000, $300,000, $50,000 to $100,000, $700,000, $50,000, depending upon the number of passengers.

But, again, there is just a small percentage of farm labor contractors who operate as day haulers.

Senator NELSON. What is the $50,000, is that the maximum for one person?

Mr. REYFF. That's property damage.

Senator NELSON. Oh, please proceed.

Mr. REYFF. The $100.000 would be the one person.

Senator NELSON. And $300,000 is the maximum for the accident?

Mr. REYFF. Yes, for the accident, if there are seven or less. If there are more than seven, it is $700.000. Actually it goes in segments. You have to get to 41 before it is $700,000.

We are in accord with the amendments proposed in S. 2070 and agree with the concept of exempting from Federal requirements those contractors who transport on a daily basis only. This exemption is set forth in subsection 5 of section 3(a) of the act and most California contractors would come under it.

Senator NELSON. Do you mean most California contractors would not be exempt, is that what you are saying?

Mr. REYFF. Would be exempt.

Senator NELSON. Under daily haul?

Mr. REYFF. Daily haul, right.

Senator NELSON. I'm not clear on what you are saying. You are saying that you think those who haul on a daily basis should be exempt from daily requirements. Then you are saying most California contractors would come under the exemption. What does that mean? Does that mean they would come under the exemption?

Mr. REYFF. They would be exempt from the Federal law.

Senator NELSON. Because most of them are daily haulers, is that what you are saying?

Mr. REYFF. Yes.

Senator NELSON. Well, what happens in those cases that don't have adequate law or a law of any kind?

Mr. REYFF. It would be subject to California law.

Senator NELSON. I know, but what about some other States where they have migratory labor and they don't have the California law?

Mr. REYFF. It is the exemption in the bill, Senator. It is not our exemption.

Senator NELSON. I am not sure I agree with the exemption in the bill.

Mr. REYFF. Perhaps I should read on.

It is possible for us to take this position since all such contractors would be covered by California law which requires a higher degree of protection for the worker than the Federal law.

At the present time, all but two or three licensed contractors in California are the employers of the workers; thus the workmen's compensation insurance they are required to obtain would provide all necessary medical care for job-related injuries or illnesses, plus additional payments for temporary, partial or permanent disability, plus death benefits which are now $40,000 if there is a surviving spouse, or $45,000 if there are surviving dependent children.

Senator NELSON. What is your method in forcing compliance when a contractor applies to be licensed? He is required, I take it, to submit a copy of some of his insurance policies that provide his insurance and he is required to do all those things before he gets a permit?

Mr. REYFF. Oh, yes; of course. That's part of the licensing requirement.

Senator NELSON. Is that an annual renewal?

Mr. REYFF. It is in effect until it is cancelled. Then there is an annual renewal.

Senator NELSON. Annual renewal of the permit?

Mr. REYFF. Of the license.

Senator NELSON. Of the license from the State?

Mr. REYFF. That's correct.

In view of this, and since there are a few California contractors who would not be exempt under subsection (5), we would like to propose that a subsection (6) be added to read somewhat as follows: "or (6), any person who is the employer of the farm workers whom he recruits, solicits, hires, furnishes, transports, or supervises and is insured against liability for workmen's compensation."

Senator NELSON. What you are saying is you would like to see California exempt from any provisions in the Federal law?

Mr. REYFF. Most of them.

Senator NELSON. It might provide that any State that has a law that is more strict than the Federal law the State would preexempt, is all, which is not an unusual provision.

Mr. REYFF. No.

If this subsection were adopted, all California contractors with the exception of the two or three referred to above would be exempt from obtaining the Federal certificate; however, they would still be required to provide protection for their workers in excess of what the Federal law requires. It is important to note here that California workmen's compensation laws cover employees working in the State even if they had been recruited from out of State. Also, this type of insurance covers those workers hired within California when they perform work outside of the State.

Those few California contractors who are not the employers of the workers would, of course, not be exempt under our proposed subsection (6). Therefore, unless they were exempt under subsection (5), they would be required to obtain a Federal certificate of registration

as well as a California license. This would not be a problem, however, since, if they are day haulers operating in California, they would be required to obtain a charter party carrier permit, the requirements for which exceed the Federal requirements.

We feel that dual licensing in cases such as this would be desirable as this type of contractor frequently operates across State lines.

Senator NELSON. Then you say there is a charter party carrier permit required of contractors, is that right?

Mr. REYFF. If they are not the employers.

Senator NELSON. If they are the employers, there is no permit required?

Mr. REYFF. No. This is a charter carrier permit issued by the public utilities commission because they are hauling passengers, and when they are not the employees they are considered to be passengers. When the contractor has the workers as his employees, then he is covered by workmen's compensation insurance which affords much greater protection under California law.

Senator NELSON. I see what you mean.

Mr. REYFF. Our office presently handles the initial applications for the Federal certificates of registration. We obtain a statement from the contractor as to whether or not he will operate across State lines and if he indicates he will, we will take the necessary steps to see that he files the Federal application. We would expect to continue with this procedure by requiring that an application for the Federal certificate be filed at the time the State application is filed and prior to the issuance of the State license whenever it is determined that a Federal certificate would be required.

I appreciate the fact that these proposals are related only to California law and may cause complications with other State laws; however, I hope that by means of further study and discussions, any difficulties of this nature could be adjusted.

Thank you for inviting us to participate as we are pleased to assist in any way we can.

Senator NELSON. Did any of you others have statements to present?

Mr. REYFF. No; that's our statement.

[Information supplied for the record follows:]

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR LAW ENFORCEMENT
455 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

RONALD REAGAN, Governor

ADDRESS REPLY TO:
P.O. Box 603
San Francisco, Calif. 94101

IN REPLY REFER TO:

April 4, 1974

Senator Gaylord Nelson
Subcommittee on Employment,
Poverty and Migratory Labor
United States Senate
Washington D.C. 20510

Attention: Warren Sawall

Re: Senate Bills S.2070 and S.3202

Dear Warren:

Pursuant to our conversation enclosed is a Statement setting forth the position and recommendations of the California Department of Industrial Relations and the Division of Labor Law Enforcement pertaining to the captioned Bills.

I am also enclosing for your information a copy of General Order No. 115-B issued by the Public Utilities Commission of California in which are listed the insurance requirements for permits for Charter Party Carriers of Passengers. In California, day haulers of farm laborers are required to obtain such a permit and a State farm labor contractor license is not issued to them until this permit is obtained. However, as indicated in our Statement, there are no day haulers licensed in California at the present time.

I also enclose several copies of our bond form and Labor Code statutes pertaining to farm labor contractors. Sections 1684(c), 1691 and 1692.5 therein set forth the laws relating to the bond.

I hope our Statement and this material will be helpful to you. Please contact me if we can be of further assistance.

Very truly yours,

Ruth M. Spiers
Senior Deputy Labor Commissioner

RMS:bc
Enclosures

GENERAL ORDER NO. 115-B
(Supersedes General Order No. 115-A)

Public Utilities Commision of the State of California

RULES REQUIRING ALL CHARTER PARTY CARRIERS OF PASSENGERS, SUBJECT TO THE PUBLIC UTILITIES CODE, TO PROVIDE AND THEREAFTER CONTINUE IN EFFECT ADEQUATE PROTECTION AGAINST LIABILITY IMPOSED BY LAW UPON SUCH CARRIERS FOR THE PAYMENT OF DAMAGES FOR PERSONAL BODILY INJURIES (INCLUDING DEATH RESULTING THEREFROM) AND DAMAGE TO OR DESTRUCTION OF PROPERTY.

Adopted November 13, 1968. Effective March 1, 1969.
Decision No. 74934 in Case No. 8201.

(1) Each charter-party carrier of passengers, as defined in the Public Utilities Code, shall provide and thereafter continue in effect, so long as it may be engaged in conducting such operations, adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and for damage to or destruction of property, other than property being transported by such carrier for any shipper or consignee, whether the property of one or more than one claimant, in amounts not less than the amounts set forth in the following schedule:

Kind of Equipment (Passenger Seating Capacity)	*For bodily injuries to or death of one person*	*For bodily injuries to or death of all persons injured or killed, in any one accident (subject to a maximum of $100,000 for bodily injuries to or death of one person)*	*For loss or damage, in any one accident, to property of others (excluding cargo)*	*Minimum for Single Limit Coverage*
7 passengers, or less	$100,000	$300,000	$50,000	$350,000
8 to 12 passengers, incl.	100,000	350,000	50,000	400,000
13 to 20 passengers, incl.	100,000	450,000	50,000	500,000
21 to 30 passengers, incl.	100,000	500,000	50,000	550,000
31 to 40 passengers, incl.	100,000	600,000	50,000	650,000
41 passengers or more	100,000	700,000	50,000	750,000

(2) The protection required under Section (1) hereof shall be evidenced by the deposit with the Public Utilities Commission of a certificate of insurance issued by a company licensed to write such insurance in the State of California; or of a bond of a surety company permitted to write surety bonds in the State of California, or evidence of insurance issued on behalf of Lloyd's of London by a surplus lines insurance broker licensed as such in this State.

(3) The certificate of insurance, in form approved by the Commission, must be signed by the company issuing the policy, or by the underwriting managers for a group of companies issuing the policy, or in the case of Lloyd's of London, by the broker placing such coverage.

(4) The policy of insurance or bond evidencing such protection hereinabove required shall not be cancelable on less than thirty days' written notice to the Public Utilities Commission, such notice to commence to run from the date the notice is actually received at the office of the Commission.

(5) The Commission will give consideration to and may approve the application of a charter-party carrier of passengers to qualify as a self-insurer provided such charter-party carrier of passengers files an application with the Commission supported by a true and accurate statement of its financial condition and other evidence which will establish to the satisfaction of the Commission the ability of such charter-party carrier of passengers to satisfy its obligations for public liability and property damage within the limits hereinabove prescribed, without affecting the stability and permanency of the business of such charter-party carrier of passengers.

(6) The Commission will also consider applications for approval of other securities or agreements of indemnity and may approve any such applications if satisfied that the security or agreement of indemnity offered will afford the security for the protection of the public hereinabove contemplated.

(7) Any charter-party carrier of passengers engaged in interstate or intrastate operations within the State of California, which is and becomes qualified as a self-insurer with the Interstate Commerce Commission in accordance with laws of The United States applicable to self-insurance by motor carriers and the rules of the Interstate Commerce Commission promulgated thereunder, shall be exempt, so long as such qualification remains effective, from the foregoing provisions of this General Order. Proof of the existence and continuation of such exempt status shall be filed with the Commission. Such proof shall be made by affidavit of the carrier. Additional affidavits or other proof of such qualification shall be filed in such form and at such times as the Commission may require.

(8) Each charter-party carrier of passengers desiring to become qualified as a self-insurer, or to have orders or certificates issued by the Interstate Commerce Commission authorizing self-insurance accepted by this Commission, or to have other securities or agreements of indemnity accepted in lieu of the bond or insurance hereinabove provided, shall make application therefor to this Commission stating all of the facts which shall be required by the Commission with respect thereto, and if such application is approved, such charter-party carrier of passengers shall, while such order of approval shall remain effective, be exempt from furnishing a certificate of insurance or bond hereinabove provided.

(9) The cancellation or suspension of a policy of insurance or surety bond or the cancellation, suspension or surrender of a certificate of self-insurance issued by this Commission or the Interstate Commerce Commission, or the impairment or destruction of any security, or the cancellation or termination of any agreement of indemnity, or the alteration (without first obtaining Commission authorization) of any agreement of indemnity, shall constitute good cause for suspension or revocation of the operating authority of the affected charter-party carrier of passengers. No operation shall be conducted on any highway of the State of California unless a certificate of insurance, certificate of self-insurance coverage, bond, or the other securities or agreements of indemnity hereinabove specified, shall be in effect and on file with the Commission.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

By WILLIAM W. DUNLOP, *Secretary*

o

printed in CALIFORNIA OFFICE OF STATE PRINTING
ϕ84512—765 3-73 250

Issued by
STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR LAW ENFORCEMENT

FARM LABOR CONTRACTORS

Excerpts from California Labor Code 1971

CHAPTER 3. FARM LABOR CONTRACTORS

(Added by Stats. 1951, Ch. 1746)

1682. As used in this chapter:

(a) "Person" includes any individual, firm, partnership, association, or corporation.

(b) "Farm labor contractor" designates any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for such workers; supervises, times, checks, counts, weighs, or otherwise directs or measures their work; or disburses wage payments to such persons.

(c) "License" means a license issued by the Labor Commissioner to carry on the business, activities, or operations of a farm labor contractor under this chapter.

(d) "Licensee" means a farm labor contractor who holds a valid and unrevoked license under this chapter.

(e) "Fee" shall mean (1) the difference between the amount received by a labor contractor and the amount paid out by him to persons employed to render personal services to, for or under the direction of a third person; (2) any valuable consideration received or to be received by a farm labor contractor for or in connection with any of the services described above, and shall include the difference between any amount received or to be received by him, and the amount paid out by him, for or in connection with the rendering of such services.

(Added by Stats. 1951, Ch. 1746; amended by Stats. 1955, Ch. 1834.)

1682.3. "Farm labor contractor" includes any "day hauler." "Day hauler" means any person who is employed by a farm labor contractor to transport, or who for a fee transports, by motor vehicle, workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person.

(Added by Stats. 1957, Ch. 1704.)

1682.5. This chapter does not apply to:

(a) A nonprofit corporation or organization with respect to services specified in subdivision (b) of Section 1682, which are performed for its members.

(b) Any person who performs the services specified in subdivision (b) of Section 1682 only within the scope of his employment by the third person on whose behalf he is so acting and not as an independent contractor.

(Added by Stats. 1955, Ch. 1834.)

1683. No person shall act as a farm labor contractor until a license to do so has been issued to him by the Labor Commissioner, and unless such license is in full force and effect and is in his possession. The Labor Commissioner shall, by regulation, provide a means of issuing duplicate licenses in case of loss of the original license or any other appropriate instances.

(Added by Stats. 1951, Ch. 1746.)

1684. The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall he renew such license, until:

(a) Such person has executed a written application therefor in a form prescribed by the Labor Commissioner, subscribed and sworn to by such person, and containing (1) a statement by such person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which he proposes to conduct his operations as a farm labor contractor if such license is issued, and (2) the names and addresses of all persons except bona fide employees on stated salaries, financially interested, either as partners, associates or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests;

(b) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of such person;

(c) Such person has deposited with the Labor Commissioner a surety bond in a penal sum of five thousand dollars ($5,000) or time certificate in the sum of five thousand dollars ($5,000). Such bond or time certificate shall be payable to the people of the State of California and shall be conditioned that said farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure so to do, or by any violation of the provisions of this chapter, or false statements or misrepresentations made in the procurement of his license; and

(d) Such person has paid to the Labor Commissioner a license fee of seventy-five dollars ($75) plus a filing fee of ten dollars ($10). However, where a timely application for renewal is filed, the ten-dollar ($10) filing fee is not required.

(e) Such person in an oral or written examination, or both, demonstrates a degree of knowledge of the laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers and the public. The Labor Commissioner may charge a fee of not more than thirty-five dollars ($35) to cover the cost of administration of the examination. The Labor Commissioner may also renew a license without requiring the applicant for such renewal to take an oral or written examination if he finds that the applicant has complied with the requirements of this chapter.

(f) The Labor Commissioner may charge reasonable legal fees against a time certificate for handling claims, other than wage claims filed against a time certificate deposited pursuant to subdivision (c).

(Amended by Stats. 1970, Ch. 1587 and Ch. 1588, and by Stats. 1971, Ch. 278.)

1685. No license to operate as a farm labor contractor shall be granted:

(a) To any person who sells or proposes to sell intoxicating liquors in a building or on premises where he operates or proposes to operate as a farm labor contractor.

(b) To a person whose license has been revoked within three (3) years from the date of application.

(Added by Stats. 1951, Ch. 1746; amended by Stats. 1967, Ch. 125.)

1686. The Labor Commissioner, upon proper notice and hearing, may refuse to grant a license. The proceedings shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code and the commissioner shall have all of the powers granted therein.

(Added by Stats. 1951, Ch. 1746.)

1687. Each license shall contain, on the face thereof:

(1) The name and address of the licensee and the fact that he is licensed to act as a farm labor contractor for the period upon the face of the license only;

(2) The number, date of issuance, and date of expiration of the license;

(3) The amount of the surety bond or time certificate deposited by the licensee; and

(4) The fact that the license may not be transferred or assigned.

(5) The license shall contain on the back thereof the definition of a farm labor contractor, as defined by Section 1682, subdivision (b), of this chapter.

(Amended by Stats. 1970, Ch. 1587 and by Stats. 1971, Ch. 438.)

1688. The license when first issued shall run to the next birthday of the applicant, and each license shall then be renewed within the 30 days preceding the licensee's birthday and shall run from birthday to birthday. In case the applicant is a partnership or corporation, the license for a partnership shall be renewed within the 30 days preceding the birthday of the oldest partner, and the license for a corporation shall be renewed within the 30 days preceding the anniversary of the date the corporation was lawfully formed. Renewal shall require the filing of an application for renewal, a renewal bond or time certificate, and the payment of the annual license fee, but the Labor Commissioner may demand that a new application or a new bond or time certificate be submitted.

(Amended by Stats. 1970, Ch. 1587 and Ch. 1588, and Stats. 1971, Ch. 278.)

1688.5. Where the surety intends to cancel a bond, notice of such cancellation shall be furnished by the surety to the Labor Commissioner prior to the effective date of such cancellation.

(Added by Stats. 1970, Ch. 1588.)

1689. All applications for renewal shall state the names and address of all persons, except bona fide employees on stated salaries, financially interested either as partners, associates or profit sharers in the operation of the farm labor contractor.

(Added by Stats. 1951, Ch. 1746; amended by Stats. 1967, Ch. 125.)

1690. The Labor Commissioner may revoke, suspend or refuse to renew any license when it is shown that:

(1) The licensee or any agent of the licensee has violated or failed to comply with any of the provisions of this chapter;

(2) The licensee has made any misrepresentations or false statements in his application for a license;

(3) The conditions under which the license was issued have changed or no longer exist; or

(4) The licensee, or any agent of the licensee, has violated or has willfully aided or abetted any person in the violation of, or failed to comply with, any law of the State of California regulating the employment of females or minors in agriculture, the payment of wages to farm employees, or the conditions, terms, or places of employment affecting the health and safety of farm employees, which is applicable to the business, activities, or operations of the licensee in his capacity as a farm labor contractor.

(Added by Stats. 1951, Ch. 1746.)

1690.1. If any licensee fails to remit the proper amount of worker contributions required by Chapter 4 (commencing with Section 901)

of Part 1 of Division 1 of the Unemployment Insurance Code, or the Department of Human Resources Development has made an assessment for such unpaid worker contributions against the licensee that is final, the Labor Commissioner shall, upon written notice by the Department of Human Resources Development, refuse to issue or renew the license of such licensee until such licensee has fully paid the amount of delinquency for such unpaid worker contributions.

The Labor Commissioner shall not, however, refuse to renew the license of a licensee under this section until the assessment for unpaid worker contributions is final and unpaid, and the licensee has exhausted, or failed to seek, his right of administrative review of such final assessment, pursuant to Chapter 4 (commencing with Section 901) of Part 1 of Division 1 of the Unemployment Insurance Code.

(Added by Stats. 1970, Ch. 1216.)

1691. If any licensee fails to file a bond or time certificate with the Labor Commissioner within 30 days after notice of cancellation by the surety of the bond required under Section 1684, the license issued to the principal under the bond is suspended until such time as a bond or time certificate is filed. A person whose license is suspended pursuant to this section shall not operate as a labor contractor during the period of such suspension.

(Added by Stats. 1951, Ch. 1746; amended by Stats. 1971, Ch. 278.)

1692. Before revoking or suspending any license, the Labor Commissioner shall afford the holder of such license an opportunity to be heard in person or by counsel. The proceedings shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

(Added by Stats. 1951, Ch. 1746.)

1692.5. A licensee whose license is suspended or revoked pursuant to the provisions of this chapter shall immediately surrender such license to the Labor Commissioner.

(Added by Stats. 1970, Ch. 448.)

1693. All actions brought in any court against any licensee may be brought in the name of the person damaged upon the bond or time certificate deposited with the state by the licensee; provided, however, that the aggregate liability of the surety or on the time certificate to all such persons shall in no event exceed the penal sum of said bond or time certificate. The Labor Commissioner and his deputies and representatives authorized by him in writing may take assignments of such actions and may prosecute such actions on behalf of persons who, in the judgment of the Labor Commissioner, are financially unable to employ counsel, in the same manner that claims are prosecuted under Section 98 of this code. The amount of damage claimed by plaintiff, and not the penalty named in the bond or time certificate, determines the jurisdiction of the court in which the action is brought.

(Amended by Stats. 1970, Ch. 1587.)

1694. When a licensee has departed from the State with intent to defraud creditors or to avoid service of summons in any action brought under this chapter, service shall be made upon the surety as prescribed in the Code of Civil Procedure. A copy of the summons shall be mailed to the licensee at the last known post-office address of his residence, as shown by the records of the Labor Commissioner. Service is complete as to such licensee, after mailing, at the expiration of the time pre-

scribed by the Code of Civil Procedure for service of summons in the particular court in which suit is brought.

(Added by Stats. 1951, Ch. 1746.)

1695. Every licensee must:

(1) Carry his license with him at all times and exhibit the same to all persons with whom he intends to deal in his capacity as a farm labor contractor prior to so dealing.

(2) File at the United States Post Office serving the address of the licensee, as noted on the face of his license, a correct change of address immediately upon each occasion said licensee permanently moves his address.

(3) Promptly when due, pay or distribute to the individuals entitled thereto, all moneys or other things of value entrusted to the licensee by any third person for such purpose.

(4) Comply on his part with the terms and provisions of all legal and valid agreements and contracts entered into between licensee in his capacity as a farm labor contractor and third persons.

(5) Have available for inspection by his employees and by the grower with whom he has contracted, a written statement in English and Spanish showing the rate of compensation he receives from such grower and the rate of compensation he is paying to his employees for services rendered to, for, or under the control of such grower.

(6) Take out a policy of insurance with any insurance carrier authorized to do business in the State of California in an amount satisfactory to the commissioner, which insures said licensee against liability for damage to persons or property arising out of the licensee's operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with his business, activities, or operations as a farm labor contractor.

(7) Have displayed prominently at the site where the work is to be performed and on all vehicles used by the licensee for the transportation of employees, the rate of compensation the licensee is paying to his employees for their services, printed in both English and Spanish and in lettering of a size to be prescribed by the Department of Industrial Relations.

(Added by Stats. 1951, Ch. 1746; amended by Stats. 1963, Ch. 265, and by Stats. 1965, Ch. 1978.)

1696. No licensee shall:

(1) Make any misrepresentation or false statement in his application for a license.

(2) Make or cause to be made, to any person, any false, fraudulent, or misleading representation, or publish or circulate or cause to be published or circulated any false, fraudulent, or misleading information concerning the terms or conditions or existence of employment at any place or places, or by any person or persons, or of any individual or individuals.

(3) Send or transport any worker to any place where the labor contractor knows a strike or lockout exists, without notifying the worker that such conditions exist.

(4) Do any act in his capacity as a farm labor contractor, or cause any act to be done, which constitutes a crime involving moral turpitude, or the effect of which causes any act to be done which constitutes a crime involving moral turpitude under any law of the State of California.

(Added by Stats. 1951, Ch. 1746.)

1696.2. All vehicles used by a licensee for the transportation of individuals in his operations as a farm labor contractor shall have displayed prominently at the entrance of such vehicle the name of the farm labor contractor and the number of his license as issued by the Labor Commissioner pursuant to this chapter.

(Added by Stats. 1957, Ch. 1705.)

1696.3. Any farm labor contractor or person employed by a farm labor contractor who operates a bus or truck in the transportation of individuals in connection with the business, activities, or operations of a farm labor contractor shall be licensed as required by Section 12519 of the Vehicle Code.

(Added by Stats. 1957, Ch. 1706; amended by Stats. 1959, Ch. 330, and by Stats. 1963, Ch. 209.)

1696.4. All vehicles used by a farm labor contractor for the transportation of individuals in his operations as a farm labor contractor, and not owned by him, shall be registered with the Labor Commissioner. The registration shall include the name of the owner and driver of the vehicle, and the license number and description of the vehicle. The Labor Commissioner shall require, as a condition of registration, that the farm labor contractor submit evidence showing that he has in effect an insurance policy applicable to such vehicle, as required by Section 1695.

A farm labor contractor using such vehicles not owned by him shall do so only an a fixed fee basis and not upon a rental based upon a percentage of his earnings.

(Added by Stats. 1957, Ch. 1703; amended by Stats. 1967, Ch. 125.)

1696.5. Every licensee shall semimonthly or at the time of each payment of wages furnish each of the workers employed by him either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing in detail each and every deduction made from such wages.

(Added by Stats. 1963, Ch. 1306.)

1696.6. (a) No licensee shall recruit or solicit and transport an employee for farmwork unless he has first obtained, either orally or in writing, a bona fide order for such employment.

(b) Any farm labor contractor who recruits or solicits a farmworker without a bona fide order and induces him to be transported to a proposed jobsite and does not then provide employment for him shall pay wages to such farmworker at the agreed rate of pay for the job to which he was being transported and for the elapsed time from the point of departure with return to the same place.

(Added by Stats. 1965, Ch. 1979.)

1697. Any person who violates any provisions of this chapter, or who causes or induces another to violate any provisions of this chapter, shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars ($500), or imprisonment in the county jail for not more than six months, or both.

(Added by Stats. 1951, Ch. 1746.)

1698. All moneys collected for licenses and all fines collected for violations of the provisions of this chapter shall be paid into the State Treasury and credited to the General Fund.

(Added by Stats. 1951, Ch. 1746; repealed and added by Stats. 1967, Ch. 1505.)

1698.1. No licensee shall sell, transfer or give away any interest in or the right to participate in the profits of the employment agency

without the written consent of the Labor Commissioner. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisonment for not more than 60 days, or both.

(Added by Stats. 1967, Ch. 1505.)

1698.2. No licensee shall knowingly issue a contract for employment containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

(Added by Stats. 1967, Ch. 1505.)

1698.3. No licensee shall accept a fee from any applicant for employment, or send any applicant for employment without having obtained orally or in writing, a bona fide order therefor, and in no case shall such licensee accept, directly or indirectly, a registration fee of any kind.

(Added by Stats. 1967, Ch. 1505.)

1698.4. No licensee shall send or cause to be sent, any woman or minor under the age of 21 years, as an employee to any house of ill fame, to any house or place of amusement for immoral purpose, to places resorted to for the purposes of prostitution, or to gambling houses, the character of which places the agency could have ascertained upon reasonable inquiry.

(Added by Stats. 1967, Ch. 1505.)

1698.5. No licensee shall send any minor under the age of 18 years to any saloon or place where intoxicating liquors are sold to be consumed on the premises.

(Added by Stats. 1967, Ch. 1505.)

1698.6. No licensee shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons, or procurers to frequent his premises.

(Added by Stats. 1967, Ch. 1505.)

1698.7. No licensee shall accept any application for employment made by or on behalf of any child, or shall place or assist in placing any such child in any employment whatever in violation of Part 4 (commencing with Section 1171) of this division.

(Added by Stats. 1967, Ch. 1505.)

1698.8. No licensee shall divide fees with an employer, an agent or other employee of an employer or person to whom help is furnished.

(Added by Stats. 1967, Ch. 1505.)

1699. The Labor Commissioner may, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, adopt, amend, and repeal such rules and regulations as are reasonably necessary for the purpose of enforcing and administering this chapter and as are not in consistent with this chapter.

(Added by Stats. 1951, Ch. 1746; amended by Stats. 1957, Ch. 2034, and Stats. 1967, Ch. 125.)

printed in CALIFORNIA OFFICE OF STATE PRINTING

82277—501 8-71 2,500

STATE OF CALIFORNIA - AGRICULTURE AND SERVICES AGENCY
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR LAW ENFORCEMENT
P. O. BOX 603
SAN FRANCISCO, CALIFORNIA 94101

BOND NO.....

FARM LABOR CONTRACTOR BOND

Know All Men by These Presents:

That we.....
(Full name of applicant, of all partners, or of corporation),

doing business as a Farm Labor Contractor(s) of.....as principal,
(City or Town)

and.....

of.....as surety,
(Give main California address)

are held and firmly bound to the People of the State of California in the penal sum of FIVE THOUSAND DOLLARS ($5,000) lawful money of the United States of America, to be paid to the People of the State of California; for which payment we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

The condition of this obligation is that if the above bounden principal complies with the provisions of Chapter 3, Part 6, Division 2 of the Labor Code of the State of California, and pays all damages occasioned to any person by failure so to do, or by any violation of the provisions of said chapter, or false statements or misrepresentations made in the procurement of his license, then said obligation is to be void, otherwise it is to remain in full force and effect.

This bond shall be deemed continuous in form and shall remain in full force and effect throughout all succeeding license periods unless terminated or cancelled in the manner hereinafter provided.

The State of California, acting through the Labor Commissioner, reserves the right, at any time, to terminate this bond (except as to any liability thereunder already incurred or accrued) by a written notice of such termination to the surety, and thereupon this bond shall terminate and be of no more force or effect, except as to any liability already incurred or accrued as to which it shall remain in full force and effect.

The surety reserves the right to terminate this bond except as to any liability already incurred or accrued, and may do so upon giving the said principal and the Labor Commissioner of the State of California thirty (30) days' written notice to that effect and thirty (30) days after the receipt by the Labor Commissioner of such notice or upon the filing and acceptance of a new bond, its liability under this bond, except as to any liabilities or indebtedness already incurred or accrued, shall cease, and said bond shall thereupon terminate and be of no more force or effect, except as to any liabilities or indebtedness already incurred or accrued thereunder.

IN WITNESS WHEREOF *the said principal and surety have hereunto set their hands and seals this*.....*day*

of.....*19*.....

The premium paid for this bond is $.....per annum.

[Sign on lines below if you are a corporation]

*.....Inc.,
a corporation. Principal

By.....
Title of Official

By.....
Title of Official

By.....
Title of Official

(CORPORATE SEAL)

Attach Certificate of Acknowledgment of Surety Before a Notary Public.

[If individual or copartnership sign below]

*.....
Principal

.....

.....

.....

.....
Surety

By.....

By.....

NOTE.—This bond is to be duly executed and filed with the State Labor Commissioner.

* INSTRUCTION: PRINCIPAL MUST USE ACKNOWLEDGMENT PRINTED ON REVERSE

DLLE 402 (Rev. 11/69) 1M 8/73

CERTIFICATE OF ACKNOWLEDGMENT—INDIVIDUAL

STATE OF CALIFORNIA }
COUNTY OF ..... } ss.

On this ..... day of ....., 19....., before me, ...,
a Notary Public in and for the said County of ....., State of California,
personally appeared ....., known to me (or proved to me on the oath of
.....) to be the person whose name is subscribed to the within instrument,
and acknowledged to me that ..... executed the same.

IN WITNESS WHEREOF, I set my hand and affix my official seal.

[SEAL]

.....
Notary Public in and for the County of .....,
State of California.

CERTIFICATE OF ACKNOWLEDGMENT—PARTNERSHIP

STATE OF CALIFORNIA }
COUNTY OF ..... } ss.

On this ..... day of ....., 19....., before me, ...,
a Notary Public in and for the said County of ....., State of California,
personally appeared ....., known to me (or proved to me on the oath of
.....) to be one of the partners of the partnership that executed the within
instrument, and acknowledged to me that such partnership executed the same.

IN WITNESS WHEREOF, I set my hand and affix my official seal.

[SEAL]

.....
Notary Public in and for the County of .....,
State of California.

CERTIFICATE OF ACKNOWLEDGMENT—CORPORATION

[President, Vice-President, or Secretary]

STATE OF CALIFORNIA }
COUNTY OF ..... } ss.

On this ..... day of ....., 19....., before me, ...,
a Notary Public in and for the said County of ....., State of California,
personally appeared ....., known to me (or proved to me on the oath of
.....) to be the ..... President/Secretary of the corporation that
executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation
executed the same.

IN WITNESS WHEREOF, I set my hand and affix my official seal.

[SEAL]

.....
Notary Public in and for the County of .....,
State of California.

BIOGRAPHY

ALBERT J. REYFF

Assistant Chief, Division of Labor Law Enforcement, Department of Industrial Relations, 455 Golden Gate Avenue, Room 3258, San Francisco, telephone 557-3827.

DUTIES:

Assists the Chief in planning, organizing and directing work of the Division of Labor Law Enforcement throughout the State and acts as a confidential assistant.

PERSONAL:

Home address and telephone:
231 Crestmont Drive, San Francisco 94131
Telephone: XXXXXXXX
Born: San Francisco, June 16, 1925
Married and four children

EDUCATIONAL BACKGROUND:

Graduate of George Washington High School
Graduate of San Francisco City College
Graduate of San Francisco State College - major, Industrial Psychology; minor, Sociology
Graduate courses at San Francisco State and U.C. Extension in Industrial Relations and Business Law

Education in State service:
Peace Officers Training Course, Alameda County Sheriff's Department, Pleasanton, 1952
Management Education Program, San Mateo, Spring 1952
Course "A", Organizational Creativity and Administration, Asilomar, March 1968
Course "J", Data Processing Concepts, Sacramento, October 1967
Management Development School, Berkeley, March - May 1969
Public Relations Seminar, Hayward (Cal State), September 1969
Intergovernmental Management Training Program, Executive Seminar Center, Berkeley, 1969-70

MILITARY SERVICE:

U.S. Air Force 1943-1946

EMPLOYMENT:

State of California, Department of Industrial Relations

Special Investigator, Division of Labor Law Enforcement
September 1949 - June 1953
First Special Investigator employed. Pioneered the investigatory program with particular emphasis on enforcement of laws pertaining to farm labor and child labor.

Deputy Labor Commissioner, Division of Labor Law Enforcement
June 1953- September 1961
Responsible for enforcing State labor laws, San Francisco-Northern California area

Supervising Deputy Labor Commissioner, Division of Labor Law Enforcement
September 1961 - November 1967
Area Supervisor of Northern California with supervisorial function over the Oakland, San Francisco, Vallejo, San Jose, San Mateo and Salinas offices.

State Labor Commissioner (interim appointment)
August 1972 to December 1972

Chief of Division of Industrial Welfare, Department of Industrial Relations
August 1972 to April 1973

Assistant Chief, Division of Labor Law Enforcement
November 1967 to present

Broad experience in all fields of labor relations administered by the State of California, plus service on presidential and gubernatorial commissions.

Senator NELSON. What about the complaints that I have heard here today, and I have heard them before, that the law is good but the enforcement of the law by the State isn't very good?

Mr. REYFF. I am going to ask our senior special investigator from the Fresno office who deals in law enforcement and who is the man actually out doing it.

STATEMENT OF SEWARD YOUNG, SENIOR SPECIAL INVESTIGATOR, FRESNO OFFICE OF STATE LABOR LAW ENFORCEMENT

Mr. YOUNG. Thank you. I am Seward Young, senior special investigator for the Fresno Office of State Labor Law Enforcement.

In the area that I police, which is a six-county area, I am the sole State officer handling the policing of farm labor contractors.

Senator NELSON. How many are there in this area?

Mr. YOUNG. Approximately 320.

Senator NELSON. You are the sole State official supervising the about 300 contractors in the area?

Mr. YOUNG. That is correct.

Senator NELSON. Proceed.

Mr. YOUNG. Of course these aren't my only duties. I also police the fields insofar as health and sanitation, child labor, workmen's compensation, and other laws that the State division of labor law enforces.

Last year I made 489 inspections of various fields. This wouldn't only entail contractors, but it would also be farms where there is no contractor involved.

Senator NELSON. You made 489 inspections of areas where workers were employed, in other words.

Mr. YOUNG. That is correct. I don't have any record of the number of warnings that I issued, but I did make 27 arrests for various violations that I found in the fields during that period of time. Most of my arrests are made by the citation process, in other words, the same as a traffic officer who gives you a ticket when he finds your speeding. The only problem I do have insofar as the enforcement of the law is concerned is that I don't get too good of a response from the courts in the final prosecution of the case. My fines are very small. In one instance I found 200 children in a field——

Senator NELSON. Two hundred underage?

Mr. YOUNG. Yes.

Senator NELSON. In violation of the law, in one field?

Mr. YOUNG. In one field. One citation was issued because it covered the entire field. There were two separate instances of this type.

Senator NELSON. The same employer?

Mr. YOUNG. No. One was a contractor and one was a farmer. In one case the case was dismissed because the judge didn't feel that child labor in the fields was a bad thing, and in the other case I obtained a $35 fine.

That's one of the problems we have in the enforcement of the laws. My feeling is almost that it is better not to make an arrest but rather to give a warning due to the fact we don't get too good of cooperation from the courts, especially in these farm areas.

Senator NELSON. These are all State courts?

Mr. YOUNG. Yes, these are all State courts. They are actually county courts, municipal courts, justice courts, courts of this type.

Senator NELSON. What you need are some law and order judges, I think.

Mr. YOUNG. Possibly so, sir.

Senator NELSON. Who follow the law.

Mr. YOUNG. But when you are faced with a situation in an agricultural county, I don't know, the judges just don't seem too much interested in the enforcement of this type of law.

Senator NELSON. Well, 200 underage in one field would seem a little gross. If it were two, it might be another matter.

Mr. YOUNG. Mr. Nelson, during the harvest season there are far more than that working, let me assure you.

Senator NELSON. For one grower?

Mr. YOUNG. No, not for one grower, not one particular grower. In this area during the harvest season I have about 115,000 farmworkers that I police.

Senator NELSON. That isn't physically possible.

Mr. YOUNG. It isn't physically possible to get around to all of these spots, no.

Senator NELSON. If you did 480 is 1 year, if you even counted Sundays, you would be doing substantially better than one a day, one and a third inspections a day counting Saturdays and Sundays.

Mr. YOUNG. I keep busy.

Senator NELSON. You must violate the speed limit getting around.

Mr. YOUNG. The area that I cover is composed of some 17,000 square miles. I think a reporter one time compared my area, when it was a little bit larger, to the area actually about the size of New York, the State of New York, that is.

Senator NELSON. It sounds to me——

Mr. YOUNG. It is a manpower problem with us at the moment. Hopefully it will be rectified.

Senator NELSON. From the duties you have, it sounds more likely that they will double your duties more likely than double the staff.

Mr. REYFF. Senator, he is retiring.

If I may, I would like to make one or two observations about the complaints. You heard testimony from two workers who had difficulty collecting their wages. One of the workers did receive his pay. The other said he didn't receive his pay by taking action through our office because, as I determined it, lack of evidence. But we do accept wage claims from workers against farm labor contractors and we proceed very quickly against the contractors. The $5,000 bond that is required by California law is a wage protection bond that was placed because historically there were occurrences of contractors skipping with payrolls.

If a contractor leaves the area or does not pay a worker and the worker has a valid claim, we can proceed against that bond and collect his wages.

[The biographical sketch of Mr. Young follows:]

BIOGRAPHICAL SKETCH

Seward Young, Senior Special Investigator with the Fresno Office, State Division of Labor Law Enforcement since 1954.

Prior to this, his law enforcement career commenced in 1940 as a U. S. Border Patrol Inspector. Subsequently he was an Immigration Inspector; Immigration Investigator; Senior Deputy Sheriff, Fresno County Sheriff's Office; Special

Agent, Special Agent-in-Charge, District Director of Enforcement Office of Price Stabilization; and a State Liquor Control Officer.

The Fresno District Office covers the six Counties of Merced, Mariposa, Madera, Fresno, Tulare and Kings with a total area of 17,690 square miles. During the peak harvest season there are approximately 115,000 farm workers employed in the six county area out of a State total of approximately 320,000 or approximately one-third of the farm labor force in California.

Also within this area there are 320 licensed farm labor contractors out of a State total of approximately 800. In short, in excess of one-third of all the farm labor contractors in the State.

The policing of this area, insofar as violations of the State Labor Code relating to Farm Labor Contractors, Child Labor, Workmen's Compensation Insurance and field sanitation under the State Health and Safety Code, are performed by Young.

Senator NELSON. Does anybody else have anything that they want to add?

Ms. SPIERS. Yes; I think that I would like to say something.

STATEMENT OF RUTH SPIERS, SENIOR DEPUTY LABOR COMMISSIONER, DIVISION OF LABOR LAW ENFORCEMENT, DEPARTMENT OF INDUSTRIAL RELATIONS, SAN FRANCISCO, CALIF.

Ms. SPIERS. I kind of wanted to stress the fact that labor contracting or licensed farm labor contractors have been in existence, of course, for many, many years. The laws that required their licensing came into being because of the many violations and inequities that were occurring.

When they are licensed contractors, we can watch them much more carefully than we could an ordinary employer. In fact, this is what we do. We keep on top of the fact that their insurance, their workmen's compensation insurance, is in existence at all times. We can't possibly do that for every employer in California, but we do have enough ways of doing it for this group of farm labor contractors and we think that's one of the most important laws that we have. Practically every contractor in California is the employer of the workers.

We are not refuting the fact that there are many contractors who exploit their people. I'm sure there is no question but that there are. But we feel by getting them licensed and keeping them under surveillance we can accomplish something more than perhaps if they were out working for many, many, many different farmers, you see, where we couldn't possibly keep on top, let's say, of the workmen's compensation insurance. If there were wages that would become due, we wouldn't have the bond to look to, you see, if we couldn't find the money from the grower any other way.

I would like to put that into the record as for one of the better reasons for having—if the contractors are going to exist at all, I should say, then we do have the laws, you see, to keep things under control better than if they were out working perhaps without union help, because there would be many, many places where they would work without union help and then they wouldn't have the bond to help them. We wouldn't be able to check as closely into the workmen's compensation that a smaller grower would have to have. It would just be too huge of a job.

Senator NELSON. Thank you all very much. I appreciate your taking the time to come.

[The biography of Ms. Spiers follows:]

BIOGRAPHY

RUTH M. SPIERS

Senior Deputy Labor Commissioner, Division of Labor Law Enforcement, Department of Industrial Relations, 455 Golden Gate Avenue, Room 3242, San Francisco, telephone 557-2347.

DUTIES:

In charge of Special Programs Section:
Issues licenses to farm labor contractors and artists' managers.
Handles the initial program for enforcement of workmen's compensation insurance for all new employers entering business in California

EDUCATIONAL BACKGROUND:

A.B. Degree and General Secondary Credential from the University of California, Berkeley

EMPLOYMENT:

For State of California -- Department of Industrial Relations
8 years as Agent, Division of Industrial Welfare
Charged with enforcement of Industrial Welfare Commission Orders and laws pertaining to working conditions, maximum hours and minimum wages for women and minors. Territory -- Portions of San Francisco, plus Stanislaus, Merced and Mariposa Counties.

8 years as Deputy Labor Commissioner -- Hearing Officer, Division of Labor Law Enforcement

The last 14 years as head of the Licensing and Special Programs Section, Division of Labor Law Enforcement.

The Licensing Program previously included employment agencies, nurses registries, artists' managers and farm labor contractors. However, since 1967 this program has included only artists' managers and farm labor contractors.

In addition to Licensing, the Special Programs Section, Division of Labor Law Enforcement is in charge of the initial enforcement program for workmen's compensation insurance for new employers in California.

Senator NELSON. Our next witness is Mr. Ruben Rodriguez, Investigator, California Rural Legal Assistance.

Would you both identify yourselves for the record so that the reporter will be able to keep the record straight.

Mr. FLORES. Gilbert R. Flores, Senior Investigator for California Rural Legal Assistance in McFarland.

Mr. RODRIGUEZ. My name is Ruben Rodriguez, Investigator, California Rural Legal Assistance.

Senator NELSON. Go ahead, gentlemen.

Mr. FLORES. Mr. Chairman, I will be doing the speaking, I guess, for both of us. Mr. Rodriguez's name was on, but I have sort of pushed him aside to take his place.

STATEMENT OF GILBERT R. FLORES, SENIOR INVESTIGATOR, CALIFORNIA RURAL LEGAL ASSISTANCE; ACCOMPANIED BY RUBEN RODRIGUEZ, INVESTIGATOR, CALIFORNIA RURAL LEGAL ASSISTANCE

Mr. FLORES. I have been employed by CRLA for 7 years. In these 7 years I have had a lot of contacts with labor contractors, and nonlabor contractors, in other words, nonlicensed labor contractors, people who don't have a license but call themselves licensed contractors.

I think that in some of these cases, for instance, we have a labor contractor in the Tipton area who had to be thrown out of business because we took her bond away from her for failure to pay minimum wage. What she has done now, she is a crew pusher for another farm labor contractor in the Tulare area. One of the bad things about this labor contractor before was many sanitation violations, so now that she is working for another labor contractor she has carried on her tradition of not having clean toilets. There is no such thing as ice water because sometimes they don't even have water, much less with ice.

Some of the toilets that I have come across under these labor contractors consists of three walls and a canvas over the front with a little pit about 6 inches deep and about 6 inches wide.

There was a labor contractor at one time and we had six people come to our office because he had beaten them up. Every time we went to court the witness never showed up. These people were, there is a name for them but I don't know how to use that name, sort of a derelict person. I don't know if they were paid to leave the area or not. We were never able to convict this man. The court had to throw the cases out because nobody ever showed up to testify against him. After we went through the whole investigation, took pictures of the bodies, the faces where they were beaten up, they never showed up.

We called in the Department of Alcoholic Beverage Control because this person was paying most of these people with liquor, and again we could never prove it.

He became a licensed contractor, more beatings, and again no more witnesses.

Senator NELSON. Did you ever file any specific complaint with the State government?

Mr. FLORES With the Labor Commissioner?

Senator NELSON. Yes.

Mr. FLORES. Yes. We filed one of liquor abuse and the labor official from Bakersfield showed up. He showed up and the witness didn't show up.

These people, unless we search their camp, unless somebody is put into the camp, like we try to have a couple of people go in there, you cannot prove it.

We have one labor contractor, a woman labor contractor in Kings County right now who operates her own camp, who hires nothing but these kind of people. She comes to the Fresno area, to big cities and to skid row, picks up workers, takes them back to her camp where they are employed supposedly at $1.65 or more an hour. They are paid the same way.

I have an affidavit which I prepared but I did not bring it because I didn't know I was going to testify. There was a person that signed it. He was picked up and taken to her camp. He was told "you can buy as much liquor or tobacco as you want and you can pay us on payday". A small bottle of wine would cost him a dollar, after he inquired, and a big bottle would cost him $2.

This person has people working in fields right now. They do it by piecework. In other words, these people cannot earn more than $1 to $2 a day, there is no minimum wage right now for men. If there is a Federal minimum wage it is not enforced. These people are satisfied if they get paid for their food and for anything that they can drink during the day. This person is a licensed contractor, but again we have never filed a complaint because we have never been able to get anybody, actual people, to come and testify against her. They are afraid of losing their job. They are afraid they are going to be thrown out of the camp and will have to go back to skid row. Right now at least they have a place, a roof over their head. Not much more than a roof, maybe a mattress on the floor, but they have some place where they are out of the rain. They just bear that.

I have come in contact with labor contractors in Kings County who do not mind firing a person, say a young girl, a woman or a man, 30 miles from home. They are told you either wait all day on the bus or walk home. I had a case where I went to the Labor Commissioner. This girl, 18 years old, was forced to walk 35 miles because they would not take her home. She didn't want to stay all day since she was fired at 6 o'clock in the morning. She walked home. She got a ride. She was not paid her wages. When we went to the hearing, he had a very smart attorney. They claimed that the check had been made at night and the girl had not picked it up. We couldn't prove otherwise, so there was no penalty, wages or anything we could have done to him for forcing a person to walk home. She could either walk or wait all day long sitting in the car.

Under the State Department of Labor Law Enforcement they have to pay showup pay. We have people coming into our office where we have had to file complaints to get these 4 hours because there is a very widely used pattern of labor contractors telling people to showup for work. If they then have too many people or they think they have younger people who can do a better job than some of the

older people, the rest are told to go home. They are never told that they have 4 hours' pay coming. This reads that unless it is an act of God they have to pay the 4 hours. They don't. I have had to file up to 12 complaints at a time in order to get these people this kind of money.

I think our biggest problem is that the Department of Labor Law Enforcement does not have enough people to enforce these laws. We could keep them busy in our area alone, just in Kern County.

In Kings County, which falls under the jurisdiction of the Fresno office, just in Kings County we would keep them busy every day. That is the biggest problem. They don't have enough men. They don't have any more men than Mr. Young.

In reality, I can't say about Mr. Young what I can say about most investigators or labor commissioners. I have called the Labor Commissioner in Bakersfield and I was told "There is a labor dispute going on out there, what is your connection with the union? The union has already called this complainant in. Why are you calling this complainant in?" I explained to them, "This has been my job for 7 years. I have done it whether the union was around or not. Nobody ever showed up. There were children working in the fields. They never showed up to do anything about it because there was a labor dispute." They wanted to know what my connection with the union was. To myself, I wanted to know what their connection was with the grower. I couldn't ask them because I was hired by a Federal Agency, even though my sympathies do lie with the United Farm Workers of America.

But that's neither here nor there. I think that neither one of us, I nor the Labor Commissioner, we should do our job, we should be thinking of the people, of the farmworkers that are working, and not of the grower. I think if we call them out, they should enforce it whether there is a labor dispute or not. But it is not done. I am referring now to Kern County, not to Fresno County.

If there are any questions, I'd be glad to answer them.

Senator NELSON. Do you have anything, Mr. Rodriguez?

Mr. RODRIGUEZ. No, I don't.

Senator NELSON. Thank you for your presentation.

Mr. FLORES. Thank you.

Senator NELSON. Our final witness is Mr. Luke Danielson, Oakland, Calif., former investigator for the Colorado Migrant Legal Services Agency.

Mr. Danielson.

Mr. DANIELSON. I would like to thank you very much for the opportunity to be here.

Senator NELSON. Go ahead, Mr. Danielson.

Mr. DANIELSON. Thank you.

STATEMENT OF LUKE DANIELSON, FORMER INVESTIGATOR FOR COLORADO LEGAL SERVICES AGENCY

Mr. DANIELSON. Rather than read this prepared statement, I would like to begin by telling what I believe to be the central problem with the crew leader system as it now exists.

Senator NELSON. Your statement will be printed in full in the record and you can summarize or get the central point as you see fit.

Mr. DANIELSON. As I have observed the crew leader system in operation in Colorado and my closest acquaintance is with the system as it operates in northern Colorado where I was an investigator for Rural Legal Services, the central difficulty seems to be that the majority of the workers, as Mr. Gallegos said, as he testified, come from Texas to Colorado each year to work. Since many of these workers have had no work during the winter months and their incomes are low enough to begin with, very few of them have any substantial assets at all when they first arrive in Colorado. The average family that we contacted had an income of slightly over $1,700 per year and between six and seven family members.

On arriving in Colorado and beginning to work, the workers are pretty much at the mercy of the crew leader, who usually manages to postpone payment of the wages until the end of the summer, tiding the workers over by occasional advances of small amounts of cash to keep them in groceries during the summer. This leads to a position where the workers are at the mercy of the crew leader. Just to give one example, as it occurred several times to my knowledge, the crewman agreed that they would work a field of sugar beets of a hundred acres, do the first weeding of the field. At the end of that time they may be told by the crew leader that they won't get the wages for that work unless they go through the field again and do the second weeding, or he may keep them on and have them do another field entirely, so that once they have agreed to do this they may have the choice, in effect of foregoing their wages for the work they have done or continuing to work additional jobs that they didn't originally agree to do. This same sort of economic leverage is used in a lot of different ways.

Often the crew leader will pay most of the wages, say, and then will put so many difficulties in the way of collecting the remaining portion that the workers may just be unable to collect it because they have to move on. Generally most of the workers that come to Colorado move on to Michigan or to Oregon or farther on north later in the fall. They can't stay around to avail themselves of legal process to redress their claims because in many cases the amount in trover may be less than what they would get by moving on. I think this is one of the really central problems, the ability of the crew leader to withhold payment until the end of the summer.

During the summer of 1972, which is the summer of which I have been most knowledgeable, the investigators from our office contacted between 30 and 40 crew leaders. We have been unable to ascertain exactly how many of them were registered with either the State or the Federal Government. It is my opinion that the majority of them were not registered; at least a majority of them were unable or unwilling to produce cards when asked.

We were unable to find out from the Labor Department Regional Office in Denver how many of the people whose names we submitted were registered because the Labor Department in Denver had no central list of registrants.

Senator NELSON. I thought the testimony this morning was that they registered with the Labor Department, all of them?

Mr. DANIELSON. Senator, I have had numerous instances of crew leaders whom I have talked to personally who admitted they were not registered with either the State or the Federal authorities in Colorado.

As far as the Federal registration requirements, it is impossible to determine exactly how many people are registered because a crew leader who, say, claims to have registered in Texas, there is no way of verifying the claim due to the fact the authorities at the Denver Regional Office have no central list of registrants from all over the United States. There is no way of verifying that kind of statement. I have asked crew leaders if they were registered and they have replied that they weren't, that they were aware of this but they didn't do it.

I would like to conclude my remarks here by pointing out one case which I dealt with at length which is important not only in itself but also because it is typical of many of the complaints that we have dealt with.

In early July 1972, a group of farm workers came in our office in Sterling. They were members of six families constituting 17 workers. They had been recruited in the southern part of the Rio Grande Valley in Alice, Tex. Their complaint, the reason they came to us, was that he had refused to disclose to them the name of the farmer in whose fields they were working. It is the pattern of agriculture in that part of the country that the farmers often lease fields in widely scattered locations and it is very hard to find out actually who is operating that particular field. The county authorities in that county require the farmer employing the workers to sign a form before the workers become eligible for food stamp participation. They were attempting to get food stamps and the crew leader refused to let them know who the farmer was that they were working for.

We were able to find out, after some difficulty, and we discovered the reason for the crew leader's refusal to disclose the farmer's identity was that under the Sugar Act of 1948, in order to collect the workers' wages for them, the crew leader is required to produce an authorization signed by the workers and give it to the farmer. A number of authorization forms had been given to this farmer, and the farmer had been paying the wages to Mr. Villegas, but the crew members denied ever having signed or seen the affidavits. Apparently what was happening was that some single person had signed all of these authorization forms and the wages were being paid to Mr. Villegas.

After calculating what the farmer was paying him and what he was paying the workers, we determined that he was keeping over half of the amount of money that the farmer was paying. The farmer was paying $22.50 an acre as required by the Sugar Act, plus a $2 commission to Mr. Villegas, and the workers were getting slightly over $10 an acre.

We continued to investigate his activities and discovered that he was also employing a crew of six young men from Delicias Chi-

huahua, in Mexico. I was able to contact and talk to them and they told me they paid Mr. Villegas $75 apiece to smuggle them across the border and transport them to Colorado.

I talked to the farmer who they worked for, and once again there was a series of authorizations authorizing Mr. Villegas to collect the wages. In this case, however, it was clear that the workers had not signed it themselves because two of the workers were illiterate and one was unable completely to sign his own name. The farmer had paid in checks these names on the authorization forms. These checks he had because they had been endorsed and cashed by someone other than the workers.

Also, the farmer was in receipt of a number of these authorization forms containing names of people who were not in fact members of that crew. They were phony names of Mexican movie stars and entertainers. He had been making checks out to those names which had also been cashed and endorsed. The apparent reasoning for this was to avoid paying an amount to any one worker which would require withholding of Social Security deductions from the wages so that the records didn't show—I'm sorry, I have forgotten the minimum amount, but no one name showed that amount.

At any rate, at one point during the summer Mr. Villegas had advanced this crew $20 per person for grocery expenses. At this point, the crew became angry and tried to get Mr. Villegas to pay them and he threatened to turn them over to the immigration authorities. They became frightened and left the country.

In return for their $75 payment to him, they had worked 6 weeks and collected $20, so they had actually lost money in addition to working this 6-week period.

Senator NELSON. Was that a Colorado contractor or was it a Texas contractor?

Mr. DANIELSON. He recruited in Texas, on his own and also through a daughter of his who lives in the city of Alice, Tex.

In addition, when these six families from Texas—incidentally, three of the 17 workers in these families were children between the ages of 7 and 9. When they asked for payment of their wages, Mr. Villegas told them he couldn't pay because the farmer hadn't yet paid him, though this was untrue. He offered to lend them food stamps and deduct an equivalent amount in cash from their wages when the wages were eventually paid.

We talked to the county welfare officials and found that Mr. Villegas was receiving food stamps on the basis of an application where he was claiming to be the head of a household of 12 persons with no outside income, and that he was obtaining old age pension from the State of Colorado on a similar statement.

I could go on at great length listing the other violations by this man. He was making liquor which he gave to people in partial payment for their services. In addition, one of the original things we investigated was a farmer who had paid by the acre to Mr. Villegas for the services of harvesting a field which was triangular in shape. The rows at one end were close to a mile long and the rows at the point, of course, were very short, the shortest ones being 10 or 15 feet long.

Mr. Villegas made a deal with the crew where they would work for a fixed amount per row and that the deal would be that they would get the entire field so it would average out to a wage of, I think it was $1.50 a row, and they would be making less per hour on the long ones and more on the short ones. He started them on the long rows, and then when they got half way through with the field he caused them to stop working and had someone else do the shorter rows for which he collected the money.

Mr. Villegas has openly admitted to me that he knew of the act, both the State law and the Federal law, and that he wasn't registered under either law.

I could go into the difficulties we have had in trying to gain enforcement in this case and others, but I can say in summary that we contacted the U.S. Department of Labor first on July 6, 1972, and that it was only through a process of contacting them on repeated occasions that we were able to get them to take this complaint at all.

As one example, when I first called it took me over an hour on the telephone to determine which individual in the regional office had the responsibility for the enforcement of the act because no one who I was able to reach had heard of it. After three months of negotiation, and that was in September, they agreed to submit our complaint to the office of the regional counsel for a legal opinion on the merits of our claim.

In January of the following year the legal counsel finally was able to get to it, though we had been calling and writing him roughly in 2–week intervals up to this time. He was finally able to turn to this. He had one of his junior staff members draw up a memorandum on it which he then submitted to the national office in Washington, D.C., for approval. This came back 2 months later, in March, at which point it took 2 more months to decide that there was merit in the complaint. Finally in August of last year, 14 months after the complaint was finally filed, it was submitted to the U.S. attorney's office for action, where it is still pending due to the fact that in this time Mr. Villegas has disappeared and no one has been able to locate him.

Senator NELSON. You recite this in some detail to indicate that in regard to what the law provides there is lack of enforcement and great opportunity under the present law for abuse under the system, is that the essence of what you are saying?

Mr. DANIELSON. That is exactly what I'm pointing to.

I'm also pointing to one of the things which I recommend in the statement which is I think it is not at all unreasonable to require of farmers that they make good faith efforts to determine whether the crew leader with whom they deal is responsible and registered. If the crew leader is not in fact registered, make the farmer liable for the wrongdoings of the crew leader. I also urge strongly that a private right of action is an essential supplement to the enforcement machinery which has been developed.

Senator NELSON. Would it as a practical matter be very difficult if you simply furnished a certain kind of indication card showing that the crew leader and the contractor was licensed by the State for

the period of 1974 and then simply require that when a crew leader represents himself as a crew leader to a grower that he be required to disclose his up-to-date indication card and license and that the farmer simply make note of the man's name and card number so that you know you are dealing with a licensed crew leader? Would that be a practical way of doing that?

Mr. DANIELSON. Senator, I think that there would be nothing simpler than to require that. It would seem to be that it is one of the most minimal requirements of any kind of employment relationship that I can think of.

Senator NELSON. Do you have any more to comment on?

Mr. DANIELSON. No; that's all.

Senator NELSON. Thank you very much for taking the time to come today.

Mr. DANIELSON. Thank you.

[The prepared statement of Mr. Danielson follows:]

STATEMENT TO THE SENATE SUBCOMMITTEE ON EMPLOYMENT, POVERTY, AND MIGRATORY LABOR

Fresno, California
February 8, 1974
Luke J. Danielson

INTRODUCTION

The experiences which form the basis for this statement come mostly from 1972, when I was employed as an Investigator by Colorado Rural Legal Services, Inc., the agency responsible for delivery of legal services to the poor in most of rural Colorado. Through most of my employment I worked in the office in Sterling, Colorado. Our office there served clients from a large six county area on the high plains of northeastern Colorado. Fourteen to fifteen thousand migrant and seasonal farm workers are employed in this area during each growing season in the cultivation of sugar beets and a variety of other crops.

Since I left Colorado Rural Legal Services to return to law school I have kept informed of the progress of many of the cases and investigations on which I worked. I can say with assurance that this statement is as clear a picture of conditions now as of conditions eighteen months ago.

THE FARM LABOR CONTRACT SYSTEM

The crew leader system of employment of migrant and seasonal farm workers has been the source of massive abuse and exploitation of agricultural workers. Congress recognized the seriousness of the problem by passing the Farm Labor Contractor Registration Act. But the abuses have continued over the last decade. They show no signs of moderating.

My own observations lead me to conclude that the abuse cannot be ended short of a new system of employment regulation which does away with the crew leader entirely. But I would also say that it is certain that much can be done short of that to make the situation less intolerable.

The Act has not ended crew leader abuse for several reasons. First, it has been enforced only rarely. Secondly, there are weaknesses in the Act which increase the avenues for its evasion. And finally, the crew leader system itself, with the strong weapons of retaliation it places in the crew leader's hands, has discouraged the reporting of violations.

The abuses which are the subject of the Act are only a part of the many problems faced by farm workers. But they are an essential link in the chain which keeps farm workers powerless. If steps can be taken to protect farm workers from the effects of these activities they are likely to result in great long run benefits.

33-491 O - 74 - 8

THE PROBLEM IN NORTHEASTERN COLORADO

During the summer of 1972 our work led us into contact with a large number of farm labor contractors. Compliance with the terms of the Act was minimal.

We had contact with between thirty and forty contractors. A large number of them, probably a majority, were not registered as the Act requires. It was not possible for us to get any exact figures, as we discovered that the Department of Labor Regional Office in Denver had no central list of registrants. Thus a contractor could claim to have registered in another state, and we would be without means of verifying his statement. Neither would the Department of Labor be able to check.

At the very least we can say that only a small percentage of the crew leaders we contacted were willing and able to produce registration cards. A large number of the crew leaders we contacted admitted that they were not registered.

Very few of the crew leaders furnished any written records to the farm workers in their employ. Some even kept no records of their own.

A number of clear cases of the sort of practice that the Act was designed to check- the skimming off of part or even most of the workers' pay, false representations of how much work would be available, deception as to the kind or quality of housing that would be provided, the employment of aliens illegally in the United States -were encountered. We made a great effort to secure some sort of action by the Department of Labor. We were almost entirely unsuccessful.

Before continuing I would like to add a brief aside on what I consider the central inequity of the system as it now works. Many of the workers who come to Colorado have had no work since the previous autumn. They are thus in a nearly desperate financial condition at the beginning of the growing season. Some crew leaders exploit this fact by continually delaying payment for work done until the end of the growing season.

The crew leader often advances small sums to the workers as the summer goes on in order to allow them to buy necessities. But the major part of the wages is not paid. This can be used as a weapon. For example, workers may agree to work through a single hundred acre field. On completion, the crew leader may then tell them that they will be paid only after completing a second hundred acre field at a lower wage rate. If they fail to agree, he simply refuses to pay or to advance them any more money. If they don't have their own transportation they are left to their own resources in an unfamiliar community where local agencies are likely to be unsympathetic to their claims. Even assuming that the workers have access to legal assistance, the attendant delay may be more than they can afford.

This game can be played in a number of ways. The worker can be given the choice of part payment now in settlement of all claims, or full payment much later, or even never. Advances can be deducted from wages with interest. Advances can be made in food stamps with later deduction in cash. Other possibilities are too obvious to require elaboration.

In short, the worker often winds up in a relationship of economic servitude to the crew leader. It is small wonder that workers are quite reluctant to complain to the authorities about their treatment.

ONE CASE OF VIOLATION

At this point it would be helpful to cite on example of the kind of violation which makes strengthening and enforcement of the Act a clear necessity.

In early July of 1972 a group of farm workers came to our office in Sterling with a number of complaints relating to the conduct of the crew leader who employed them, one Francisco Villegas.

The workers in this crew were members of six families. Seventeen of them were old enough to work. They had been recruited in Alice and Hereford, Texas by Mr. Villegas and induced to come to Haxtun, Colorado by his promise of employment.

Their first complaint was that Mr. Villegas would not disclose to them the name of the farmer for whom they were working. County policy there required that the farmer sign a form in order to make the workers eligible for food stamps. They wished to participate in the food stamp program, and were unable to get the required signature. Agriculture in that part of Colorado takes a pattern of widely scattered holdings, and the operating farmer may live as much as forty miles from some of his fields, as was the case here.

After some work, we were able to find the farmer and speak with him. The reason for Mr. Villegas' reticence became clear.

The Sugar Act of 1948 requires a crew leader who wishes to collect workers' wages himself to provide the farmer with a form signed by the workers authorizing him to do so. In this case, the farmer had such a form and had been paying the wages to Mr. Villegas. The problem was that the workers themselves had never signed the forms. Mr. Villegas had signed for them.

This evasion allowed Mr. Villegas to collect the workers wages, decieve them about the amount that the farmer was paying, and keep a substantial part of the wages himself. In this case he was keeping over half of the wages in addition to his fee of two dollars per acre.

These activities are a clear and flagrant violation of the Act.

Mr. Villegas never told the workers what the terms and conditions of occupancy of the housing which he provided the workers were. When they complained to the Colorado Migrant Council about their treatment, his daughter threatened to evict them.

We then discovered that Mr. Villegas was employing another crew consisting of six young men from Mexico. I spoke to them and determined that they had paid Mr. Villegas $75 each for his assistance in their illegal entry into this country and their transportation to Colorado.

On talking to the farmer they worked for, we discovered that Mr. Villegas had also given him false authorizations allowing Mr. Villegas to collect the workers wages. The farmer had paid the wages in this case by checks payable to the workers themselves. The checks had been endorsed and cashed but the money had never reached the workers. They had not endorsed the checks; indeed one of the workers was unable to write his own name.

The farmer did not know how many workers were in Mr. Villegas' crew. The authorizations which Mr. Villegas had given him included a number of additional names, including the names of several famous Mexican entertainers. Checks had been made out to these names, and had been cashed. The apparent purpose of this maneuver was to avoid payment of large enough sums to any one worker's name to require withholding of Social Security tax.

Avoidance of payment of Social Security taxes is a very common event. As the result of this abuse by crew leaders and farmers, few farm workers are eligible for Social Security benefits when they die or are disabled.

At one point Mr. Villegas advanced this crew $20 apiece for groceries. To my knowledge that is the total that they were able to collect for nearly six weeks of work. They didn't even make back the amount that they had paid for their illegal entry.

All these activities clearly violate the Act.

In addition, when the six families from Texas asked payment of their wages, Mr. Villegas told them that the farmer had not yet paid him-which was untrue- but offered to lend them food stamps and deduct an equivalent amount from their pay when he settled accounts. Investigation disclosed that the food stamps had been obtained by Mr. Villegas on an application in which he falsely asserted that he had no income and was the head of a household of twelve. He was also obtaining an old age pension from the State of Colorado on the basis of similar false statements.

Mr. Villegas was to my knowledge also engaged in other violations of the provisions of the Act too numerous to mention here. He kept no written records. He admitted most of his violations openly. He knew of the existence of the Act. He admitted that he was not registered.

There can hardly be a clearer example of the kind of abuse that the Act was designed to correct.

The details of our attempts to secure enforcement of the Act in this case would require much more time than can be profitably devoted to them. In brief it can be said that Mr. Villegas' activities probably continue. No sanctions of any sort have been imposed on him.

I have contacted the Department of Labor dozens of times regarding this case. We have procured affidavits from the workers involved and from our own investigators who worked on the case. We have constantly attempted to cooperate in every way with the Department. The Department's response has been terribly slow, ineffective, and unhelpful. It was only after fourteen months of constant contact on our part that the case was submitted to the United States Attorney. No case has yet been brought because Mr. Villegas has now dropped from sight. Numerous other violators, however, have continued to perpetuate the same sort of abuse apparent in this case.

PROPOSALS

(1)The average income of the families who contacted us during the summer of 1972 was slightly above $1700 per year. The average farm worker family in northeastern Colorado has between six and seven members. Many of these families have outstanding debts totalling thousands of dollars.

Thus the farm worker's financial position is intolerable at the outset. When a family loses its breadwinner it becomes even worse. Without Social Security benefits, with difficulty establishing residence to qualify for welfare benefits, and with no other financial resources, an award for personal injuries or death may be the only source of financial support for the family if the breadwinner dies or is disabled. It thus seems absolutely necessary to increase the mandatory amount of insurance carried by farm labor contractors who transport workers whether over long distances or merely to the fields on a daily basis.

(2) The abominable enforcement record under the Act is due to a variety of factors. One of them is that both Labor Department and Justice Department officials feel that present penalties are insufficient to deter repeated violations. This deters them from pressing prosecutions. Provision of greater penalties is a real necessity.

Department of Labor officials have also told me that they lack sufficient investigative staff to process complaints. The recent transfer of enforcement responsibility to the Wage and Hour Division may help somewhat, but it is clear that there must be a sufficient number of trained investigators. In the West it is also crucial that these investigators be able to speak the language of the farm workers, Spanish.

(3) Since enforcement has been so lax in the past it is unlikely that it will improve to the necessary extent in the near future. Improved enforcement efforts can be supplemented by giving a private right of action under the Act to aggrieved farm workers.

(4) It would not appear at all unreasonable to ask farmers to deal with licensed crew leaders alone. We need not ask the farmer to make extensive inquiry, but it would not seem to go too far to ask the farmer to inspect the certificate of any crew leader with whom he deals, and to make the farmer responsible in damages for the delicts of any crew leader with whom he deals who is unable to provide one.

Senator NELSON. Mr. Sinclair who testified this morning has asked for a chance to make a response to some of the criticisms made to the crew leader system. I guess that would be appropriate and I will give him an opportunity if he has some specific response.

STATEMENT OF GUINN SINCLAIR, SINCLAIR CO., FRESNO, REPRESENTATIVE OF AN ASSOCIATION OF FARM LABOR CONTRACTORS, FRESNO, CALIF.—Continued

Mr. SINCLAIR. I will make it quite short.

Senator, we came here today to discuss the legislation, and had I known that it was going to be quite this much of a contractor on trial I would have chosen to have waited until I heard these statements, which we have been hearing for many years, before I answered.

Most of these things we have heard before. There are a couple of statements that I think should be clarified.

First of all, in the opening statement by Ms. Rhine, she states that the contractor has opposed the United Farm Workers. I think it is very clear from the beginning that the United Farm Workers has opposed the contractor, that we have never taken a position that they are better or worse than the Teamsters. We are certainly not pro-union, but the opposition has come from the United Farm Workers. We have been kind of their whipping boy for many years. We are used to it. Every time we do something wrong, one contractor can do something wrong, and they manage to broadcast that one contractor across the United States, failing to recognize that the vast majority of contractors are law abiding, obey the laws, do a good job, and the job that they are hired to do is harvest the crops of California. They do harvest the crops at a price where the farmer can make a profit and the average American can buy at far cheaper prices than any place in the world. It has been a very successful operation, so we think we have done a good job.

We do know that there are some bad apples, but our bad apples that are in the barrel have been displayed too much. Most of our contractors are good. Specifically, to show you the irresponsible type of statements, in my opening statement I discussed a contractor that recently had a bus accident. I merely brought it up to state that there are too many for the $500,000 of money posted to pay for these people that have been injured or killed.

You heard statements that the high and mighty farm was not providing any support. They don't have to have the support. The contractor is perfectly willing and in a position to provide those obligations that the law requires. The high and mighty farms, if they were under a United Farm Workers contract, all of those workers would have been on their own and driving to that farm, and had they had a wreck they would have had absolutely no protection. Under the contractors' system, the minute they put their foot on a bus they are covered by workmen's compensation. As you know, in car pools this doesn't exist.

Also, that attorney was here discussing the details concerning an accident on which I believe he knows there is still pending litigation,

that there may be criminal charges brought, and I think he was very irresponsible. As a matter of fact, unless the conditions change, that contractor is not licensed after today. I don't want to go into it any deeper than that, but the State of California is not completely helpless in taking care of situations. Possibly the contractor will still be in business Monday. That is between him and the division of labor law enforcement.

Just in conclusion, you will notice that there is an interchange of words, that if it is our person that is directing the labor, we are pushers. If it is the United Farm Worker doing it, he is a crew boss. If our person tells him to do a good job, we are whipping him into shape; if their boss tells him to do a good job, that is because they have got to have work next year. It comes out the same way. The job has to be done. The crop has to be harvested. If we abused our labor, they wouldn't work for us the next day. There is not that much abuse.

And so we say this, and I think if you have heard anything today, Senator, that there are laws that can control the operation. We realize that the division of labor law enforcement does not have sufficient personnel to enforce the laws. We're sorry to say that some courts will not pursue it after the district attorney has filed charges, but the laws exist. Certainly the association does not believe that any contractor that violates the law, just as any other businessman that violates the law, should be able to continue in that vein. No member of our association has even been suspended or had his license revoked. We are very proud of that.

We realize there are many contractors who are not members of our association. No matter who they are, we don't want them breaking the law.

What we need is for the division of labor law to be more heavily funded. There are good people working for the division of labor law enforcement. When one man tells you he has a place the size of New York, it is not because we lack legislation, it is because maybe there should be 10 or 15 investigators gathering this information. Maybe the legislation should be that the Federal Government should help fund this type of a program so that if the State of California is not now allocating enough money, maybe by matching funds, the States would release more money in this field and that the enforcement of the laws that already exist can take place.

Senator NELSON. Thank you very much.

That concludes our hearing which is adjourned subject to the call of the Chair.

[Whereupon, at 3:10 p.m., the hearing was adjourned subject to the call of the Chair.]

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS, 1974

MONDAY, APRIL 8, 1974

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

The subcommittee met, pursuant to notice, at 9:37 a.m., in room 4200, Dirksen Office Building, Senator Gaylord Nelson, chairman of the subcommittee presiding.

Present: Senator Nelson.

OPENING STATEMENT OF SENATOR NELSON

Senator NELSON. The Subcommittee on Employment, Poverty, and Migratory Labor will now come to order.

The hearing today and the one tomorrow are for the purpose of hearing testimony on bills S. 2070 and S. 3202, both of which propose amendments to the Federal Farm Labor Contractor Registration Act of 1963.

I should like to explain that I introduced S. 3202 to supersede the earlier S. 2070 for two reasons.

First and foremost, testimony taken in an earlier subcommittee hearing convinced me that the need to improve S. 2070 was so considerable as to require a new bill rather than amendments to the original.

Second, the House of Representatives has already, in committee action, reported out a much improved version of S. 2070, and I wanted to expedite agreement between the two Houses of Congress on this important legislation.

The use of farm labor contractors to provide seasonal farmworkers for American growers and processors is unique in our modern labor experience. In no other industry in the United States do those who finally utilize labor rely as extensively upon a middleman to hire, transport, and, in many instances, house, feed, and pay their workers.

Countless news stories, magazine articles, television documentaries, and dramas have given vivid testimony to the abuses that are inherent in the farm labor contractor system. The Congress, recognizing those abuses, in 1963, enacted the farm labor contractor registration program.

Unfortunately, all indications are that the original act did not do the job—it did not provide sufficiently wide coverage and it did not provide the administrative and judicial procedures sufficient to halt

obvious abuses. I believe that S. 3202 will go a long way toward resolving those problems.

When these hearings are completed tomorrow, the record will be left open for 10 days so that any interested parties may submit in writing for the record any commentary on the legislation or on testimony that was given before the committee.

Our first witness this morning is Assistant Secretary of Labor for Employment Standards, Mr. Bernard DeLury.

Mr. DeLury, we are happy to have you here this morning. It would be helpful to the reporter if you would identify your associates, and then, if there is any comment from your associates, have them identify themselves again so that the reporter will be sure to have the record correct.

STATEMENT OF BERNARD DeLURY, ASSISTANT SECRETARY OF LABOR FOR EMPLOYMENT STANDARDS; ACCOMPANIED BY WARREN D. LANDIS, ACTING ADMINISTRATOR, WAGE-HOUR DIVISION; WILLIAM HOFFMAN, EUGENE BONFIGLIO, AND W. J. EASTERLY, WAGE-HOUR DIVISION STAFF; AND HAROLD C. NYSTROM, ASSOCIATE SOLICITOR OF LABOR FOR GENERAL LEGAL SERVICES

Mr. DeLURY. Thank you, Mr. Chairman.

First of all, we do appreciate this opportunity to come before the subcommittee today on S. 2070 and S. 3202. On my left is Mr. Harold Nystrom, Associate Solicitor of Labor for General Legal Services. On his left is Mr. William Hoffman, Wage and Hour Division. Mr. Warren Landis on my right, Acting Administrator of the Wage and Hour Division. Then, Mr. Eugene Bonfiglio, Wage and Hour Division, and W. J. Easterly, Wage and Hour Division.

Senator NELSON. You are all welcome this morning, gentlemen. If you have any comments to make, just feel free to make them.

Your statement, Mr. DeLURY, will be printed in full in the record at the conclusion of your testimony. You may present it however you desire.

Mr. DeLURY. Thank you, sir.

I would just like to touch upon the highlights of the statement so we can spend some time on questions and answers.

The highlights on S. 2070 and S. 3202 and our recommendations are as follows: No. 1, we support provisions in S. 3202 to make growers liable for damages resulting from acts or omissions of unregistered farm labor contractors with whom they have contracted for services. We also recommend a provision to prohibit outright the use of unregistered crew leaders by growers.

No. 2, we support provisions to increase our enforcement authority under the act.

Senator NELSON. Let me ask a question. You are referring to the insurance provisions?

Mr. DeLURY. Yes, sir; right.

Senator NELSON. Let me ask a question about the insurance. Do you have any viewpoint of what the amount of insurance ought to be?

Mr. DeLURY. We are going to defer to the Department of Transportation on that, Mr. Chairman.

Senator NELSON. Pardon me?

Mr. DeLURY. We were going to defer to the Department of Transportation on that one.

Senator NELSON. All right.

Mr. DeLURY. We support the provisions to increase our enforcement authority under the act. We favor authority for the Secretary of Labor to assess civil penalties and to seek injunctive relief through the Attorney General. We also recommend increasing the monetary penalty under the penalty provision of the act from $500 to $1,000.

We support broad new coverage of the act to some intrastate crew leaders. We recommend a provision to assure coverage of super crew leaders, contractors who engage the services of other farm labor contractors.

We support provisions in S. 3202 giving individuals aggrieved by violations the right to bring suits and prohibiting adverse action against any employee by an employer for exercising the rights guaranteed him under the act.

We also recommend providing reinstatement, reimbursement—for lost wages, or both, in the event of such adverse employer action against the employee.

We oppose the provisions in S. 2070 to provide for a 3-year period of registration and to exclude day haulers from coverage under the act.

Senator NELSON. Do you favor 1 year.

Mr. DeLURY. Yes.

Senator NELSON. In S. 3202, you agree with the provision thereon?

Mr. DeLURY. Yes, sir. Some of the Employment Standards & Administration enforcement progress: No. 1, we have conducted approximately 1,100 investigations in calendar year 1973, about 70 percent of which uncovered violations. We have successfully had four crew leaders enjoined from violating the FLSA and the Farm Labor Contract Registration Act, under the Fair Labor Standards Act injunctive authority.

Several hundred migrants have benefited directly from this. The Department initiated five additional cases based solely on the Farm Labor Contractor Registration Act—judgment in our favor granted in one case, and four are still pending.

Regulations were issued on October 4, 1974, to strengthen farmworkers' rights under the FLSA. These regulations, plus court decisions, make enforcement of the Farm Labor Contractor Registration Act somewhat easier.

Mr. Chairman, that takes care of the highlights of the testimony. We would be happy to answer any questions.

Senator NELSON. Have you modified your method of enforcement under the provisions of the act? Have you changed your method of monitoring and enforcing the act in the past year? Am I to understand that?

Mr. LANDIS. No, sir, we have not changed it. We strengthened it.

Our method of approach after the Wage and Hour Division was given the job of enforcing the Crew Leader Act was to have a sort

of three-pronged approach. When you went to the farm, you were looking for crew leader compliance or violation. You were also looking for possible problems under the child labor and minimum wage provisions of the Fair Labor Standards Act.

Senator NELSON. How many people do you have involved in enforcing the provisions of the act?

Mr. LANDIS. About 1,000 field people are involved. A little under 900 compliance officers.

Senator NELSON. Their work is not exclusively devoted to enforcement of this act?

Mr. LANDIS. No. It is on a man-year basis, on a budgetary basis. We have about 15 man-years.

Mr. DELURY. We picked up nine positions when we took over from the Manpower Administration. We went into 10 positions with the supplemental budget. But the 900 compliance officers do other things beside farm labor contract or investigations.

Senator NELSON. Do you have the manpower to investigate any complaints that are made?

Mr. DELURY. Yes, sir, we do.

Senator NELSON. Within what period of time do you investigate them?

Mr. LANDIS. Mr. Chairman, are you just talking about crew leader complaints or complaints generally?

Senator NELSON. Well, both. If you have got crew leader complaints, how long does it take you to investigate those?

Mr. LANDIS. We are getting complaints currently at the rate of a little over 40,000 a year, and this includes all the acts that we administer and enforce. The time to complete and resolve a complaint may take anywhere from 1 day to several weeks or even months, depending on whether litigation is necessary.

Senator NELSON. This 40,000 complaints refer to what?

Mr. LANDIS. In a year, it refers—

Senator NELSON. Not just to the farm labor——

Mr. LANDIS. No.

Senator NELSON. All Wage and Hour, everything?

Mr. BONFIGLIO. We investigated last year a little better than 1,200 crew leaders. These were investigations that also included complaints made to investigators and through the national office. I think probably we may have had 100 complaints specifically citing a violation of the act.

Senator NELSON. What were the 1,100 others?

Mr. BONFIGLIO. This is where a field investigator went into a camp and investigated the crew leader for compliance with the act.

Senator NELSON. And you received complaints based upon this inspection?

Mr. BONFIGLIO. Occasionally, they would receive complaints from workers. But, primarily, and this is what I would like to stress, that is most workers will not make a complaint to the authorities. We get them through the various migrant legal action groups. We get them from social groups, church groups, generally outsiders. Very infrequently do we get a worker who will make a complaint to us.

He may go in to a migrant legal action group after he has left the crew leader and make a complaint, and then that is referred to us for investigation. But the bulk of our investigations last year were primarily initiated by the action of the individual compliance officer who went into the field and looked for the crew leader.

Senator NELSON. Would you break that down? You said you had 1,200. Then you said 100 of them were direct complaints to the Department and 1,100 were somehow or another discovered by an investigator upon inspecting a farm.

Mr. BONFIGLIO. This is essentially correct, Senator. Primarly, as I said before, the investigations that we have conducted generally indicate violations of the act. But it is primarily through the investigation efforts of the compliance officer rather than a specific party making a complaint directly to us.

Senator NELSON. How many farms that use crew leaders are inspected by your inspectors annually? What percentage?

Mr. BONFIGLIO. That would be a very difficult question to answer, Senator. You take a specialized area like North Carolina, for instance, and there, better than 50 percent of the growers who use crew leaders are investigated. There are other States where we do not have quite that coverage. I do not think there is really an answer that we can give you based on the total number of farms that use crew leaders in the country.

Senator NELSON. Do you know how many farms in any particular season are using crew leaders?

Mr. BONFIGLIO. Wherever there is an intensive agricultural area that utilizes crew leaders, generally these are investigated. We know of course, ahead of time, the general areas, agricultural areas, where crew leaders go into, and working with the local State employment service, the compliance officers generally know when the crew leaders are in the area, and who they are, and who they work for. They base their investigation activities on this information. So I would say that the areas that use large numbers of crew leaders are fairly well covered by our investigations.

Senator NELSON. We have a provision in section 7 that registrants, that is crew leaders, must advise the Secretary of every address change within 10 days, and then the Secretary is required to maintain a public registry. Do you agree with that provision in section 7?

Mr. BONFIGGLIO. May I address myself to the answer? We already print a register of all crew leaders on a monthly basis for distribution to interested parties. The question of whether we could get a crew leader to advise us every time he moved from farm to farm I think would be rather difficult, and in many cases the crew leader can leave a farm, and does not know exactly—he will know the area that he is going into, but he will not know specifically the employer that he may be working with. I think this would be difficult to enforce. We do have, as I say, a monthly directory of all registered crew leaders and their registered employees.

Senator NELSON. Is it totally voluntary?

Mr. BONFIGLIO. No, this is based on the application submitted by the crew leader and forwarded to the regional office. Every regional

office prints a directory every month, based on the applications received by the regional office for registration by a crew leader. It is based on the applications.

Senator NELSON. How accurate do you think the registry is?

Mr. BONFIVLIO. It is as accurate as the information that is supplied by the crew leader in the local office in his application form.

Senator NELSON. I understand that. But how accurate is that?

Mr. BONFIGLIO. As I say, crew leaders are responsible for the application form filed in the States—if there is any misinformation on it, they are punishable by a fine. Generally, the information is correct. The home address is accurate, and the size of the crew.

Senator NELSON. When you publish a monthly register, what are you publishing monthly, the changes?

Mr. BONFIGLIO. When they occur, yes, not the address. The address is the address of his home base, rather than where he is going. But many times the status of the crew leader will change from, say, transportation unauthorized to transportation authorized, and this information is included in the subsequent directory.

We do have an additional document that is published on a biweekly basis, which we call a tracer list, and this includes the coded information of all crew leaders that have been investigated in the field, and what the violations were, and whether the crew leader agreed to comply or not comply.

Senator NELSON. Does the grower get that list?

Mr. BONFIGLIO. No, the growers do not get the list. The compliance people get the list. We distribute it to the areas where the greatest agricultural need is concerned.

Senator NELSON. Can the grower get that information from the local area?

Mr. LANDIS. Mr. Chairman, if he wanted it, we would be glad to give it to him.

Actually, as Mr. Bonfiglio said, we do maintain now this list of the people registered, and bring it up to date on a monthly basis as additional ones register. I think that section 7 would be helpful to provide an address change, and we could put that on our list with little difficulty.

Senator NELSON. Would you have any suggestions on how you would modify section 7? It provides an address change, for example, in 10 days.

Mr. BONFIGLIO. Here is a copy of the directory to be published that I just took at random, if you would care to have it.

Senator NELSON. We will receive that for our files.

[The document referred to follows:]

DIRECTORY NO. 7
PERIOD COVERED July, 1973

U. S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION

REGION VI DALLAS, TEXAS
FARM LABOR CONTRACTOR REGISTRATION ACT OF 1963
REGISTRATION YEAR: JANUARY - DECEMBER 1973

REGISTERED FARM LABOR CONTRACTORS

Name and Permanent Home Address and Zip Code	Social Security Number	Registration No. & Transportation Status 1/	Size of Crew (Workers & Non-Workers)	No. of vehicles used to transport 2/
ARKANSAS				
Anderson, Andrew 132 N. Water St. Forrest City, Ark. 72335	XXXXXXXXXXX	XXXX	50	1 bus
LOUISIANA				
Ellis, James Rt. 2, Box H-42 Hammond, LA 70401	XXXXXXXXXXX	XXXX	25	1 bus
Jackson, Bill P. O. Box 913 Hammond, LA 70401	XXXXXXXXXXX	XXXX	35	1 bus
Jackson, Wallace Hollis Rt. 2, Box 54 Greensburg, LA 70441	XXXXXXXXXXX	XXXX	30	1 bus
Martin, Willie Rt. 3, Box 127A Hammond, LA 70401	XXXXXXXXXXX	XXXX	30	2 buses
NEW MEXICO				
Arguelles, Eladio P.O. Box 31 Vado, NM 88072	XXXXXXXXXXX	XXXX	16	1 pick-up
Barron, Santos P. O. Box 81 Anthony, NM	XXXXXXXXXXX	XXXX	25	1 station wagon

2

Ortiz, Pedro Mendoza Box 573 Sunland Park, NM	[redacted]	[redacted]	10	1 station wagon
Rubio, Ernesto G. 602 South Union Roswell, NM	[redacted]	[redacted]	10	
Valenzuela, Anselmo Box 573 Sunland Park, NM 88063	[redacted]	[redacted]	40	1 bus

TEXAS

Acosta, Armando 319 W. Avenue "E" Muleshoe, TX 79347	[redacted]	[redacted]	20	
Acosta Rafael L. 709 South 25th St. McAllen, TX 78501	[redacted]	[redacted]	80	
Agado, Leonael 649 Julian San Benito, TX 78586	[redacted]	[redacted]	115	
Aguilar, Jose 727 S. Valverde St. El Paso, TX	[redacted]	[redacted]	14	1 pick-up
Alcala, Narciso 156 North San Joaquin St San Antonio, TX 78237	[redacted]	[redacted]	30	
Aldaco, Juan R. 515 South 18th St. Donna, TX 78537	[redacted]	[redacted]	25	
Aleman, Lorenzo R. P. O. Box 161 Alamo, TX 78516	[redacted]	[redacted]	130	1 bus
Alfaro, Santiago F. 1831 King Arthur St. Eagle Pass, TX 78852	[redacted]	[redacted]	25	
Alva, Melecio 1115 North 1st Crystal City, TX 78839	[redacted]	[redacted]	200	
Arguelles, Antonio 1021 Sul Ross St. Harlingen, TX 78550	[redacted]	[redacted]	20	

3.

Arizmendi, Jose 3215 East 26th St. Brownsville, TX 78520	XXXXXXXXXXX	XXXX	20	
Avila, Guadalupe 156 Pacific St. El Paso, TX 79922	XXXXXXXXXXX	XXXX	25	1 sedan
Ayala, Francisco 600 East Expressway San Benito, TX 78587	XXXXXXXXXXX	XXXX	25	
Ayala, Manuel 712 North Pino St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	35	
Ayala, Senaido M. 901 San Joaquin St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	40	
Banda, Maziniano 1816 Juarez Laredo, TX 78040	XXXXXXXXXXX	XXXX	20	
Barrera, Leobardo V. P. O. Box 147 Edroy, TX 78352	XXXXXXXXXXX	XXXX	25	
Barrera, Viola G. 695 S. Bonham San Benito, TX 78586	XXXXXXXXXXX	XXXX	65	
Bobadilla, Conrado 7527 Adobe St. El Paso, TX 79915	XXXXXXXXXXX	XXXX	40	
Briones, Jacinto 2124 Lindberg Circle McAllen, TX 78501	XXXXXXXXXXX	XXXX	35	
Bustos, Trinidad 819 E. San Antonio St. Pharr, TX 78577	XXXXXXXXXXX	XXXX	25	
Cantu, Crisoforo Rt. 3 Box 292A Mission, TX 75872	XXXXXXXXXXX	XXXX	25	
Cardenas, Ernesto 500 San Felipe St. Del Rio, TX 78840	XXXXXXXXXXX	XXXX	50	
Cardenas, Rodolfo 518 Lela St. Harlingen, TX 78550	XXXXXXXXXXX	XXXX	30	

4

Carreon, Guillermo P.O. Box 131 Edcouch, TX	XXXXXXXXXXX	XXXX	15	
Carrizales, Pedro P. O. Box 558 Dilley, TX	XXXXXXXXXXX	XXXX	20	
Castellon, Teodore L. 1815 Sanders Ave. Laredo, TX 78040	XXXXXXXXXXX	XXXX	30	1 truck
Castillo, Abram 825 N. Heidrick St. Mercedes, TX 78750	XXXXXXXXXXX	XXXX	100	
Castillo, Andres R. 1112 Range Alice, TX 78332	XXXXXXXXXXX	XXXX	15	
Castillo, Cresencio R. 1118 Range St. Alice, TX 78332	XXXXXXXXXXX	XXXX	25	
Castillo, Francisco Box 247 Muleshoe, TX 79347	XXXXXXXXXXX	XXXX	15	
Castillo, Isidro R. 1002 Range St. Alice, TX 78332	XXXXXXXXXXX	XXXX	20	
Castillo, Juan Jose 75 Western Blvd. Brownsville, TX 78520	XXXXXXXXXXX	XXXX	50	1 truck
Castorena, Refugio F. 612 South Main St. Muleshoe, TX 79347	XXXXXXXXXXX	XXXX	20	
Castro, Francisco 1407 Smith Laredo, TX	XXXXXXXXXXX	XXXX	15	
Cavazos, Adan 819 Seabreeze St. Alice, TX 78332	XXXXXXXXXXX	XXXX	15	
Cavazos, Frank G. Rt. 1, Box 1070 McAllen, TX 78501	XXXXXXXXXXX	XXXX	60	
Cavazos, Ramon Rt. 1, Box 139 Edcouch, TX 78538	XXXXXXXXXXX	XXXX	20	

5

Cecilio, Emilio 309 W. Polk St. Harlingen, TX 78550	XXXXXXXXXXX	XXXX	25	
Chapa, Ovidio 813 W. Bowie Pharr, TX 78577	XXXXXXXXXXX	XXXX	22	
Cigarroa, Alberto H. 108 N. Carolina Dr. El Paso, TX 79915	XXXXXXXXXXX	XXXX	60	
Cordova, Fernando L. 111 N. Mesa St El Paso, TX 79901	XXXXXXXXXXX	XXXX	20	1 station wagon
Correa, Pablo Rt. 1, Box 437C New Braunfels, TX	XXXXXXXXXXX	XXXX	30	
Cortinas, Manuel 211 W. Valverde St. Crystal City, TX 78839	XXXXXXXXXXX	XXXX	45 - 50	
Cruz, Vicente General Delivery Falcon Heights, TX 78545	XXXXXXXXXXX	XXXX	80	
Davila, Jose Aaron 710 W. First St. Crosbyton, TX 79322	XXXXXXXXXXX	XXXX	45	
De La Cerda, Juan 501 W. Polk Pharr, TX 78577	XXXXXXXXXXX	XXXX	20	
De La Fuente, Jose 1516 Quince McAllen, TX 78501	XXXXXXXXXXX	XXXX	70	1 bus
De Leon, Eliberto 202 N. 29th St. Edinburg, TX 78539	XXXXXXXXXXX	XXXX	10	
De Leon, Rudy 215 Myrick St. San Antonio, TX 78221	XXXXXXXXXXX	XXXX	75	
Del Toro, Bob Jr. 1257 Bryan St. Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	115	
Del Toro, John R. 1257 Bryan St. Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	115	

6.

Doniaz, Pedro L. 716 South 25½ St. McAllen, TX 78501	[redacted]	[redacted]	31
Elizondo, Felipe 2602 Ligarde Laredo, TX 78040	[redacted]	[redacted]	6
Elizondo, Hector P. O. Box 143 La Villa, TX 78562	[redacted]	[redacted]	150
Enriquez, Cristelo C. P.O. Box 132 Floydada, TX 79235	[redacted]	[redacted]	20
Esparza, Salvador Jr. 1736 Cox Street Eagle Pass, TX 78852	[redacted]	[redacted]	32
Estrada, Santos E. P. O. Box 165 Quemado, TX 78877	[redacted]	[redacted]	50
Felan, Juan Dias 537 Adams Street Eagle Pass, TX 78852	[redacted]	[redacted]	75
Flores, Alejandro Rt. 4, Box 761 Mission, TX 78572	[redacted]	[redacted]	10
Flores, Gabino M. 123 East 4th El Paso, TX 79901	[redacted]	[redacted]	20 1 van
Flores, Isidoro Box 462 Bovina, TX 79009	[redacted]	[redacted]	15
Franco, Raul Muniz 6029 Aztec Rd. El Paso, TX 79907	[redacted]	[redacted]	20 1 truck
Garcia, Bernardino 3038 East 21st St. Brownsville, TX 78520	[redacted]	[redacted]	20
Garcia, David 127 Sylvia St. San Antonio, TX 78237	[redacted]	[redacted]	30
Garcia, Guadalupe G. 211 S. Pat Cannon St. Weslaco, TX 78596	[redacted]	[redacted]	30

7

Garcia, Teodoro 609 South "K" St. Harlingen, TX 78550	XXXXXXXXXXX	XXXX	30	
Garza, Antonio Jr. P.O. Box 1625 Alice, TX 78332	XXXXXXXXXXX	XXXX	15	
Garcia, Francisco M. 1781 Wilson St. Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	100	
Garza, Joe P. P.O. Box 264 Weslaco, TX 78596	XXXXXXXXXXX	XXXX	40	
Garza, Juan Rt. 1, Box 99 Pharr, TX 78577	XXXXXXXXXXX	XXXX	20	
Garza, Pedro 832 N. Vermont Mercedes, TX 78570	XXXXXXXXXXX	XXXX	40	
Garza, Pedro 405 Hidalgo St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	50	1 truck
Garza, Refugio 254 Hortencia St. Brownsville, TX	XXXXXXXXXXX	XXXX	15	
Garza, Ruben 1209 North 22nd McAllen, TX	XXXXXXXXXXX	XXXX	30	
Gomez, Felipe S. P.O. Box 192 Alamo, TX 78516	XXXXXXXXXXX	XXXX	10	
Gomez, Rafael R. 1211 Ruben Chavez Robstown, TX 78380	XXXXXXXXXXX	XXXX	10	
Gonzalez, Arturo S. Rt. 3 Box 113 Mission, TX 78572	XXXXXXXXXXX	XXXX	30	1 truck
Gonzalez, Camerina Carmona 3574 East 25th Street Brownsville, TX 78520	XXXXXXXXXXX	XXXX	75	
Gonzales, Deogracias S. P.O. Box 884 Hidalgo, TX 78557	XXXXXXXXXXX	XXXX	40	

8

Gonzalez, Eliberto 401 W. Esplanada St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	30	
Gonzalez, Jesus C. P.O. Box 53 Tarlingua, TX 79852	XXXXXXXXXXX	XXXX	25	
Gonzalez, Lucio Rt. 2, Box 115 - M San Benito, TX 78586	XXXXXXXXXXX	XXXX	20	
Gonzalez, Manuel M. 900 South Bowie St. San Benito, TX 78586	XXXXXXXXXXX	XXXX	25	1 truck
Gonzalez, Marcelo 160 East Expressway San Benito, TX 78586	XXXXXXXXXXX	XXXX	30	
Gonzalez, Osvaldo S. 1810 Hoover St. Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	50	
Gonzalez, Roberto Rt. 1, Box 189 Donna, TX 78537	XXXXXXXXXXX	XXXX	30	
Gonzales, Ventura G. Rt. 4, Box 318 Mission, TX 78572	XXXXXXXXXXX	XXXX	12	
Granados, Arturo Galindo 202 West Valverde St. Crystal City, TX 78839	XXXXXXXXXXX	XXXX	20	
Granadoz, Cecilia Balboa Acres McAllen, TX 78501	XXXXXXXXXXX	XXXX	30	
Guerra, Jose 500 Cavazos St. Alice, TX 78332	XXXXXXXXXXX	XXXX	20	
Gutierrez, Robert 1101 North 2nd St. Edinburg, TX	XXXXXXXXXXX	XXXX	15	
Hernandez, Guadalupe L. 208 South 23rd St. Donna, TX 78537	XXXXXXXXXXX	XXXX	30	
Hernandez, Jesus 1020 South Mesa St. El Paso, TX	XXXXXXXXXXX	XXXX	10	1 station wagon

9

Hernandez, Juan 924 North J.F.Kennedy Dr. Crystal City, TX 78839	XXXXXXXXXXX	XXXX	75	1 truck 1 pick-up
Hernandez, Manuel Star Route Box 185 McAllen, TX 78501	XXXXXXXXXXX	XXXX	20	
Hughes, Enrique P. 300 Hobbs Alice, TX 78332	XXXXXXXXXXX	XXXX	25	
Ibarra, Francisco 3202 San Bernardo Laredo, TX 78040	XXXXXXXXXXX	XXXX	20	1 truck
Jasso, Domingo 1704 South 24th St. Waco, TX 76706	XXXXXXXXXXX	XXXX	12	
Jimenez, Enrique 215 Mesquite St. Crystal City, TX	XXXXXXXXXXX	XXXX	30 - 60	
Leal, Ignacio P.O. Box 187 Alamo, TX 78516	XXXXXXXXXXX	XXXX	20	
Limon, Estanislado Rt. 4, Box 244A San Benito, TX	XXXXXXXXXXX	XXXX	80	
Longoria, Guadalupe 598 S. Bonham San Benito, TX	XXXXXXXXXXX	XXXX	25	
Lopez, Frank M. 102 Highland Circle Crystal City, TX	XXXXXXXXXXX	XXXX	30 - 40	
Lopez, Guadalupe 1794 Loma Linda Brownsville, TX 78520	XXXXXXXXXXX	XXXX	15	
Lopez, Raul R. P.O. Box 112 Del Rio, TX 78840	XXXXXXXXXXX	XXXX	225	2 trucks
Lopez, Refugio D. P.O. Box 112 Del Rio, TX 78840	XXXXXXXXXXX	XXXX	30	2 trucks
Lozano, Joe S. 300 Cullen Ave. El Paso, TX 79983	XXXXXXXXXXX	XXXX	10	1 station wagon

10

Magana, Isidra 1107 Denver St. Plainview, TX	XXXXXXXXXXX	XXXX	15
Martinez, Alejandro Freer Route 5 San Diego, TX 78384	XXXXXXXXXXX	XXXX	20
Martinez, Armando 622 East Dimmit Crystal City, TX 78839	XXXXXXXXXXX	XXXX	40 - 60
Martinez, Bernardo H. 1218 East Madison St. Brownsville, TX 78520	XXXXXXXXXXX	XXXX	25
Martinez, Candelario C. 783 Trinity Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	100
Martinez, Elias R. P.O. Box 1532 Hart, TX 79043	XXXXXXXXXXX	XXXX	25
Martinez, Emilio Box 1565 La Feria, TX 78559	XXXXXXXXXXX	XXXX	36
Martinez, Federico Rt. 4, Box 186 - F San Benito, TX 78586	XXXXXXXXXXX	XXXX	30
Martinez, Francisca L. 856 Madison St. Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	150
Martinez, Isaac 627 Diana St. San Benito, TX 78586	XXXXXXXXXXX	XXXX	35
Martinez, Jesus Jr. 814 East Hawk St. Pharr, TX 78577	XXXXXXXXXXX	XXXX	40
Martinez, Manuel P.O. Box 651 Kenedy, TX 78119	XXXXXXXXXXX	XXXX	25
Martinez, Manuel G. 1108 North 5th Carnizo Spring, TX 78834	XXXXXXXXXXX	XXXX	40
Martinez, Manuel T. 600 West Avenue "C" Robstown, TX 78380	XXXXXXXXXXX	XXXX	20

11

Mata, Jesus Jr. 137 Highland Circle Crystal City, TX 78839	XXXXXXXXXXX	XXXX	30	
Mata, Jose Rios 1718 North 6th Ave. Crystal City, TX 78839	XXXXXXXXXXX	XXXX	75	
Mata, Jose S. JR. P.O. Box 74 Donna, TX 78537	XXXXXXXXXXX	XXXX	35	
Medeles, Ramon 806 Water St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	15	
Medrano, Isidro Rt. 1, Box 36 Weslaco, TX 78596	XXXXXXXXXXX	XXXX	15	
Mendiola, Jesus Mesa Rt. 1, Box 272 San Benito, TX	XXXXXXXXXXX	XXXX	25	
Mendozo, Mauro V. Sr. P.O. Box 91 Grulla, TX 78548	XXXXXXXXXXX	XXXX	35	2 trucks
Mendoza, Nemesio 597 Blanco Street Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	10	
Mireles, Francisco Jr. 2063 Roosevelt Brownsville, TX 78520	XXXXXXXXXXX	XXXX	50	
Montemayor, Gregorio P.O. Box 401 Santa Rosa, TX 78593	XXXXXXXXXXX	XXXX	30	
Montes, Guillermo 108 East Mesquite Weslaco, TX 78596	XXXXXXXXXXX	XXXX	24	
Montoya, Juan Portillo 2105 Magoffin Ave El Paso, TX 79902	XXXXXXXXXXX	XXXX	10	1 station wagon
Morales, Guadalupe 806 East Torritos St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	25	1 truck
Moya, Euseiro Lopez 407 East Hill Ave. Alice, TX 78332	XXXXXXXXXXX	XXXX	20	

12

Moya, Reymundo L. 105 Shary Avenue Brownsville, TX 78520	XXXXXXXXXXX	XXXX	100	
Mungia, Ramiro Rt. 2, Box 102C Alice, TX 78302	XXXXXXXXXXX	XXXX	15	
Munoz, Samuel P. P.O. Box 522 New Braunfels, TX	XXXXXXXXXXX	XXXX	30	
Nino, Jose 125 Juanita Street San Benito, TX 78586	XXXXXXXXXXX	XXXX	25	
Ocanas, Abel P.O. Box 184 Alamo, TX 78516	XXXXXXXXXXX	XXXX	60	
Olivares, Ambrosio P.O. Box 268 Santa Rosa, TX 78593	XXXXXXXXXXX	XXXX	20	
Olivarez, Alfredo P.O. Box 256 Santa Rosa, TX 78593	XXXXXXXXXXX	XXXX	25	
Ortiz, Pedro C. P.O. Box 284 La Villa, TX	XXXXXXXXXXX	XXXX	20	
Ortiz, Ramon E. P.O. Box 208 Alamo, TX 78516	XXXXXXXXXXX	XXXX	16	
Padilla, Adolfo Rt. 1, Box 203 Weslaco, TX 78596	XXXXXXXXXXX	XXXX	30	
Palmerin, Jesus 311 Zaragoza Laredo, TX	XXXXXXXXXXX	XXXX	35	1 truck
Paloma, Jose 715 Nevada St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	40	
Pedranza, Guadalupe P.O. Box 235 La Villa, TX 78562	XXXXXXXXXXX	XXXX	20	
Pena, Antonio 418 South 5th St. Edinburg, TX 78539	XXXXXXXXXXX	XXXX	30	

13

Pena, Francisco O. 1212 East Second St. Weslaco, TX 78596	XXXXXXXXXXX	XXXX	25	
Pena, Reynaldo Rt. 3, Box 31 Donna, TX 78535	XXXXXXXXXXX	XXXX	35 - 45	
Perez, Domingo R. R. 2 Box 146 - F Mission, TX 78572	XXXXXXXXXXX	XXXX	30	
Perez, Juan P.O. Box 212 Santa Rosa, TX 78593	XXXXXXXXXXX	XXXX	50	
Puentes, Monico 743 Laredo St. Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	20	
Quiroz, Samuel P. 1910 Knox Street Harlingen, TX 78550	XXXXXXXXXXX	XXXX	25	
Ramirez, Adrian M. 300 Saltillo Carrizo Spring, TX 78834	XXXXXXXXXXX	XXXX	55	
Ramirez, Amelio Rt. 1, Box 573 Edinburg, TX	XXXXXXXXXXX	XXXX	25	
Ramirez, Armando P.O. Box 787 Hidalgo, TX 78557	XXXXXXXXXXX	XXXX	35	
Ramirez, Carlos Flores P.O. Box 79 Hargill, TX 78549	XXXXXXXXXXX	XXXX	100	2 buses
Ramirez, Cruz Box 704 Levelland, TX 79336	XXXXXXXXXXX	XXXX	17	
Ramirez, Juan Palacio Box 163 Pearsall, TX 78061	XXXXXXXXXXX	XXXX	15	
Ramirez, Modesto V. 305 East Bustamante Laredo, TX	XXXXXXXXXXX	XXXX	20	1 truck
Ramirez, Pedro R. P.O. Box 787 Hidalgo, TX 78557	XXXXXXXXXXX	XXXX	60	2 trucks

14

Ramirez, Raul I. 115 East Damelley St. Hebbronville, TX 78361	XXXXXXXXXX	XXXX	10	
Ramos, B astilio Rt. 1, Box 424E Pharr, TX	XXXXXXXXXX	XXXX	20	
Ramos, Demetrio 1844 West Adams Brownsville, TX 78520	XXXXXXXXXX	XXXX	45	
Reyes, Anastacio 3102 Guerrero Laredo, TX 78040	XXXXXXXXXX	XXXX	25	1 truck
Reyna, Pablo Camacho 535 North Missouri St. Mercedes, TX	XXXXXXXXXX	XXXX	40	
Rios, Agustin 1006 South Oregon St. El Paso, TX	XXXXXXXXXX	XXXX	10	1 station wagon
Rios, Juan Mares Rt. 2, Box 486 Brownsville, TX 78520	XXXXXXXXXX	XXXX	50	
Rios, Vincente 1231 Chalmers St. San Antonio, TX 78221	XXXXXXXXXX	XXXX	50	
Rodriquez, Eluterio C. 2406 Ferrell St. Plainview, TX 79072	XXXXXXXXXX	XXXX	50	2 buses
Rodriquez, Guadalupe Rt. 1, Box 236 Weslaco, TX 78566	XXXXXXXXXX	XXXX	50	
Rodriguez, Juan Rt. 1, Box 253 Donna, TX 78537	XXXXXXXXXX	XXXX	20	
Rodriguez, Nicolas 207 North Trevino St. Pearsall, TX 78061	XXXXXXXXXX	XXXX	28	
Rodriguez, Nicolas Davila 324 Ramireno Ln. Brownsville, TX 78520	XXXXXXXXXX	XXXX	50	
Rodriguez, Pedro R. 524 East Lucas St. Pharr, TX 78577	XXXXXXXXXX	XXXX	35	1 truck

15

Rodriguez, Ramon P. 1210 East Hawk St. Pharr, TX 78577	XXXXXXXXXXX	XXXX	20	
Rodriguez, Rodrigo 1121 Miranda St. Alice, TX 78332	XXXXXXXXXXX	XXXX	20	
Ronquillo, Sylvia Box 72 Tarlingua, TX 79852	XXXXXXXXXXX	XXXX	20	
Saavedra, Narciso 4307 Salinas Laredo, TX 78040	XXXXXXXXXXX	XXXX	10	
Saenz, Antonio O. 108 North Carolina St. El Paso, TX 79907	XXXXXXXXXXX	XXXX	14	1 ranch wagon
Salazar, Alberto A. P.O. Box 487 Harlingen, TX 78550	XXXXXXXXXXX	XXXX	25	
Salazar, Anita Alcorta P.O. Box 487 Harlingen, TX 78550	XXXXXXXXXXX	XXXX	25	
Saldana, Guadalupe Rt. 1, Box 170 San Benito, TX 78586	XXXXXXXXXXX	XXXX	35	
Saldana, Jose 414 East Lake St. Crystal City, TX 78839	XXXXXXXXXXX	XXXX	10	
Saldana, Juan Jr. Rt. 1, Box 178 San Benito, TX 78586	XXXXXXXXXXX	XXXX	30	
Saldivar, Guadalupe 705 South 26th St. McAllen, TX 78501	XXXXXXXXXXX	XXXX	50	2 trucks
Salinas, Abelardo R. 3105 Elm St. Laredo, TX 78040	XXXXXXXXXXX	XXXX	35	
Salinas, Andres Galvan 2811 Guadalupe St. San Antonio, TX 78207	XXXXXXXXXXX	XXXX	100	
Salinas, Juan Morales 302 Minnesota St. Beeville, TX	XXXXXXXXXXX	XXXX	25	

16

Sanchez, Eugene U. 315 South Avenue "B" Crystal City, TX 70839	XXXXXXXXXXX	XXXX	40	
Sanchez, Jesus R. P.O. Box 446 Los Fresnos, TX 78566	XXXXXXXXXXX	XXXX	60	1 bus
Sandoval, Jesus N. Rt. 1, Box 72 - A San Benito, TX 78586	XXXXXXXXXXX	XXXX	35	
Santana, Eustorgio Rt. 3, Box 94 - M Mission, TX 78572	XXXXXXXXXXX	XXXX	32	2 trucks
Sepulzeda, Alejandro R. 130 Highland Circle Crystal City, TX	XXXXXXXXXXX	XXXX	30 - 60	
Silguero, Leopold H. P.O. Box 932 La Feria, TX 78559	XXXXXXXXXXX	XXXX	60	
Silva, Aladeo Silvano Apt. 19 Alvorrez Courts Edinburg, TX 78539	XXXXXXXXXXX	XXXX	30	
Solis, Ignacio 1005 East Sprague Edinburg, TX 78539	XXXXXXXXXXX	XXXX	30	
Soto, Adolfo 882 Colorado St. Eagle Pass, TX	XXXXXXXXXXX	XXXX	25	
Tarin, Fermin A. 900 South El Paso St. El Paso, TX 79900	XXXXXXXXXXX	XXXX	10	1 station wagon
Torres, Adeliado E. 206 E. Lubbock St. San Antonio, TX 78204	XXXXXXXXXXX	XXXX	25	
Torres, Carlos Rodolfo 306 East San Pedro Laredo, TX 78040	XXXXXXXXXXX	XXXX	20	
Torres, Daniel 2412 Lindberg McAllen, TX 78501	XXXXXXXXXXX	XXXX	180	2 buses 2 trucks
Torres, Juan 1104 South 27th St. McAllen, TX 78501	XXXXXXXXXXX	XXXX	25	

17

Urbina, Ernesto P.O. Box 18 Los Indios, TX 78567	XXXXXXXXXXX	XXXX	20	
Urbina, Marcelino Box 18 Los Indios, TX 78567	XXXXXXXXXXX	XXXX	25	
Urbina, Manuel L. 740 Chapman St. San Benito, TX 78586	XXXXXXXXXXX	XXXX	20	
Valdez, Guadalupe P. 1908 El Indio Rd. Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	15	
Valdez, Gilberto 1115 Price St. Laredo, TX 78040	XXXXXXXXXXX	XXXX	50	
Valdez, Lucio Jr. 1222 North Avenue "B" Crystal City, TX 78839	XXXXXXXXXXX	XXXX	30 - 60	
Valencia, Jose F. 1017 South West St. Harlingen, TX 78550	XXXXXXXXXXX	XXXX	30	
Valenzuela, Daniel 1020 South Mesa Ave. El Paso, TX 79901	XXXXXXXXXXX	XXXX	40	1 pick-up
Vargas, Manuel A. 608 East Refugio St. Crystal City, TX 78839	XXXXXXXXXXX	XXXX	35	
Vasquez, Juan 2770 Highway 277 North Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX	35	
Vasquez, Paulino 512 4th Street Alice, TX 78332	XXXXXXXXXXX	XXXX	20	
Vela, Margarito 105 South Cedro Weslaco, TX 78596	XXXXXXXXXXX	XXXX	30	
Villa, Juan Jr. 1010 South Blvd. Donna, TX 78547	XXXXXXXXXXX	XXXX	25	
Villela, Santos 730 East Expressway San Benito, TX 78586	XXXXXXXXXXX	XXXX	10	

18

Wilson, Juan P.O. Box 281 Canutillo, TX 79835	XXXXXXXXXXX	XXXX	48	1 bus
Zamora, Ruben 1004 South 26th St. McAllen, TX 78501	XXXXXXXXXXX	XXXX	80	
Zapata, Dionicio P.O. Box 145 Grulla, TX 78548	XXXXXXXXXXX	XXXX	35 - 70	
Zuniga, Ascencion 913 North "E" Street Harlingen, TX 78550	XXXXXXXXXXX	XXXX	12	
Zuniga, Crecencio G. P.O. Box 1682 San Benito, TX 78586	XXXXXXXXXXX	XXXX	40	
Zuniga, Raymundo 423 South 5th Donna, TX 78537	XXXXXXXXXXX	XXXX	15	

REGISTERED FULL-TIME OR REGULAR EMPLOYEES
OF FARM LABOR CONTRACTORS

Namre and Permanent Home Address	Social Security No.	Identification Card No.
NEW MEXICO		
Torres, Benito Acosta 560 Brow Road Las Cruces, NM	XXXXXXXXXXX	XXXX
TEXAS		
Alonzo, John Joe 1101 East Street Plainview, TX 79072	XXXXXXXXXXX	XXXX
Barrera, Jose Leandro 695 South Bonham San Benito, TX 78586	XXXXXXXXXXX	XXXX
Berlanga, Humberto R. P.O. Box 787 Hidalgo, TX 78557	XXXXXXXXXXX	XXXX
Cecilio, Paulino 309 West Polk Harlingen, TX 78550	XXXXXXXXXXX	XXXX

19

Cortez, Andres 2620 Main Street Laredo, TX 78040	XXXXXXXXXXX	XXXX
Enriquez, Elias Martinez 206 East Lee Street Pharr, TX 78577	XXXXXXXXXXX	XXXX
Euresti, Feliberto Espinoza 712 Idalgo Laredo, TX 78040	XXXXXXXXXXX	XXXX
Garibay, Erasmo 906 South 17½ McAllen, TX 78501	XXXXXXXXXXX	XXXX
Guerra, Jose Vasquez 220 Canal Avenue Mission, TX 78572	XXXXXXXXXXX	XXXX
Guerra, Manuel 220 Canal Avenue Mission, TX 78572	XXXXXXXXXXX	XXXX
Guzman, Ernesto G. 34 Calle Real Brownsville, TX 78520	XXXXXXXXXXX	XXXX
Hernandez, Raul 672 Concho Street Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX
Ibarra, Rosalio 417 West Locust St. Laredo, TX 78040	XXXXXXXXXXX	XXXX
Martinez, Jose J. 611 Dolan Street El Paso, TX	XXXXXXXXXXX	XXXX
Martinez, Jose M. 934 Avenue "B" Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX
Menchaca, Jose Luis 1199 Fourth Street Eagle Pass, TX 78852	XXXXXXXXXXX	XXXX
Mireles, Ramon R. 1506 N. W. 24th Street San Antionio, TX 78207	XXXXXXXXXXX	XXXX
Molina, Carlos Rt. 1, Box 313 San Juan, TX 78589	XXXXXXXXXXX	XXXX

20.

Perez, Faustino Gomez 506 West Walnut St. Taylor, TX 76574	XXXXXXXXXXX	XXXX
Quintanilla, George G. 2228 Houston St. McAllen, TX 78501	XXXXXXXXXXX	XXXX
Ramirez, Carlos S. P.O. Box 653 Elsa, TX 78543	XXXXXXXXXXX	XXXX
Ramos, Abel M. 1844 West Adams Brownsville, TX 78520	XXXXXXXXXXX	XXXX
Ronquillo, Gilberto Hernandez Box 72 Tarlingua, TX 79852	XXXXXXXXXXX	XXXX
Saldana, Enrique Rt. 1, Box 170 San Benito, TX 78586	XXXXXXXXXXX	XXXX
Salinas, Fidencio Jr. P.O. Box 188 Grulla, TX 78548	XXXXXXXXXXX	XXXX
Samaniego, Fernando 2025 Roosevelt St. Eagle Pass, Tx 78852	XXXXXXXXXXX	XXXX
Solis, Alonzo P.O. Box 9 Grulla, TX 78548	XXXXXXXXXXX	XXXX
Trevino, Bernardo R. 1301 South 18th McAllen, TX 78501	XXXXXXXXXXX	XXXX
Villareal, Gregorio G. General Delivery Grulla, TX 78548	XXXXXXXXXXX	XXXX
Villarreal, Eudocio Rt. 1, Box A Rio Grande City, TX 78582	XXXXXXXXXXX	XXXX
Velasquez, Francisco E. 226 West Hawk St. Pharr, TX 78577	XXXXXXXXXXX	XXXX
Zarate, Gumaro P.O. Box 145 Grulla, TX 78548	XXXXXXXXXXX	XXXX

21

1/ R indicates "Renewal" (i.e., the contractor or employee registered in prior years.)

2/ Show only if interstate transportation of agricultural workers in vehicles subject to DOT standards is authorized.

TA indicates "Transportation Authorized" (i.e., the contractor, at the time the directory is issue, is authorized to transport migrant workers within the meaning of the Act.)

TU indicates "Transportation Unauthorized" (i.e., the contractor, at the time the directory is issued, is not authorized to transport migrant workers.)

Mr. BONFIGLIO. This just represents one particular period from one specific region, not the entire directory for the year.

Senator NELSON. Apart from your comments on section 7, are there any provisions in S. 3202 that you specifically disagree with, or any parts of any of the provisions that you specifically disagree with?

You do not have a position on the insurance question because you were leaving that for the Department of Transportation.

But as to any other provisions, specific provisions in S. 3202, are there any provisions that you disagree with in whole or in part?

Mr. DELURY. Those are just sections that we disagree with?

Senator NELSON. Yes, or sections you agree with, whichever is the shortest list. I just wanted to be sure that we had in the record any commentary or suggestion you have on any of these sections with which you disagree, or any suggestions you may have for improving them, from our viewpoint.

Mr. DELURY. Well, the only opposition we had was on S. 2070, and the question is on S. 3202, and we are supportive of S. 3202.

Senator NELSON. Well then you do support with that exception of section 7, and without commenting on the insurance aspect, you support the bill as drafted?

Mr. DELURY. There is one section there, section 10 which we think might be better if it had some input here from some experts in the field of labor relations. We think perhaps that that section may be pretty broad as it is written now. That is the one that has to do with strikes, slowdowns, management disputes, et cetera, et cetera.

Senator NELSON. You mean the strike breakers section?

Mr. DELURY. Right. Because of the whole area of involvement here with the administration and both Houses, the changes that are being anticipated here, NLRB, and what have you, there are just a whole range of changes in the labor relations field for agricultural workers.

Senator NELSON. I guess NLRB does not apply here.

Mr. DELURY. No.

Senator NELSON. Would you pull the microphone up more closely?

Mr. DELURY. On section 10, frankly the broad way in which it is written raises a lot of questions in my mind. The provision goes far beyond the requirement that crew leaders notify workers of the existence of a labor dispute, which is contained in both bills, and in any case I do not feel that I am the man best qualified to comment on such a proposal.

To me this subsection seems to try to address a labor relations problem rather than the problem directly related to crew leader registration. The whole problem of labor relations in the agriculture field is under careful study, both within the administration as well as by the Congress.

This provision appears to take a piecemeal approach to only one aspect of this very complex problem, which will require a very careful balancing of all the interests involved.

That would be about the only area of difference that we may have on S. 3202.

Senator NELSON. Otherwise you are in support of the bill?

Mr. DELURY. Yes, sir.

Senator NELSON. Any more questions?

If not, thank you very much, gentlemen.

[The prepared statement of Mr. DeLury follows:]

STATEMENT OF BERNARD E. DELURY
ASSISTANT SECRETARY OF LABOR
FOR EMPLOYMENT STANDARDS
BEFORE THE
SUBCOMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE
APRIL 8, 1974

Mr. Chairman and members of the Subcommittee:

I appreciate this opportunity to come before this Subcommittee today to discuss S. 2070 and S. 3202, legislation which would amend the Farm Labor Contractor Registration Act of 1963. I have with me Mr. Warren D. Landis, Acting Administrator of our Wage-Hour Division, Messrs. William Hoffman, Eugene Bonfiglio and W. J. Easterly from his staff, and Harold C. Nystrom, Associate Solicitor of Labor for General Legal Services.

I am very pleased to report that the Employment Standards Administration has made substantial progress in administering this very important and needed Act. Based on that experience, we recognize the need for legislation to strengthen certain aspects of the Act.

The Department of Labor has a commitment to improve the lot of the Nation's migrant agricultural workers. I might also add that improving the conditions of workers is one of the most important aspects of my job in the Labor Department -- one of my strong personal concerns.

I now want to turn to a discussion of the two bills which are the subject of this hearing, and, in doing so, to present our recommendations for changes in the Farm Labor Contractor Registration Act which we believe would accomplish the necessary strengthening of that Act. S. 2070 is nearly identical to H.R. 7597, to which I addressed myself in testimony in November of 1973 before the Subcommittee on Agricultural Labor of the House Committee on Education and Labor. Those House hearings were very helpful in focusing on problems experienced by migrant farmworkers, particularly with respect to farm labor contractors, as I am certain these hearings will be. While S. 3202 contains a number of constructive provisions similar to those in S. 2070, there are a substantial number of differences between the two bills. I also want to discuss with you today some additional amendments which we believe should be included in any legislation designed to strengthen the Act, as well as some suggested modifications in the provisions of the Senate bills.

First, S. 3202 contains a provision to make growers liable for damages resulting from acts or omissions of unregistered farm labor contractors with whom they have contracted for services. We have previously stated our strong support for a provision to prevent growers from using crew leaders who have not registered under the Act. We regard the liability provision as a possible supplement to the statutory prohibition we propose.

One of our biggest enforcement problems is that many crew leaders do not register. Through information dissemination by the Employment Service and increased monitoring, we have attempted to increase crew leader registration. But, if responsibility were placed on the growers, we believe that registration would increase rapidly. We believe that inclusion of a provision prohibiting outright the use of unregistered crew leaders, combined with S. 3202's provision for grower liability for the misconduct of unregistered crew leaders, should go a long way toward achieving greater compliance and redressing injuries to workers caused by unregistered crew leaders.

We also support provisions to increase our enforcement authority under the Act. Both bills propose to give the Secretary of Labor the power to seek injunctive relief in the case of violations of the Act. We believe that injunctive relief is one of the most effective methods of gaining compliance. We would recommend, however, that such authority be vested in the Attorney General. We would also favor giving the Secretary authority to assess civil penalties upon finding of violations. This authority would enhance effective enforcement of the Farm Labor Contractor Registration Act. It would avoid unnecessary recourse to

protracted criminal litigation, thus making better use of our compliance resources. If there is a failure of the offending party to pay the penalty, the Secretary may request the Attorney General to commence action in a court of the United States for such relief as may be necessary. The Attorney General would represent the government in cases brought at the Secretary's request. We are preparing civil penalty language to accomplish these objectives which we will provide the Committee within a short time. While both bills would strengthen the criminal penalty provision under section 9 of the Act to provide a jail term for willful and knowing violation, we also recommend that the present $500 fine be increased to $1,000. This will further deter violations of the Act without placing undue burdens on the District Court system because the cases would still be within the jurisdiction of the United States magistrates.

We support the broadened coverage provided in both bills which would make crew leaders, who operate entirely within the State, subject to the Act. Both bills amend the definition of "interstate agricultural employment" by striking the limitations created by the clause "when such service or activity is performed by an individual worker who has been transported from one State to another or from any place

outside of a State to any place within a State." This expands the definition to include some intrastate as well as interstate operations.

We also recommend that a provision be included to assure coverage under the Act of "super crew leaders," contractors who engage the services of other farm labor contractors. This provision would assure that such super crew leaders do not avoid the registration requirements of the Act.

We support the provisions in section 13 of S. 3202 allowing individuals aggrieved by violations to bring suit and prohibiting adverse action against an employee for exercising the rights guaranteed him under the Act. We recommend, in addition, that language be added to provide reinstatement, reimbursement for lost wages, or both in the event of such adverse employer action against an employee.

At present, the Farm Labor Contractor Registration Act requires crew leaders to register annually. While S. 2070 provides that registration be required only every three years, S. 3202 would retain the annual registration requirement. We strongly favor the S. 3202 approach on this question. We believe that annual registration is important in helping to assure that our information is timely.

I also wish to state our opposition to the provisions of S. 2070 that exclude day haul contractors from the Act's

coverage. Exclusion of day haul contractors would deprive laborers working for such contractors of guaranteed insurance protection and basic information about the job. These guarantees are as important to the day worker as to the laborer who works for a contractor over an extended period of time. At present, some interstate day haul work is covered under the Act. Exclusion of day haul contractors would exempt this interstate activity.

We would support enactment of a bill amending the Act along the lines which we have discussed.

I would now like to provide you, Mr. Chairman, and members of the Subcommittee with a brief rundown of what has been done by the Wage and Hour Division of the Employment Standards Administration since it was given responsibility for enforcement of this program. I am pleased to report that we have made a great deal of progress. Not only have we found numerous violations of the Farm Labor Contractor Registration Act, but, in the process of our investigations, we have discovered and corrected many violations of the child labor and minimum wage provisions of the Fair Labor Standards Act. Nevertheless, there still remains much to be done to attain greater compliance with the Act. I welcome your efforts and suggestions for strengthening its enforcement.

As part of the improved enforcement program made possible by the transfer of this program to ESA, we have initiated a vigorous investigative effort to obtain greater compliance with the Act. During calendar year 1973, the first year under ESA administration of the program, our compliance officers conducted about 1,100 field investigations. Some 70 percent of those investigations uncovered violations, including failure of crew leaders to register, to inform workers about living and working conditions, to keep required records and to obtain insurance. In the vast majority of these cases crew leaders agreed to comply with the provisions of the Act.

A key part of our program is our strengthened enforcement against illegal operations of migrant labor contractors. During the Fall of 1973, U.S. District Court actions initiated by the Department resulted in our having four farm labor contractors enjoined from violating the provisions of the Farm Labor Contractor Registration Act and the minimum wage provisions of the Fair Labor Standards Act. Several hundred migrant workers were directly benefited thereby. Unregistered farm labor contractors were prohibited by court decree from contracting, recruiting, transporting, or furnishing migrant workers and otherwise engaging in activities as farm labor contractors without first obtaining certificates

of registration. Court orders were also obtained requiring contractors, after registration, to carry their certificates and exhibit them before dealing as farm labor contractors; to disclose to workers at the time of recruitment details of the prospective employment including location, crops involved, wages, transportation, housing, and insurance, and charges of the contractor; to keep prescribed records; and to provide workers with statements of sums paid the contractor on account of their labor, amounts withheld, and purposes for which withheld, as required by the Act. Violations of these orders are punishable under the contempt powers of the court.

Through these cases a precedent was established and the importance of injunctive relief made evident. The Department has initiated five additional injunctive relief actions based solely on the Farm Labor Contractor Registration Act against farm labor contractors. Judgment in our favor has been granted in one of these cases, and the other four are still pending.

Finally, we issued new regulations effective October 4, 1973, which are designed to strengthen the protection of farmworkers' rights under the Fair Labor Standards Act. These new regulations, which are based on several District and Appeals Court decisions, hold covered agricultural employers responsible for assuring that workers hired by independent farm labor contractors are paid the Federal

minimum wage. We established these safeguards because there was a need for them, and we have been doing all we can to see that they are not violated. We believe that these tightened regulations, along with the import of court decisions, will make our job of enforcing the law far easier.

I want to close by again stressing our concern in the Department for the welfare of migrant workers. Thank you again for inviting me here today. My colleagues and I will be happy to answer any questions you may have.

Senator NELSON. Our next witness is the Rev. James Vizzard, representing the United Farm Workers of America.

Father Vizzard, we are very pleased to have you appear here this morning representing the United Farm Workers.

Do you have a prepared statement for the record, or are you speaking extemporaneously?

STATEMENT OF REV. JAMES VIZZARD, REPRESENTING UNITED FARM WORKERS OF AMERICA

Father VIZZARD. I am sorry that I do not have a prepared statement.

Senator NELSON. That is perfectly okay. Go ahead and present your observations as you see fit.

Father VIZZARD. We are very grateful for the opportunity to testify on this bill today. It was only 4:30 yesterday afternoon that I finally got clearance to appear here officially for the United Farm Workers of America.

I am glad to say that Mr. Cesar Chavez, who is in Washington today for about 2 hours for a press conference, urged me to congratulate this committee and its staff for finally developing a bill which offers some hope that the gross and repeated illegalities and indecencies which labor contractors visit on farm workers everywhere may possibly be eliminated.

If I may be allowed a moment of personal recollection and observation, it may be of interest to this committee that when the original act was passed in 1963, to become effective on January 1, 1965, I was very deeply involved in that action. I was then representative of the National Catholic Rural Life Conference.

We thought that we helped to back, and helped to pass, a very good bill. But it turned out that we made some disastrous and naive assumptions, namely that there would be diligent and effective enforcement.

As it turned out, by the time the law became effective, we had a President who was not very enthused about farm workers' problems, who was succeeded by another President whose attitude toward the poor is all too well known.

The result has been, in the 9 years of the existence of this bill, that there has been no enforcement. It has been totally ineffective. It has been a dud.

So, from a personal point of view, I welcome this opportunity to come back a decade later and attempt to assist this committee and the Congress to pass a bill which hopefully now will be effective.

I can sum up our testimony by saying we like everything about the bill. The only question we might have is whether or not the subcommittee will be able regularly to exercise its oversight responsibilities, and to check in a year or two whether or not the bill is actually working.

In the past, in legislation dealing with farm workers, no matter how well the legislation has been drafted, no matter how strong the vote in the Congress, it usually seems to be filed away in some cubbyhole without any appropriations, without any committed staff,

and the result in almost all cases has been nonenforcement. Much legislation has been passed purportedly to help farm workers, yet it has left them essentially in the same conditions as they were before.

So I would make a plea that after having drafted an excellent bill, and hopefully about to shepherd it through both Houses of Congress, this Subcommittee accept the responsibility for constant oversight on the workings of the bill.

Senator NELSON. If this chairman is still chairman of this subcommittee, you may be assured that within a year of the time of enactment of this bill there will be oversight hearings.

It is a very important matter, and it is within the jurisdiction of this subcommittee and the full committee, and it is an important problem, so this subcommittee will be conducting oversight hearings within a year from the time the bill is enacted so that we may be able to determine whether the provisions are being enforced as adopted and, secondly, whether or not additional changes, improvements, should be made.

Father VIZZARD. One other question I have is about the authorization for appropriations.

I applaud the inclusion of an authorization of $5 million. But as written in the draft, in the proposed bill, it is for fiscal 1975.

It is our hope that this act will become effective before the beginning of fiscal 1975, and that therefore whatever appropriate provisions are necessary will be made to finance the operations of the act from the time of its passage and effectiveness to the beginning of fiscal 1975.

Senator NELSON. I think that is a very good point. Fiscal 1975 which starts July 1, and if the bill in enacted very quickly—well, there is not likely to be much of a gap, because we would still have to get the bill out of this committee and to the floor of the Senate and passed, and then a conference with the House, so I would think at best you might be looking at a 6 week gap, but I think it is a good point that there ought to be some provision for funding for that period from the time of enactment to the beginning of fiscal 1975 so that there will not be a period of inactivity.

Father VIZZARD. Mr. Chairman, as is obvious, I have not had sufficient time to prepare an adequate statement, and I would like the privilege of being able to come back tomorrow, along with other representatives of the United Farm Workers as a panel to complete our statement.

Senator NELSON. You are welcome to join them, and if you have any suplementary comments to make within the next ten days, they will be received for the record.

Father VIZZARD. Thank you, Mr. Chairman.

Senator NELSON. Thank you very much, Father Vizzard.

Is Mr. David Sweeney here from the International Brotherhood of Teamsters?

[No response.]

Senator NELSON. Then we will skip him temporarily.

Our next witness is Mr. C. H. Fields, American Farm Bureau Federation.

Mr. Fields, the committee welcomes your appearance this morning. If you would identify your associate for the purposes of the record, you then may proceed to present your statement however you desire.

Do you have a prepared statement?

Mr. FIELDS. Yes.

Senator NELSON. Your prepared statement will be printed in full in the record at the conclusion of our testimony.

You may present it however you desire.

STATEMENT OF C. H. FIELDS, ASSISTANT DIRECTOR, CONGRESSIONAL RELATIONS, AMERICAN FARM BUREAU FEDERATION; ACCOMPANIED BY JOHN C. DATT, DIRECTOR, CONGRESSIONAL RELATIONS, AMERICAN FARM BUREAU FEDERATION

Mr. FIELDS. I have with me John Datt, who is with our Washington Office, director of Congressional Relations.

Senator NELSON. Go ahead.

Mr. FIELDS. We appreciate this opportunity to present Farm Bureau's views with respect to S. 3202, the "Farm Labor Contractor Registration Act Amendments of 1974." Farm Bureau is the largest general farm organization in the country, with a current membership of 2,293,680 families in 49 States and Puerto Rico. Farm Bureau is a voluntary, nongovernmental organization consisting of members who produce virtually every agricultural commodity produced in this country. Several thousand of our members employ the services of labor contractors and would be affected by this bill.

Before we comment on the specific provisions of this bill, we would like to state our overview of the problems this bill attempts to solve or alleviate.

Farmers and farm workers have problems that are unique to agriculture. The problem of seasonality is probably great in agriculture production than any other commercial activity. The remoteness of the work areas creates a transportation problem that few other workers face.

Added to these serious considerations is the historical fact that a great many farm workers—particularly those employed in the crew system—have been poorly motivated, or have suffered from low educational levels and many other social and economic problems. The wages paid these workers have been increasing rapidly in recent years; but the social and economic problems remain in large measure, along with the seasonality and transportation problems.

We are fully aware that a nationwide effort has been underway for a number of years to put an end to the crew leader system and to run the labor contractors out of business. It is unfortunate that so much testimony and so much publicity have been given to statements by a wide range of persons who have gone from specific problems about which they have personal knowledge to generalized statements based on such specific instances; or by others who have only secondhand knowledge of the problems involved.

In too many instances, these general statements have not been backed up by documentation, citing specific crew leaders involved, specific workers, or specific growers.

Like any other group, labor contractors have their share of bad actors. Unfortunately, the general public has gained the impression that all labor contractors are bad actors and all are in the business of exploiting unfortunate migrant workers.

This image of the labor contractor is not justified. The great majority of these people are responsible businessmen who have made a significant investment in their businesses and who make every effort to abide by the laws, rules and regulations that govern their operations. They are small businessmen who provide an essential service to agriculture.

To our knowledge, no one has figured out a system to replace the crew leaders which could provide similar or better services to both workers and growers.

We are entirely in agreement that the bad actors among the labor contractors should be prohibited from continuing in business, and that those contractors who continue to ignore their responsibilities under the law should be punished as provided by the law.

On the other hand, we do not agree with those whose aim is to put labor contractors out of business through the adoption of legislation, rules, and regulations which are restrictive, oppressive, or impractical.

S. 3202 would add a $5,000 bond requirement to the present law, increase the required bodily injury insurance coverage per accident from the present $20,000 to $750,000, and increase the other minimum coverages tenfold. We have done some checking with some of the agricultural leaders in States where significant numbers of crew leaders are employed, and with some of the insurance companies that have been writing the liability coverage on this business, and it is our considered opinion that the increases called for in this bill, coupled with the new bonding requirement, would make it extremely difficult or impossible for most of the contractors to obtain coverage.

Another response to this greatly increased insurance requirement might be further encouragement for the members of the crews to travel in their own vehicles, rather than in a bus owned by a crew leader; and this might well increase the worker exposure to injury and death.

If the purpose of this bill is to put most of the labor contractors out of business, it may very well accomplish its purpose.

Senator NELSON. I do not know that that is the purpose, that anybody involved in this legislation has that as the purpose.

There are individual workers who have suffered disasters, death and injury from being hauled in poor equipment that I am sure you are well aware of, and the objective here is to see if we can provide some adequate insurance to protect them.

There are all kinds of individuals, just for their own automobile, who carry that much insurance, even though they are not carrying anybody else in the car for commercial hire.

I carry more than that myself. So go ahead. I just want to say that I do not want the implication of your remark that the purpose of the insurance provision is to put contractors out of work.

Mr. FIELDS. I think my remarks said "if the purpose."

Senator NELSON. I think your remark is clear enough.

Go ahead.

Mr. FIELDS. We strongly urge that the bill be amended to moderate these required coverages to levels that are consistent with the realities of the situation. We agree that adequate liability protection needs to be provided; but such protection must be within the range of the ability of the contractors to obtain it from insurance companies and to pay for it.

Senator NELSON. What do you consider adequate protection?

Mr. FIELDS. Well, I noticed in New Jersey, for example, the maximum there is $300,000. That seems to be workable there. The coverages there do vary according to number of passengers in the bus.

I see no variance here in this bill as to the number of passengers carried in the bus.

Senator NELSON. Is it $300,000 in New Jersey?

Mr. FIELDS. $300,000.

Senator NELSON. What is the maximum figure for individual injury or death?

Mr. FIELDS. I am not sure. I think it is $20,000.

Senator NELSON. The accumulative is $300,000 in New Jersey?

Mr. FIELDS. Right.

Senator NELSON. Is it tailored to the number of employees?

Mr. FIELDS. Transported, yes. In New Jersey the figures are now one to 12 passengers per person $25,000, $150,000 per accident. Thirteen to 20 passengers, it is $25,000 and $200,000; 21 to 30, it is $25,000 and $250,000; and 31 and above, it is $25,000 and $300,000. Property damage is $25,000. That is presently an example in New Jersey.

Senator NELSON. Okay. Go ahead.

Mr. FIELDS. A new section 12 on civil relief is proposed to be added to the act. It is not clear to us from reading the proposed wording whether or not aggrieved persons could file an action in district court without exhausting administrative relief.

We recommend that section 10 be amended to make it clear that such persons would be required to seek administrative relief before filing a court action.

We strongly urge that it be made clear in the bill and the committee report that it is not the intent of Congress to cover the intrastate activities of farm labor contractors.

Senator NELSON. It is in S. 3202 and in the House bill specifically the purpose to cover intrastate.

Mr. FIELDS. We are opposed to intrastate coverage.

We do not object particularly to the various provisions in this bill that seek to provide a wider range of enforcement authority to the Secretary, or those that place additional record-keeping and disclosure requirements on labor contractors. But it should be pointed out that these people are small businessmen; they operate under extremely difficult circumstances; they do not have the services of accountants, bookkeepers, or legal advisors; and the more paperwork that is required the more apt they are to call it quits and go out of business.

The time has arrived in this country where national policy needs to be directed toward assuring the production of an adequate supply of food. Any action taken by the Congress that unreasonably impedes

or discourages such production is not in the best interest of consumers or the Nation as a whole. The services of labor contractors are particularly crucial to the fruit and vegetable industry, where high peaks of seasonal labor needs are unavoidable.

If the net result of this bill should be to cause a significant reduction in the number of contractors who are available to provide transportation and other services to workers and growers, then production will suffer and consumers will pay the cost through higher prices brought on by reduced supplies.

We are sympathetic with the goal of the subcommittee to provide as much protection as possible to hired farmworkers; but, if the means of achieving such a goal results in a loss of jobs for the workers or reduced production of food the public interest will not be well served.

Thank you.

Senator NELSON. You have a specific objection to the $750,000 cumulative damages.

Do I take it, because of your recitation of the New Jersey law, that that is an acceptable provision?

Mr. FIELDS. Yes.

I think that might be reasonable. That was the highest one we found in the States, but from what we have been able to find out in talking to insurance companies, we found one that said they would not be interested in writing $750,000 at all; that something less than $750,000 certainly ought to be considered.

Senator NELSON. Are there other specific provisions on which you think should be eliminated or modified?

Mr. FIELDS. I think those—except the ones I covered in the statement about administrative relief and insurance—by the way, I might say on bonding requirement, we have not been able to get any reaction from insurance companies on bonding.

The one reaction I got was that it probably would have to be a fully secured bond, which means a man would have to have $5,000 in the bank, in a savings account, to get the bond.

The bond may present as much problem as the greatly increased insurance.

Senator NELSON. The House bill is silent on the bond question.

Did you have any other comments?

Mr. FIELDS. That is all.

Mr. KING. My name is Roger King of Senator Taft's staff.

Mr. Fields, what is the position of your organization regarding subparagraph (g), on page 7?

Mr. FIELDS. Concerning the strike?

Mr. KING. That is correct.

Mr. FIELDS. We have no comment on that.

Mr. KING. That is all.

[Information supplied for the record follows:]

FARM BUREAU

TESTIMONY

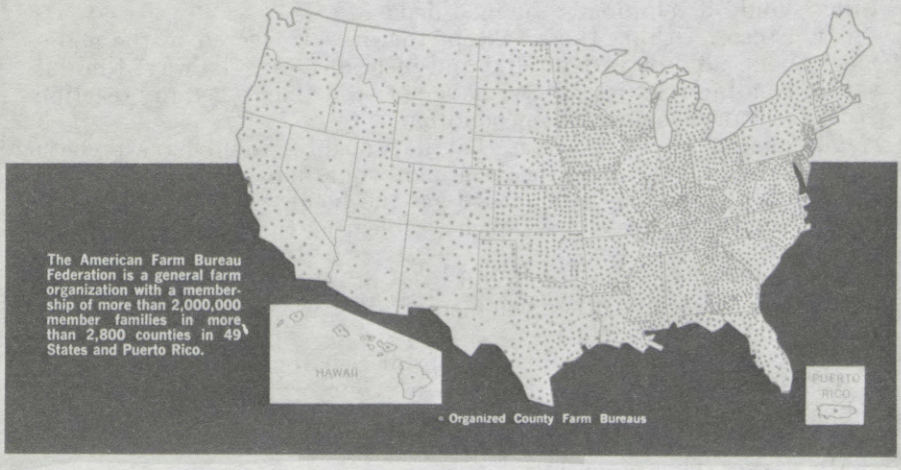
Farm Bureau is a free, independent, non-governmental, voluntary organization of farm and ranch families united for the purpose of analyzing their problems and formulating action to achieve educational improvement, economic opportunity, and social advancement and, thereby, to promote the national well-being. Farm Bureau is local, statewide, national, and international in its scope and influence and is non-partisan, non-sectarian and non-secret in character.

S. 3202 - FARM LABOR CONTRACTOR ACT

Presented to
SUBCOMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR
COMMITTEE ON LABOR AND PUBLIC WELFARE

By
C. H. Fields, Assistant Director, Congressional Relations

April 8, 1974



The American Farm Bureau Federation is a general farm organization with a membership of more than 2,000,000 member families in more than 2,800 counties in 49 States and Puerto Rico.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
TO THE SENATE SUBCOMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR
COMMITTEE ON LABOR AND PUBLIC WELFARE

RE: SENATE BILL 3202 - FARM LABOR CONTRACTOR ACT

Presented by C. H. Fields, Assistant Director, Congressional Relations

April 8, 1974

We appreciate this opportunity to present Farm Bureau's views with respect to S. 3202, the "Farm Labor Contractor Registration Act Amendments of 1974." Farm Bureau is the largest general farm organization in the country, with a current membership of 2,293,680 families in 49 states and Puerto Rico. Farm Bureau is a voluntary, nongovernmental organization consisting of members who produce virtually every agricultural commodity produced in this country. Several thousand of our members employ the services of labor contractors and would be affected by this bill.

Background

Before we comment on the specific provisions of this bill, we would like to state our overview of the problems this bill attempts to solve or alleviate.

Farmers and farm workers have problems that are unique to agriculture. The problem of seasonality is probably greater in agricultural production than any other commercial activity. The remoteness of the work areas creates a transportation problem that few other workers face. Added to these serious considerations is the historical fact that a great many farm workers--particularly those employed in the crew system--have been poorly motivated, or have suffered from low educational levels and many other social and economic problems. The wages paid these workers have been increasing rapidly in recent years; but the social and economic problems remain in large measure, along with the seasonality and transportation problems.

We are fully aware that a nationwide effort has been underway for a number of years to put an end to the crew leader system and to run the labor contractors out of business. It is unfortunate that so much testimony and so much publicity have been given to statements by a wide range of persons who have gone from specific

problems about which they have personal knowledge to generalized statements based on such specific instances; or by others who have only secondhand knowledge of the problems involved. In too many instances, these general statements have not been backed up by documentation, citing specific crew leaders involved, specific workers, or specific growers.

Like any other group, labor contractors have their share of bad actors. Unfortunately, the general public has gained the impression that all labor contractors are bad actors and all are in the business of exploiting unfortunate migrant workers. This image of the labor contractor is not justified. The great majority of these people are responsible businessmen who have made a significant investment in their businesses and who make every effort to abide by the laws, rules and regulations that govern their operations. They are small businessmen who provide an essential service to agriculture. To our knowledge, no one has figured out a system to replace the crew leaders which could provide similar or better services to both workers and growers.

We are entirely in agreement that the bad actors among the labor contractors should be prohibited from continuing in business, and that those contractors who continue to ignore their responsibilities under the law should be punished as provided by law. On the other hand, we do not agree with those whose aim is to put labor contractors out of business through the adoption of legislation, rules, and regulations which are restrictive, oppressive, or impractical.

Specific Comments

S. 3202 would add a $5,000 bond requirement to the present law, increase the required bodily injury insurance coverage per accident from the present $20,000 to $750,000, and increase the other minimum coverages tenfold. We have done some checking with some of the agricultural leaders in states where

significant numbers of crew leaders are employed, and with some of the insurance companies that have been writing the liability coverage on this business, and it is our considered opinion that the increases called for in this bill, coupled with the new bonding requirement, would make it extremely difficult or impossible for most of the contractors to obtain coverage. Another response to this greatly increased insurance requirement might be further encouragement for the members of the crews to travel in their own vehicles, rather than in a bus owned by a crew leader; and this might well increase the worker exposure to injury and death. If the purpose of this bill is to put most of the labor contractors out of business, it may very well accomplish its purpose. We strongly urge that the bill be amended to moderate these required coverages to levels that are consistent with the realities of the situation. We agree that adequate liability protection needs to be provided; but such protection must be within the range of the ability of the contractors to obtain it from insurance companies and to pay for it.

A new Section 12 on civil relief is proposed to be added to the Act. It is not clear to us from reading the proposed wording whether or not aggrieved persons could file an action in district court without exhausting administrative relief. We recommend that Sec. 10 be amended to make it clear that such persons would be required to seek administrative relief before filing a court action.

We strongly urge that it be made clear in the bill and the committee report that it is not the intent of Congress to cover the intrastate activities of farm labor contractors.

We do not object particularly to the various provisions in this bill that seek to provide a wider range of enforcement authority to the Secretary, or those that place additional record-keeping and disclosure requirements on labor contractors. But it should be pointed out that these people are small businessmen; they operate under extremely difficult circumstances; they do not have the services of accountants, bookkeepers, or legal advisors; and the more paper work that is required the more apt they are to call it quits and go out of business.

The time has arrived in this country where national policy needs to be directed toward assuring the production of an adequate supply of food. Any action taken by the Congress that unreasonably impedes or discourages such production is not in the best interest of consumers or the nation as a whole. The services of labor contractors are particularly crucial to the fruit and vegetable industry, where high peaks of seasonal labor needs are unavoidable. If the net result of this bill should be to cause a significant reduction in the number of contractors who are available to provide transportation and other services to workers and growers, then production will suffer and consumers will pay the cost through higher prices brought on by reduced supplies.

We are sympathetic with the goal of the Subcommittee to provide as much protection as possible to hired farm workers; but, if the means of achieving such a goal results in a loss of jobs for the workers or reduced production of food the public interest will not be well served.

SUPPLEMENTAL STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
TO THE SENATE SUBCOMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR
COMMITTEE ON LABOR AND PUBLIC WELFARE

RE: SENATE BILL 3202 - FARM LABOR CONTRACTOR ACT

April 15, 1974

We are also concerned about two subsections of Section 10 in S. 3202.

Subsection (f) would require a labor contractor to refrain from recruiting, employing or utilizing the services of any person he "knows or should know" to be in violation of the immigration laws. On the surface, this appears to be a reasonable prohibition; but on contemplation, the question arises as to how a labor contractor is expected to know or determine whether a given worker is in this country illegally. The Immigration Service itself has not been too successful in stopping illegal entries or discovering those who enter illegally. Falsification of Social Security cards, Immigration cards and other such documents is widespread. Persons who are citizens are not required to show evidence of their citizenship in an ordinary work situation. This bill is silent with regard to any procedures a contractor would be expected to follow in determining whether a person is in violation of the Immigration Act. In short, we can see no practical way for a contractor to comply with this proposed requirement, and we ask that this subsection be deleted.

Subsection (g) would require a contractor to refrain from recruiting workers for employment at a place where a strike, slowdown or labor-management dispute is in progress, where the effect of such recruitment and employment is to interfere with such a strike, slowdown or dispute on behalf of the employer.

Several points should be made in this regard: (1) Agriculture is exempt from the National Labor Relations Act and farmers have no legal method to deal with labor disputes as they involve such matters as representation and unfair labor practices. (2) the definition or determination of what constitutes a strike,

slowdown or labor-management dispute is far from certain. In any given situation, a contractor would be hard-pressed to know whether in fact such a condition existed at a particular farm. The fact that one or two persons happen to show up at the entrance to a farm, carrying signs indicating a grievance or organizing purpose might or might not constitute a strike or labor-management dispute. (3) In any situation where a farmer is dependent upon the labor contractor system for all or a significant portion of the labor needed on his farm, this proposed subsection could have the effect of determining whether or not his crop would be harvested. Fruits and vegetables tend to reach the harvest stage as determined by the inexorable laws of nature; and a farmer cannot wait around until someone decides whether there is a legally-constituted strike or labor dispute. In light of the present state of overall federal law concerning labor-management relations in agriculture, this proposed subsection would seem to be an unworkable and unreasonable responsibility to be placed upon labor contractors, and would constitute a serious threat to agriculture in general. We ask that it be deleted.

Senator NELSON. Thank you very much, gentlemen.

Our next witness is Mr. David Sweeney, International Brotherhood of Teamsters.

Mr. Sweeney, the subcommittee is pleased to have you appear this morning.

If you will identify your associate for the purposes of the record, please proceed, and your statement will be printed in full in the record. You may present it however you desire.

STATEMENT OF DAVID A. SWEENEY, DIRECTOR, DEPARTMENT OF LEGISLATION AND POLITICAL EDUCATION, INTERNATIONAL BROTHERHOOD OF TEAMSTERS; ACCOMPANIED BY BARTLEY M. O'HARA, LEGISLATIVE COUNSEL, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. SWEENEY. Thank you, Mr. Chairman.

First, we would like to beg your indulgence for being tardy this morning. We have an epidemic of flu within our shop, and it was very difficult for us to get additional copies out, so that is the reason we were late.

Senator NELSON. It did not delay the committee any.

Mr. SWEENEY. I am David Sweeney, director of legislation for the International Brotherhood of Teamsters.

I have with me our legislative counsel, Mr. Bartley M. O'Hara.

We are appearing on behalf of General President Frank E. Fitzsimmons, who is unable to be with you today.

We appreciate the opportunity to appear before the subcommittee to discuss the proposed amendments to the Farm Labor Contractor Registration Act of 1963, S. 2070 and S. 3202.

At the outset, we would note that the practices of labor contractors have been a matter of great concern for many years—both in the field and in the halls of Congress.

As with most other forms of economic endeavors, there are labor contractors who place personal gain above the needs of working people. The abuses, while somewhat curtailed, continue to exist. And we believe one means of curing present practices is through effective amendments to this act.

Turning now to the bills before the subcommittee, S. 2070 and S. 3202, we would offer the following comments—S. 2070: In the statement which we submitted to the House Subcommittee on Agricultural Labor, comments were made regarding H.R. 7597, a bill which was identical to S. 2070.

Since that time, the House committee has amended that bill and a number of suggested changes were made. For example, so-called day haulers were included within the provisions of the bill.

However, certain of our recommendations were not approved by the House subcommittee.

An example would include our proposed amendment to H.R. 7597, which would place a certain amount of responsibility on growers who utilize labor contractors.

If this subcommittee takes any action on S. 2070, we would again ask that our views be considered.

A copy of our statement to the House subcommittee is attached.

S. 3202: In your letter inviting us to appear here today, you said that S. 3202 is far more comprehensive than his original bill, S. 2070.

We believe this bill is not only more comprehensive, but it also contains provisions which would greatly improve the act.

Although we have a number of suggested changes, we support S. 3202.

Generally, our suggested amendments, as is the bill itself, are designed to prevent unscrupulous labor contractors from operating.

Initially, we would again ask that the bill contain a provision which would place a certain amount of responsibility on growers who use the services of unregistered labor contractors.

If a grower were prohibited from accepting the services of these operators, we believe it would increase registrations under the act.

As we stated to the House Committee:

> To implement this, the bill should not only prohibit grower use of unregistered contractors but it should also provide that growers could not receive any benefits under farm program administered by the U. S. Department of Agriculture if unregistered contractors were used in any facet of a grower's operation.

Senator NELSON. Suppose they used unregistered contractors without their knowledge?

Mr. SWEENEY. I would assume, Senator, that we should probably insert the language, "knowingly use an unregistered contractor."

Senator NELSON. What provision do you suggest so that the employer will be informed as to whether or not the contractor is registered?

Mr. SWEENEY. Well, it would seem to me, with our knowledge of labor contractors, that most of the labor contractors are registered with the U.S. Department of Employment, with the proper State agency, and it is my understanding that most of the growers of any size know who the licensed contractors are, at least in the State of California.

Senator NELSON. Would you require the grower to require the contractor to supply a verified certificate that he is registered?

Mr. SWEENEY. This, I think, would be a good suggestion. It would just seem to me that in order to be properly implemented, that the individual contractor should have proof of certification before the grower is authorized to deal with him.

I do not know if this would make the legislation unworkable or unwieldy, but the problems we have had are basically with the small fly-by-night type of contractor. And it would seem to me that if an individual contractor is going to be allowed to operate in a given geographical area, he should have proof that he is a bona fide legitimate labor contractor. And if it comes in the form of a license that he has to carry on his person, well, so be it.

Senator NELSON. Go ahead.

Mr. SWEENEY. Under section 2 of S. 3202, existing exemptions under the act are modified.

While we recognize the importance of bona fide exemptions, there is also a danger of these provisions becoming a means of evading the law. Thus, we would urge caution in fashioning these exemptions.

The language proposed in section 9(b) of the bill is a welcome addition. Proposed clause (3), together with section 10(3), will provide workers with ample notice that they are being recruited as strikebreakers.

In addition, we would suggest the addition of another clause which would provide that the labor contractor must disclose to each worker the time period of employment. The House bill contains a similar requirement, and we believe it would be beneficial to a worker.

Under section 13, a labor contractor could be liable for up to $500 for each and every violation of the act. We would recommend that a labor contractor be liable for $500 each day a violation occurs or continues. This would insure further compliance with the act.

Teamster relations with labor contractors: As you know, we protect our members who work for labor contractors. That is, we treat labor contractors as employers.

Under our contracts with these individuals, they are obligated to make benefit payments on behalf of our members, and noncompliance with the contract results in grievance and arbitration procedures.

In recent days, preliminary settlements from labor contractors, as a result of our grievance mechanism, have amounted to nearly $4,000.

For a more comprehensive description of our dealings with these people, we are submitting a background memorandum which was prepared by the California Teamsters Legislative Council. If the chairman has no objection, we would ask that it be included in this hearing record.

Thank you for the opportunity to appear here, and if there are any questions, I would be glad to assist the subcommittee.

Senator NELSON. The background memorandum will be received, and if it appears to be useful for the record, it will be printed in the record.

Concerning the suggestion that you make that the worker be notified as to the approximate length of time he will have employment, from your experience in the field, is it practical for the contractor to be able to advise a worker how long he will be employed?

Mr. SWEENEY. I would think so, Mr. Chairman.

The problem for the individual farmworker, as we understand it, is that he can spend 2 or 3 days in a given area, you know, running from farm to farm or from grower to grower prior to lining up work.

Senator NELSON. You mean the contractors?

Mr. SWEENEY. No, the individual farmworker.

It is our contention that there are some abuses inherent in the labor contractor system. However, if we can enact some legislation that will make the system work, that it will be both beneficial for the grower and for the individual farmworker.

Now, the point I am trying to make, and apparently I am not doing a very good job of it, is that, let us say, an individual farmworker would come into an area——

Senator NELSON. On his own?

Mr. SWEENEY. On his own, and that he might spend 2 or 3 full days going from farm to farm or from grower to grower before he will land suitable employment.

If we can make the contractor a bona fide legitimate business man, that he will pretty well have a program with the individual growers,

how many people he is going to need, and for what length of time, so it would seem to us that it would work to the benefit of both the grower and individual farmers.

The problem with the individual farmworkers is that he loses a lot of time if he, as an individual, has to go from farm to farm or from grower to grower.

Senator NELSON. Well, that provision still would not help the farmworker that you are talking about. He goes into an area on his own, without being associated with a contractor, spends 2 or 3 days going from farm to farm, would it?

Mr. SWEENEY. No.

I agree with you, Senator, but I think that we are talking about legislation that is going to affect the farm labor contractor.

Now, the farm labor contractor, whether we like it or not, is an essential part of the agribusiness, if you will, and that it would seem to me that this legislation, if enacted and if enforced properly, will make the farm labor contractor a legitimate responsible business man, and for that particular reason, if we can do away with the abuses of the labor contractor system, it will allow the individual farmworker to work through or with the labor contractor with no problem, with no fear.

Senator NELSON. Did I understand in your testimony that you said that you have contracts yourself, that is the Teamsters Union has contracts with labor contractors, and that the union treats the contractor as an employer?

Mr. SWEENEY. Yes, sir.

Senator NELSON. In these contracts?

Mr. SWEENEY. Yes, sir.

Senator NELSON. Do you have in your contracts with the contractor a provision such as you are suggesting here that the contractor must inform the employee of the numbers of days work that he may expect to get?

Mr. SWEENEY. I do not believe it is written, Senator. I do not have a copy of the contract here.

He will be very happy to furnish the committee with a copy of one of our contracts.

I simply would not, off the top of my head, attempt to answer.

But, again, when an individual farmworker deals with the labor contractor, this is the first question he asks, how many days work are going to be available and can the people that came with me also work for the same grower or on the same farm?

So, basically, this is the thrust of the labor contractor business, and this is the reason why we feel that it is going to be a very difficult system to eliminate in total, so we should set our sights on improving the system.

Senator NELSON. Are there any specific provisions in S. 3202 or in the House measure that you object to, either omissions or provisions that are included, that you consider undesirable?

Mr. SWEENEY. We find with our initial observation and reading of the legislation that we feel that we and the people we represent can live with it, Senator.

I am having the people in California review it. And if they have any comments, we have asked them to have them to us by the end

of the week, and we will be very happy to pass their comments and observations on to you.

Generally, we can live with legislation, and we are willing to support it.

Senator NELSON. Thank you very much, Mr. Sweeney.

Our next witness is Mr. Bruce Burkdoll, Central California Farmers Association, Dinuba, Calif.

The committee is pleased to hear from you again. We are pleased that you have been willing to tak the time to come here from California to testify.

Do you have a prepared statement?

Mr. BURKDOLL. Yes, Senator, I have a prepared statement.

Senator NELSON. You may proceed and your prepared statement will be included in the record at the conclusion of your testimony.

STATEMENT OF BRUCE BURKDOLL, CENTRAL CALIFORNIA FARMERS ASSOCIATION, DINUBA, CALIF.

Mr. BURKDOLL. First off. I would like to correct one word in the statement which we have, on the second page, second paragraph, the sixth word, "employer"—I want that changed to "employee." That is a mistake.

Senator NELSON. Fine. Go ahead.

Mr. BURKDOLL. There is one thing I would like to have defined, and that is "crew leader" in comparison to contractor.

In our area, our crew leaders are people that actually oversee or lead a crew of 18 or 20 people. A contractor is the man that contracts for the help, and he may have one or many more crew leaders working for him.

Senator NELSON. I think there should be a clarification of that. I am advised that on the east coast, they use the word "crew leader" interchangeably with "contractor."

On the west coast, they do not.

Is that your understanding?

Mr. BURKDOLL. That is right.

Actually, your crew leader is the man that is working with the crew that is in the field. He keeps the record of the hours worked and reports back to his contractor's office.

Senator NELSON. Is he an employee of the grower or of the contractor?

Is the crew leader an employee of the grower or the contractor?

Mr. BURKDOLL. Actually, he would be an employee of the contractor.

However, his wages, of course, are paid by the farmer. The farmer would pay those wages to the contractor.

Senator NELSON. But he is hired by the contractor?

Mr. BURKDOLL. Yes.

Senator NELSON. Not the farmer?

Mr. BURKDOLL. Yes, right.

Senator NELSON. I think you are correct that the definition should be clarified in the field, and it will be.

Mr. BURKDOLL. Now, there is one other thing that I have noticed here this morning in talking about insurance.

Now, we have, I would say, the majority of the workers in our area that work for a contractor go to work in their own cars.

Now, I am questioning how the insurance would work concerning the contractor where the worker is going to work in his own automobile.

Senator NELSON. He is not covered. There is no obligation of the contractor to cover him.

Mr. BURKDOLL. There would be no obligation for the contractor to cover this?

Senator NELSON. The employee who transports himself, no. That is our intent anyway.

It is only if the contractor supplies the transportation.

Mr. BURKDOLL. Yes, such as a bus.

Senator NELSON. Right.

Mr. BURKDOLL. Gentlemen, as I have said in my statement, we of the Central California Farmers Association, which is an organization of 800 or a thousand families, actually are family farms. We do have 11 contractors that are members of our association and who supply workers to our members.

Senator NELSON. Do those 11 supply all the workers?

Mr. BURKDOLL. No, not all.

Senator NELSON. What percentage would you say?

Mr. BURKDOLL. I would say maybe 25 percent.

We feel that they are a very vital part of our operation there.

There are two paragraphs in section 10, subsection 6, and I want to deal with those. I will not take up your time, because we generally support the bill. But, in subsection (f), it says, "Refrain from recruiting, employing, or utilizing the services of any person whom he knows or should know to be in violation of the provisions of the Immigration and Nationality Laws of the United States."

We would like to personally see those words, "should know" be stricken.

Senator NELSON. How would it read?

Mr. BURKDOLL. "Refrain from recruiting, employing, or utilizing the services of any person whom he knows to be in violation of the provisions of the Immigration and Nationality Laws of the United States."

I believe you will have to agree with what you know and what you should know are two different things.

Senator NELSON. That is correct.

What method can the contractor use to discover whether or not they are illegal?

Mr. BURKDOLL. Friday afternoon, I saw an Immigration plane flying over the ranch just east of me, and there were aliens running in every direction for the orange trees to get under something, out of the tomato patch.

Senator NELSON. You cannot tell whether they are illegal from a plane, can you?

Mr. BURKDOLL. You cannot.

I understand they picked up one out of five in their estimation.

Herbert Walsh, Director of Immigration, told me a few months ago that the month of March, the 14 counties which he represents, that they picked up 13,000 illegal aliens in that area.

In the State of California last year, there were 800,000 illegal aliens picked up and transported back to Mexico. And they estimate they get 1 out of 10.

Senator NELSON. What would you have the contractor do, show their green card?

Mr. BURKDOLL. As I said in my statement, fraudulent documents are so easily obtained now that even the Immigration people have problems in knowing whether they are legal or illegal. We just do not feel that the farmer or the contractor should be made liable for the person whom he should know.

I had a man work for me for 5 years, and he turned out to be an alien. And I did not know it until Immigration picked him up.

Senator NELSON. Was he carrying a green card?

Mr. BURKDOLL. He had a social security card and other papers, and I did not question him.

Senator NELSON. How does the Immigration, when they come to a farm, how do they discover whether they are legal or illegal?

Mr. BURKDOLL. When they fly over in a plane, if they run, they are illegal. And if they do not run, they are legal. [Laughter.]

Senator NELSON. Then they ought to make an agreement for the legals to run, and the illegals to stand fast, and they will not catch any of them.

Mr. BURKDOLL. That does happen.

Senator NELSON. When they actually locate somebody, how do they prove on the spot whether or not——

Mr. BURKDOLL. They investigate his papers.

Senator NELSON. Well, would you agree that the contractor ought to have an obligation to check their papers?

Mr. BURKDOLL. Many of the papers, Senator, even if the contractor investigated the papers, he would not know whether they were legal or whether they were fraudulent documents.

Senator NELSON. What I am getting at is, if you say or use the language that any person whom he knows—well, of course, if he never checks, he never knows.

Would that not be quite meaningless?

In other words, he never checks anybody, so obviously he does not know, and there is no way that he could then be responsible because he really, in fact, did not know, though if he had checked, at least they would have to show papers, forged or otherwise.

Would it not be practical to require him to at least disclose their papers which show that they are legally there?

Mr. BURKDOLL. Well, this is true, Senator. But I do not believe it is a required thing for a citizen of the United States to carry an identification as far as naturalization is concerned on his person.

Is that true?

Senator NELSON. I guess that is correct.

You are saying it would not make any difference anyway because if he were a citizen, he would not have any identification other than social security?

Mr. BURKDOLL. If he is a citizen, he is going to say I do not have identification.

If he is not a citizen, he will probably say the same thing.

33-491 O - 74 - 12

Senator NELSON. If it were your responsibility to eliminate much hiring of illegal entrants as possible, how would you do it?

You say that thousands are picked up every year.

Mr. BURKDOLL. Yes.

We recognize the problem, but I do not have any recommendations as to how to cure it.

When they stop 600 people every day coming across the border into this country and turn them back, and they figure they are only stopping 1 out of 10, that is a problem beyond the scope of the contractor solving.

Senator NELSON. You are saying if the Government at the border—do they concede that they only catch 1 out of 10?

Mr. BURKDOLL. That is what the Director of Immigration, Herb Walsh, told me.

Senator NELSON. That because they can get across without going through or they come through with papers?

Mr. BURKDOLL. Probably both.

Senator NELSON. You say Immigration says they only get 1 out of 10?

Mr. BURKDOLL. That has been an estimate. I do not suppose they actually know, of course.

Senator NELSON. Is that an estimate of Immigration?

Mr. BURKDOLL. That is an esitmate of Immigration.

Senator NELSON. OK.

Mr. BURKDOLL. And in subsection (g), the paragraph below that, we object very vigorously to the entire paragraph there where it states:

> Refrain from recruitment of workers for employment which is the subject of a strike, slowdown, or labor-management dispute where the effect of such recruitment is to interfere with such strike, slowdown or labor-management on behalf of the employer.

Let me read to you from Agriculture Labor Handbook HRD, State of California.

First, there is a question:

> Define the definition of labor dispute as it appears in section 105 of the Handbook containing the phrase "regardless of whether or not the dispute stand in approximate relation of the employer and employee," what is the meaning of this quoted phrase?

The answer is:

> This phrase means that a union or group of workers may make economic demands and take action against an employer thus creating a labor dispute, even though the union does not represent nor are the workers employed by the employer against whom the demands are made. This situation commonly occurs where union is attempting to organize workers of an employer.

Now, the Central California Farmers Association would like to have that entire subsection (g) stricken from this because we feel with that in there, and the interpretation of the labor dispute, that we would not be able to recruit workers for our farms in our area.

We figure that at least 25 percent of the work is done by labor contractors.

If you removed 25 percent of the work from our farms, just because a student or someone else that never saw you on your ranch stops in front and waves a flag, we just cannot live with that.

Senator NELSON. You agree with the provision that would require the contractor to notify the employee if there is an existing——

Mr. BURKDOLL. I absolutely do.

In the State of California, that is a law now. We have done it for years.

Senator NELSON. Does it work?

Mr. BURKDOLL. Yes.

Senator NELSON. In your association you do not find instances where there is, in fact, a labor dispute and the contractor fails to notify the employees?

Mr. BURKDOLL. State that again, please.

Senator NELSON. Within your association, you think it works. You do not find cases where there is, in fact, a labor dispute on some farm, and the contractor failed to notify the employees?

Mr. BURKDOLL. We have not had a case of that since 1963, I believe, when it cost us about $1,000 to find out.

Senator NELSON. Your association would impose disciplinary action on somebody or eliminate somebody from your association if, in fact, they did do that?

Mr. BURKDOLL. Yes.

Our association did hire a contractor, and he referred work to a struck farm about 10 years ago, and we did not notify the people. We brought them in from Fresno. We hauled them 40 miles, and were not aware of this law. We brought them in and went to work on a farm, and it did cost us about $1,000 in overall fees by the time we got it settled.

We did pay the people. They walked on the farm, turned around and walked off. We had to pay them for the day plus some other costs.

Senator NELSON. When you say "we," you mean the association?

Mr. BURKDOLL. The association did, yes. It was our fault, not the contractor's.

Senator NELSON. Was the association itself the employer of the contractor?

Mr. BURKDOLL. No.

Senator NELSON. How does the association get involved in the case then?

Mr. BURKDOLL. Well, we have an agreement in our association that when you belong to our association, we will pay for our members all legal fees incurred in such things like this.

So we felt that it was our fault that we did not notify the contractor or the employer.

Senator NELSON. It has not happened since then, to your knowledge?

Mr. BURKDOLL. No, sir.

If we refer labor to a farm that has a labor dispute—and I will assure you it is much easier to get a farm qualified for a labor dispute than it is to get one disqualified—we have never had a farm disqualified from a labor dispute.

When we refer labor to that farm, every person that goes there signs a statement that he knowingly goes to work there, knowing that there is a strike.

Senator NELSON. Is that California law?

Mr. BURKDOLL. I believe it is, yes.

Senator NELSON. But it is a practice that you follow in the association?

Mr. BURKDOLL. Yes.

Senator NELSON. Go ahead.

Mr. BURKDOLL. That is about all as far as I am concerned.

Our main objection is to those two paragraphs. We do not feel that paragraph (f), those two words "should know" and subsection (g)—we do not think it is compatible to our way of farming and life and our contractors in our organization all carry insurance.

Senator NELSON. What level insurance do they carry?

Mr. BURKDOLL. We have a hospital, medical, and surgical program, on the employee and his dependents paid for by the grower.

Senator NELSON. I recall that you testified to that effect at the hearings in California.

Mr. BURKDOLL. State Compensation law in the State of California, every worker is covered by State Compensation.

Senator NELSON. What about accident injury provision?

There is a provision in this statute requiring the contractor who hauls his employees to carry a certain amount of insurance.

Mr. BURKDOLL. Yes.

I have no complaint on that.

Senator NELSON. Do your own labor contractors carry insurance?

Mr. BURKDOLL. Yes, I am sure they do.

I do not know exactly how much. I do not know what the law prescribes in the State of California. I believe it is regulated on how many people are being hauled.

However, we do not have a contractor in our association that busses people.

Senator NELSON. They all transport themselves?

Mr. BURKDOLL. They all transport themselves. It is all intrastate.

Senator NELSON. Are most of the employees living in the area year round?

Mr. BURKDOLL. No, they do not.

Most of them live in the area about 9 months.

Mr. KING [Senator Taft's staff]. You mentioned in the last paragraph of your statement the necessity of Federal legislation in the farm labor area.

Mr. BURKDOLL. I do not understand what you mean.

Mr. KING. The last paragraph of your statement. You mentioned Federal legislation perhaps is necessary in this area.

Mr. BURKDOLL. Yes. Very definitely we feel that some type of Federal legislation concerning the determination of a worker to determine whether or not he wants to belong to a union or which union, or whether or not he does not want to belong to a union at all. We feel that the worker should have that right of self-determination himself, and there should be Federal legislation.

Mr. KING. One other question in connection with your objection to subsection (g) that has been proposed in the bill before the committee.

Does not this subsection present a problem defining what is a labor dispute? Problems might arise where one labor organization has a

working relationship with a farm labor contractor, and another labor organization may object to this or may have a recognition picket at the site of the farm?

Farm labor is not covered under the National Labor Relations Act. There would not be a remedy to clear up that situation.

Is that a situation that might develop?

Mr. BURKDOLL. I do not really follow your question.

Mr. KING. You mentioned your objection under subsection (g) of the proposed bill, you mentioned the problem of defining what a labor dispute is.

Let us assume there are two labor organizations that claim they represent employees at a particular farm or particular ranch.

Let us say a dispute develops as to who does or who does not represent the employees, and the labor organizations that the farmer or employer has a contract with at this point in time does have a working arrangement with farm labor contractors.

Now, as I interpret perhaps the potential impact of subsection (g), that farmer would be prohibited from further using farm labor contractors pursuant to and perhaps be in conflict with a labor union agreement he has signed.

Mr. BURKDOLL. Yes, I think that you are assuming——

Mr. KING. What I am suggesting is that farmers can be caught right in the middle of a jurisdictional dispute by this subsection.

Mr. BURKDOLL. In our area, we do have two unions vying for representation on the farmworkers, but it is not a case where one union already represents somebody. It is a case of their not being represented by anyone.

Mr. KING. Of course, some type of Federal legislation or State legislation would clear that problem up hopefully.

Mr. BURKDOLL. Yes, that would clear the problem up.

Mr. DUNN. I am David Dunn with Senator Javits' staff.

On this question of employing farmworkers where there is a labor dispute, you talk about cases where there may be a labor dispute not involving anyone who was currently employed or currently representing the employer.

You are referring here to representation of disputes where the union is attempting to organize a given farm or a given contractor, is that correct?

Mr. BURKDOLL. Yes.

Mr. DUNN. Now, in the case where you have a contract—are you talking about organizing farm or organizing the contractor—do you understand my difference?

Mr. BURKDOLL. I am talking about organizing the worker.

Mr. DUNN. OK.

But the workers who work for a given farmer, or who work for a given farm contractor?

Mr. BURKDOLL. It could be either way.

Mr. DUNN. OK.

Thank you.

Senator NELSON. Thank you very much, Mr. Burkdoll, for your testimony. It has been very useful.

[The prepared statement of Mr. Burkdoll follows:]

STATEMENT TO THE MEMBERS OF SENATE SUB-COMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR

Washington D.C., April 8-9, 1974

Mr. Chairman and Members of the Committee.....

My name is Bruce Burkdoll and I am from Cutler, California which is located in the heart of the great San Joaquin Valley farming area. First of all, I am a farmer. I farm 120 acres of tree fruit and vineyards. Secondly, I am President of the Central California Farmers Association, an organization consisting of approximately 1000 growers, packers and shippers, 90% of whom are small farmers such as I am. All of these farmers at sometime or other during the growing and the harvesting season utilize the services provided by the farm labor contractors located in our area. Many of them use the farm labor contractor workers to perform all the field work on their farms. A number of our farm labor contractors also are engaged in farming for themselves and are very much aware of their responsibility to those whom they employ to work their land.

Generally speaking, I believe that most farmers and farm labor contractors can live with the provisions covered under the two Bills for which this Hearing is being conducted, S2070 and S3202. There are two sections, however, which would be most difficult to abide by and also enforce, those being the amendments in Sec. 10 Section 6 (3) "(f) refrain from recruiting, employing, or utilizing the services of any person whom he knows or should know to be in violation of the provisions of the Immigration and Nationality Laws of the United States; and .... (g) refrain from recruitment of workers for employment which is the subject of a strike, slow-down, or labor-management dispute where the effect of such recruitment is to interfere with such strike, slow down, or labor-management on behalf of the employer."

We farmers, and I'm sure the labor contractors are in complete accord in not knowingly employing illegal aliens as farm workers. I am also sure you gentlemen are aware of the ease in which an alien worker can obtain fraudulant or forged documents which he can use in obtaining employment as a legal entrant or alien. These counterfeit documents are usually so finely reproduced that even the experts and experienced officers in the Immigration Department and Border Patrol have difficulty in determining them from the real and official documents. The placing of the burden of "knows or should know" that a farm worker is an "illegal" or "wet back" on the labor contractor, or the farmer who uses the contractors workers, is placing both in an almost untenable and unjust position and at the mercy of unscrupulous farm labor unions who could easily use such "illegals" as "plants" to harrass the grower and contractor.

The other amendment quoted above pertaining to the use of farm labor contractor workers as "strike breakers" also shackles both to the point where the farmer could lose his crops and the labor contractor be forced out of business.

As was very pointedly brought out at Sub-committee Hearings held in Fresno in February....what constitutes a labor dispute? Also, who determines when a labor dispute exists? The Department of Human Resources and Development in California says the existence of a labor dispute is....

> "any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer or employee."

This simply means, and I quote from California HRD, that a union or group of workers may make economic demands and take action against an employer thus creating a labor dispute even though the union does not represent, nor are the workers employed by, the employer against whom the demands are made.

In other words, anyone individual, ~~employer~~ employee or not, farm worker or not, can cause a labor disturbance to exist. I ask you Gentlemen....is this any kind of way to run a railroad? Or rather, is this any kind of way to keep agriculture in business??

We commend this Committee on what they are attempting to do for the farm worker and his welfare. In conclusion, permit me to state that what your consumer constuants need and want, what we all need and want, including yourselves, is Federal legislation in one all inclusive package, that will protect and give the farm worker the right of determination for his own welfare and that of his family, by secret ballot elections concerning his representation by a union, which union, or no union representation at all; that will outlaw the boycotting of farm products, prohibit strikes during the harvest season. This would give the farm worker, the farmer, the farm labor contractor and all of agriculture a means to persue their own destinies.

Thank you for the privilege of appearing before your Committee.

Senator NELSON. Our next witness is Guinn Sinclair, National Association of Farm Labor Contractors, Fresno, Calif.

The committee is pleased to have you.

STATEMENT OF GUINN SINCLAIR, NATIONAL ASSOCIATION OF FARM LABOR CONTRACTORS, FRESNO, CALIF.

Mr. SINCLAIR. My name is Guinn Sinclair. I am the president of the National Farm Labor Contractors Association.

We have 205 members, and we are a dues-paying organization, and have been organized since 1967.

Our contractors are primarily located in California. They have a few in Arizona. I am going to speak basically as representing California farm labor contractors.

I have a prepared statement that I was going to give. However, part of my luggage did not arrive with me with United Airlines, and I do not have a statement.

Fortunately, I have some notes of what I intended to say.

Senator NELSON. You may send your prepared statement to the committee and it will be printed in the record.

[Information subsequently supplied for the record follows:]

NATIONAL FARM LABOR CONTRACTOR'S ASSOCIATION
TELEPHONE (209) 485-2511
P. O. BOX 2326 - FRESNO, CALIFORNIA 93723

April 18, 1974

Senator Gaylord Nelson
United States Senate
Washington, D.C. 20510

Dear Senator Nelson:

I have not recovered my lost briefcase that contained my written statement I intended to make before the Subcommittee on Employment, Poverty and Migratory Labor. However, my talk before you together with questions from you pretty much covered all the points I wanted to make and therefore I will not try to reconstruct a written statement. Thank you for the opportunity.

Senator Nelson, we are not a negative organization. Although I appeared before you opposed to S3202 (etal), we are aware that legislation is needed in certain areas to eliminate obvious evils that are now happening to agriculture workers. We are knowledgeable about the activities of Farm Labor Contractors. We would be glad to work with you and the Subcommittee staff to draft legislation.

Sincerely,

Guinn Sinclair

Guinn Sinclair
President

GS/s

Mr. SINCLAIR. Obviously, I am going to appear here opposed to the majority of the legislation.

Basically, of course, the Farm Labor Contractor is not looking for a lot of new laws in the control of his activity.

However, I am not as much opposed to the proponents of this bill as it might appear, because we are interested in good legislation.

We certainly are opposed to any contractor that violates any existing laws.

First, the definition of a farm labor contractor fundamentally is someone that harvests the crops, that is his job.

Now, there are times when a contractor will do pruning, he will do irrigation, he will do many things, and sometimes he has trucks and he will haul the produce after he harvests it to the shipper or the packer.

But, 90 percent of the time, and I am just using a round figure because we do not have statistics on it, he harvests the crops.

Primarily, in California, Arizona, Texas, and Florida, however wherever there is extensive farming in vegetables and fruits, you will find farm labor contractors.

We first are opposed to the extension of Federal legislation to the contractor in intrastate commerce. We feel that he never owns the crop. He seldom, if ever, has custody and control of the crop, and that the logical extension into this area would be to include the farmers into intrastate commerce. It is not the contractor itself.

Having said that, I am just voicing a general objection, and I am not going to belittle that point.

Senator NELSON. You are saying that whatever law is passed, it should not apply to intrastate commerce?

Mr. SINCLAIR. Intrastate.

Senator NELSON. It should not apply to intrastate?

Mr. SINCLAIR. Yes.

I might just elaborate slightly on it, that if the Federal Government goes into this area, it is possible that they will invalidate some State laws.

On the insurance, I have spoken to your committee, and I am sorry I do not have the schedule with me. We feel that, first of all, there is no reason not to increase insurance in this inflationary period of time.

However, most of the States that we are acquainted with, and also in other departments of Federal Government, the amount of insurance is usually predicated upon the size of the bus. That is, the number of passengers. And it is unrealistic for someone with a minibus hauling four people or six people to be carrying $750,000 limit as a requirement.

There was one further section that we would like to see added to this insurance clause; that is farm labor contractor that is carrying his own employees be exempt from this.

The reason for that is that the farm labor contractor, under State law, must carry workmen's compensation. The workmen's compensation has far more benefits than can be derived under what is commonly called "BI" insurance, or "bodily injury" insurance.

First of all, to establish your right under bodily injury insurance, it is necessary to hire an attorney and go to court and prove that the bodily injury benefits are payable.

Under workmen's compensation, as you know, it is an automatic coverage. That is the right of the worker.

Senator NELSON. You are saying that in any case where workmen's compensation covers the employee, the contractor should not be required to carry accident and liability insurance, is that what you are saying?

Mr. SINCLAIR. Bodily injury insurance, yes.

Senator NELSON. Bodily injury or death?

Mr. SINCLAIR. That is the way the insurance companies refer to it, as bodily injury insurance.

Senator NELSON. With workmen's compensation laws, would they in California cover an employee, all employees who are transported by the labor contractor?

Mr. SINCLAIR. Yes. That would include that if they were employees of the contractor, even if he crossed a State border.

Senator NELSON. In California is the contractor defined as an employer, if he simply recruits labor for a farmer who pays them for the labor?

Mr. SINCLAIR. No, he is not.

Senator NELSON. In what kind of instance is the contractor the employer of the employee?

Mr. SINCLAIR. In the operation in California, probably 99 percent of the time.

Senator NELSON. Ninety nine percent of the time the employee that is recruited by the contractor is in fact legally the employer?

Mr. SINCLAIR. Well, Senator, I am using a generalized figure, and I think the Division of Labor Law Enforcement in California can be more accurate, but to my knowledge there are only under 10 contractors in California who are licensed for the sole purpose of transporting passengers other than their own employees.

However, that figure, because the State asks that every time of licensing, that figure is available from the Division of Labor Law Enforcement, I believe, if you would request it.

Mrs. Ruth Pierce is the deputy commissioner in charge of licensing in California, and I believe she would give you that.

Senator NELSON. We had some testimony on that question in California, but is a little vague in my mind at the moment.

But what I do not have clear is, are you saying that most employees that are recruited by labor contractor to work on a farm are considered legally to be employees of the contractor, rather than employees of the farm?

Mr. SINCLAIR. Your statement is correct. They are employees of the contractor.

Now, that situation is changing slightly, because of recent labor problems, but I would still say that by far the majority are employees of the contractor.

Senator NELSON. Then under the California law, if the employee is transporting himself to work, is he covered by workmen's compensation?

Mr. SINCLAIR. Well, I was confining myself to the buses. I would say that the majority of workers in California go to work in their own vehicles, and are not covered, as you know, under workmen's compensation, nor are they covered under liability insurance under this provision of the act, nor would they be covered.

Senator NELSON. No, they would not. So you are saying that they are—even though they are employees in most instances in California of the contractor, they are only covered by workmen's compensation if in fact the contractor supplies the transportation?

Mr. SINCLAIR. That would be correct, Senator.

Now, I asked what in the insurance industry is called passenger hazard exclusion, where an employee-employer relationship exists, because this would cause the contractor to have duplication of insurance, and he would be carrying BI insurance on the passengers, and at the same time carry workmen's compensation.

I pointed out that we had an accident in southern California, I pointed this out earlier to you, Senator Nelson, in which 19 people were killed.

It is our understanding that Industrial Indemnification Iusurance Co. set up a reserve of over $2 million to pay in benefits for the 19 people killed, plus some people injured.

Senator NELSON. Were they also covered by workmen's compensation?

Mr. SINCLAIR. This is under Workmen's compensation, Senator.

Now, these benefits far exceed any kind of insurance limit, a realistic insurance limit that this committee could ever enact, or hope for under BI insurance. You would have to have an umbrella policy of $10 million or $20 million in order to adequately cover what workmen's compensation can cover.

As you know, workmen's compensation is unlimited in its benefits. I say unlimited in relationship to whatever exists in State laws.

Senator NELSON. Go ahead.

Mr. SINCLAIR. By the way, in our hearing in California, it was brought up about the contractor who had the accident, and to further pursue that, that contractor had been indicted, as we had suggested.

I bring that out only to let you know that the State laws in California are very effective, and we do a good job there, the division of labor law enforcement does a good job in enforcing the State laws.

It was kind of led to believe that farm labor contractors get away with everything in California. Of course, that is something that we could sit here and talk all day about.

Now we get into the provisions—we are not opposed that a contractor should notify his workers that there is a labor problem existing when he may be recruiting workers for. But in actual practice, Senator, this would occur all the time.

Because if you took a busload of people into a ranch, and there was a labor problem, the people on the bus would be quite upset to find out that the contractor did not tell him there was going to be a problem, and they would probably say take me back.

These workers normally know where there are labor disputes. They read the same newspapers that you or I would read. They see the same television, and they are certainly aware that there are labor disputes.

So that we are not opposed to this. It has been pointed out by Bruce Burkdoll that there is a State law in California that already requires that, and I am assuming that most States have a similar law, and we have no objection.

Senator NELSON. Is the requirement of the law in California that the contractor must submit in writing notice to the employee of an existing labor dispute?

Mr. SINCLAIR. I do not know, Senator.

Senator NELSON. But you would not object to it being a requirement of the law?

Mr. SINCLAIR. No, we are not objecting to that part. I say that because, of course, later I am going to object to another section.

We also will not object to section 10(f). And going back to a previous statement here concerning "should know"—we once again, and I do not want to repeat the various statements that have been made here, but a conservative estimate—or when I have talked to people in the Border Patrol, that they feel that the present time there are over 1 million illegals in the United States.

When I say 1 million, each time you talk with the Border Patrol, they will say that is a figure you can use without exaggerating the figure. It could be much higher, and most of them feel it is.

There are no known figures, obviously, about who is illegal here in the United States. This is compounded, Senator, in Texas and Arizona, and in some sections—we have ghettoes where children are raised up speaking Spanish entirely, and they are born here in the United States. They speak with an accent exactly the same as the accent found in Mexico.

So that just talking to somebody, you would not necessarily know whether or not they were born in the United States.

It is a known fact that you can buy green cards, or social security cards in border cities for a price.

Having a green card or social security card is in no sense of the word to imply that that person is an American citizen.

Further compounding this, you can apply for a social security card in the United States and have it mailed back to you without investigation, so that a person under his own name, can get a social security card, which does not mean that he is a citizen of the United States when he applies for it.

He can also get a driver's license, assuming that this "illegal" knows English well enough, and so on, to pass the driver information test, and hold a driver's license.

Since the Border Patrol cannot determine who is an illegal in the United States, we do not feel you should impose upon the contractor the absolute law that he should know.

Senator NELSON. How does the Immigration Service figure out whether somebody is here illegally?

The testimony is that there are tens of thousands on farms, and Immigration comes in and finds a number of them.

How do they make a determination?

Mr. SINCLAIR. Without being facetious about this, they know the guys by their first name, because they have been picking them up every year and returning them.

Secondly, and here again, I do not want to imply anything that is disrespectful, it depends on what the Border Patrol's quota for picking up is for that month?

In other words, they can go out in the field and start picking up people. I think if they had enough buses and enough employees, they could just pick up constantly in this area.

You know that the magnitude of Mexicans working in the United States is much greater than I think is conceived here.

We understand that part of the problem because of the relations between the Government of Mexico and the Government of the United States that you cannot put severe limitations on the border.

Assuming that that is true, and they are not enforcing the crossing of the border in a manner that would satisfy this type of requirement, the contractor has no way of knowing who should be here and who should not be here.

Senator NELSON. No, but I still get back to the question that when they come onto a farm and haul them off by busloads, how do they make the determination, when they come onto the farm, that this particular employee is here legally or illegally?

Mr. SINCLAIR. Well, if you have been in an area—I have not been prsent too often when the busts are taking place, and I am using arrest as a bust—the Border Patrol, I think, should be brought in to discuss this, because I do not want to be putting words into their mouth. They are like a policeman, they know what is going on. They know what ranch or contractor hires illegals, and when they want to have a bust, they do it.

Senator NELSON. How do they know who is here legally or illegally?

Mr. SINCLAIR. I would suggest that you ask the Border Patrol. I am not an expert in this area, at all. We would propose that it be removed.

The section that we find the hardest to understand is section (g). You will recall that I said in the beginning that our job is the harvesting of crops.

As you know, it has been discussed here that at the present time agriculture is not included in the various Federal laws governing unionization. One of the reasons that this legislation is a problem is that a farmer must have the protection that at harvest time there is no labor slowdown or stoppage or strike.

It is a matter of 1 day or 1 week that it has to be harvested, or the entire crop is lost. We are harvesters..

If they put a picket in front of a ranch and stop the contractor from coming in, and harvesting, that would effectively put a tool into the hands of labor to bring agriculture to its knees as far as dealing with unions.

It is not fair to put a sword in one hand without giving protection of a shield to another. This is not balanced legislation.

You are entering into an area that we all know is a problem, but that partial legislation in this field could prove devastating to the American farmer.

We would suggest that this section be eliminated, and although we recognize that there are very important labor problems in agricul-

ture, that it would be better served if the entire labor situation is studied in total, not picked out in piecemeal legislation in this manner.

We do not know how the union would use this type of legislation, but we do know that they like to harass and to heckle, and even though the intent may not be here, as was brought out earlier, that it was a pro-union legislation, that it was something in that manner, yet they could keep in court an action during this period of time, effectively keep crews away while we are debating this.

I point out that crops must be harvested immediately. We are dealing in vegetables and fruits. It cannot wait a week, and it cannot wait 2 weeks while these things are decided by the judiciary.

We therefore say unless this was completely balanced, as labor legislation, that this could hurt.

Senator NELSON. You heard the Farm Bureau Federation say they would support insurance up to a maximum of $300,000 accumulative.

Is it your testimony that there is no need for insurance at all?

Mr. SINCLAIR. No; Senator. Where the contractor is hauling passengers other than his own employees, we feel that the present limits of insurance are unrealistic, and they should be increased.

We are saying that the law should contain a provision that permits a passenger hazard exclusion, where the employer is carrying, or is supposed to be carrying Workmen's Compensation on the passengers.

Senator NELSON. You say 99 percent, or something like that, of the employees in California are employees of a labor contractor, and not a——

Mr. SINCLAIR. To my knowledge we have never had a bus accident occur where this has come up, and there has been no insurance coverage, so you could be referring to something in Florida or in North Carolina that I am not aware of.

They are always employees and are covered by Workmen's Compensation, or the State of California requires insurance on buses where the passengers are not their employees.

Senator NELSON. Which would be a small number, if most of them are employees of the contractor?

Mr. SINCLAIR. Yes; Senator, it is a very small number.

Senator NELSON. Thank you very much, Mr. Sinclair.

Mr. SINCLAIR. Thank you.

Senator NELSON. Our next witness is Mr. Burton Fretz, migrant legal action program.

Go ahead, Mr. Fretz.

STATEMENT OF BURTON FRETZ, ATTORNEY, REPRESENTING THE MIGRANT LEGAL ACTION PROGRAM

Mr. FRETZ. Senator Nelson, I would like to thank yourself and the subcommittee in behalf of the migrant legal action program for the chance to speak briefly today.

More importantly, I want to express gratitude in our program to the subcommittee for its legislative efforts on S. 3202 to correct what appears to be a significant matter of existing abuse as it affects farm laborers nationwide.

I will be submitting a short written statement commenting about the effects of the proposed legislation, S. 3202 on State legislation, which can accurately be characterized as either small in scope or nonexistent, depending upon the State.

I would like to summarize that briefly this morning.

The bill that is presented before this subcommittee contains, of course, important protections for the Nation's migratory labor supply.

I think the protections that it offers are highly regarded by all persons who testified today.

One of the comments that sometimes attends any national farm labor legislative proposal by way of criticism is that it may be unnecessary to approach the need for corrections in the area of farm labor because there is some State legislation now, and such legislation is adequate.

I think in the area of corrective farm labor contractor legislation that there are considerable gaps that will be filled by this bill.

For example, of the 50 States of the Union, we have counted no more than 14 States which have any legislation whatsoever purporting to deal with the problem of crew leaders, whereas the words are used somewhat interchangeably, farm labor contractors.

Of course, of those 14 States with any kind of farm labor contractor legislation, it appears that this count to us, there there are only 6 of those 50 States that have legislation which offers substantive protections to farm workers, or to set forth substantive prohibitions on certain kinds of abuses by contractors.

The remaining 8 of the 14 States really appear to do no more than impose general licensing and registration conditions on persons who are conducting activities as farm labor contractors.

The six States, incidentally, for the record, which do have substantive protection are California, Colorado, Florida, Illinois, New York, and Oregon.

Senator NELSON. That have what kind of protection?

Mr. FRETZ. I use the word substantive protections, Mr. Chairman. By that I mean protections afforded to farm workers regarding recruitment practices, or wage payment practices.

The other 8 States of the 14 having contractor legislation do not offer substantive protections, but merely procedural ones.

That is to say, require registration and set forth licensing provisions for contractors that do not go on to regulate what happens in the recruitment process or transportation employment process.

I think with this quick glance that we can see that gaps in existing State legislation are quite wide indeed.

What it means is that the 20 States of our Union which use the largest number of seasonal and migratory farm workers each year—only 3 of those 20 States that have any legislation which provide, as I say, for substantive protection for farm workers against the contractor abuses.

Four more of these 20 largest user States have a procedural provision set forth, and that means that there are 13 of the 20 largest farm worker States that have nothing whatsoever. That is a gap which quite significantly could be filled by S. 3202.

I might mention that some of the largest States which use migratory agriculture labor, as opposed to purely local agriculture labor are among those without any kind of legislation or enforcement mechanism in the area of farm labor contracting. Those States are among those which use 20,000 or more migratory laborers per year according to a survey made by the predecessor to this subcommittee.

Those would include Arizona, Idaho, Michigan, North Carolina, Ohio, Oregon, Texas, and Wisconsin.

Additionally this bill appears to treat at least eight different subject matter areas which are treated nowhere in any State legislation, as nearly as we could determine.

Those areas are more particularly set forth in the prepared statement for the submission to the committee.

All of the provisions that appear in them appear at least in our perspective to be quite vital toward the goal of securing minimum protections to the Nation's farm workers, protections which are necessary in order to prevent abuses which continue to arise in recruitment and transportation, and in the highway processes that affect farm workers.

We appreciate very much the subcommittee's recommendations on those problems, and its efforts to resolve them in S. 3202.

Thank you.

[The prepared statement of Mr. Fretz follows:]

33-491 O - 74 - 13

STATEMENT OF BURTON D. FRETZ
ATTORNEY, MIGRANT LEGAL ACTION PROGRAM
BEFORE THE
SUBCOMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR
COMMITTEE ON LABOR AND PUBLIC WELFARE
April 8, 1974

Mr. Chairman and Members of the Subcommittee:

The Migrant Legal Action Program appreciates this opportunity to come before this Subcommittee today to comment on S.3202, amendments to the Farm Labor Contractor Registration Act of 1963.

The bill before this Subcommittee contains important protections for the nation's migratory and seasonal farmworkers and their families which are not provided by existing Federal or State law affecting the recruitment and transportation activities of farm labor contractors. The inadequacies of existing State laws on the subject invite further comment here.

State Contractor Registration Laws

Of the 50 States, only 14 currently have legislation governing farm labor contractors or "crew leaders" as they are known in some parts of the country. Of these 14 States, eight deal only with licensing and registration requirements of contractors and collateral administrative matters (Massachusetts, Michigan, Nebraska, Nevada, New Jersey, Texas, Virginia and Washington). Only six States

have legislation dealing with substantive protections against recruitment abuses by the farm labor contractor (California, Colorado, Florida, Illinois, New York, and Oregon). With the exception of California and Colorado, these latter six State laws deal primarily with vehicle insurance requirements and terms of wage payments to workers by the registered farm labor contractor.

Thus the gaps in existing State law are quite wide. Of the 20 States using the largest number of seasonal and migratory farm labor annually, only three States have legislation providing substantive protections against contractor abuses; four more States require only contractor registration; and the remaining 18 have no legislation on the subject at all.

This means that some of the largest States using migratory (non-local) agricultural labor are among those without adequate legislation or enforcement mechanisms for farm labor contractors. They include at least nine States using a total of 20,000 or more migratory laborers annually (Arizona, Idaho, Michigan, North Carolina, Ohio, Oregon, Texas, Washington, and Wisconsin).

Additionally, the bill before this Subcommittee treats significant problem areas in farm labor contractor employment which is not treated in any known State legislation. These areas include:

--legal responsibilities of an agent of an agricultural

employer who engages in recruitment of numerous farmworkers over great distances;

-- responsibility of an agricultural employer to assure his use of a registered farm labor contractor;

-- requiring the posting of a bond by the contractor upon registration to cover damages which may occur to employers or employees (California alone appears to require such a bond at registration);

-- provisions preventing a spouse or friend from standing in for a contractor who is denied registration or had registration revoked;

-- provisions preventing an authorized official to accept service of process on behalf of a farm labor contractor who has absented himself from the jurisdiction;

-- requirements of a written contract to workers at the time of recruitment spelling out all material terms and conditions of the employment agreement;

-- a prohibition against retaliation towards employees who have exercised rights secured by statute; and

-- providing an explicit civil judicial remedy against contractors who violate the legislation on behalf of aggrieved persons.

State Workmen's Compensation Laws

Some question has arisen about the effect of S.3202 on state workmen's compensation coverage.

In thrity three of the fifty states plus the District of Columbia, the general rule, subject to a few exceptions, is that farmworkers are excluded from coverage under workmen's compensation laws. The remaining seventeen states have compensation laws that cover a majority of those employees engaged in farm labor. These states include Alaska, Arizona, California, Connecticut, Hawaii, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Vermont, Washington and Wisconsin. Of these seventeen states, at least five (Alaska, Massachusetts, Montana, New Hampshire and Vermont) employ few farmworkers. Thus, most farmworkers can expect to receive workmen's compensation coverage in only twelve states. Of these only four (California, Hawaii, New Jersey and Ohio) appear to provide full coverage; that is, coverage that is on a par with that afforded workers in other industries. Eleven other state workmen's compensation statutes apply to farm labor in such a manner as to cover a minority of farmworkers.

Typical coverage under a state's workmen's compensation law differs in several respects from the vehicle liability coverage proposed in S.3202. Where the latter provides for coverage up to a stated maximum amount to reimburse an insured for liability incurred for various

types of damage, the former reimburses scheduled, automatic amounts for several types of injury.

For example, California's workmen's compensation statute applies to independent farm labor contractors who as employers transport their own workers to a job site. A farmworker who is injured during such transport may recover under the employer's workmen's compensation policy for (1) actual medical expenses incurred; (2) pay in lieu of lost work; and (3) permanent partial disability benefits determined according to an established workmen's compensation schedule.

Thus an individual farmworker in California who is injured enroute to a job could recover under workmen's compensation beyond the $50,000 amount required under S.3202 for individual disability. On the other hand, a California farmworker who suffers instantaneous death enroute to a job has survivor's benefits of only $40,000 (or $45,000 if he is survived by dependent children).

Additionally, case law developed under California's workmen's compensation statutes has expanded liberally the law's applicability to employees injured enroute to and from the place of employment; thus recovery need not turn solely on whether the employee is injured in transportation provided by the employer.

Because of the checkered nature of workmen's compensation coverage, therefore, S.3202 at §5 might empower the Secretary to waive insurance requirements to the

extent they are satisfied by comparable or superior requirements under a state workmen's compensation law.

Each of the provisions in the bill appears vital to secure a minimum of protection to farmworkers and their families from abuses which continue to arise in the recruitment and hiring process in virtually every part of the country where farm labor contractors operate. We appreciate the Subcommittee's recognition of these problems and its efforts to resolve them in this legislation.

Senator NELSON. Thank you very much, Mr. Fretz.

The hearings will resume tomorrow morning at 9:30, in room 318, Old Senate Office Building.

[Whereupon, at 11:38 a.m., the subcommittee was recessed, to reconvene on Tuesday, April 9, 1974.]

FARM LABOR CONTRACTOR REGISTRATION ACT AMENDMENTS, 1974

TUESDAY, APRIL 9, 1974

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

The subcommittee met, pursuant to recess, at 9:40 a.m., in room 318, Old Senate Office Building, Senator Gaylord Nelson, subcommittee chairman, presiding.

Present: Senators Nelson and Javits.

Senator NELSON. The Subcommittee on Employment, Poverty, and Migratory Labor will come to order.

We have had a request from the National Council of Agricultural Employers to hold the record open on these hearings on S. 3202 for a longer period of time than the 10 days I announced yesterday in view of their need to study the legislation in greater detail.

I wish to announce, therefore, that the record will be held open for statements until April 30, 1974.

In addition, I am submitting for the record a statement by Mr. George F. Sorn, manager, Labor Division of the Florida Fruit and Vegetable Association, in lieu of Mr. Sorn's personal testimony here today; and a statement from the California Department of Industrial Relations.

[The statements referred to follows:]

33-491 O - 74 - 14

STATEMENT BY GEORGE F. SORN

MANAGER, LABOR DIVISION

FLORIDA FRUIT AND VEGETABLE ASSOCIATION

Presented to the

SUBCOMMITTEE ON EMPLOYMENT, POVERTY & MIGRATORY LABOR

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

February 12, 1974

The purpose of this Statement prepared by the Florida Fruit & Vegetable Association, 4401 East Colonial Drive, Orlando, Florida 32814, a trade association representing growers who produce more than a majority of the fruits and vegetables grown in the state of Florida, is to submit the views of its members concerning S.2070, which would extend the coverage of the current Federal Farm Labor Contractor Registration Act.

This Association has long taken the position that agricultural employers, including farm labor contractors, should comply with all applicable state and federal laws pertaining to agricultural workers and employers. However, we have long opposed obvious duplication in Federal and State laws as they apply to agricultural employers and workers.

Since Florida already has its own crew leader registration law (copy attached) and has specific crew leader regulations to implement the State Act, we believe, for the most part, S.2070 would duplicate existing State law and, therefore, oppose most of the amendments.

The Federal Crew Leader Registration Law now applies only to crew leaders who cross state lines. In our estimation, this restriction should be continued. We, therefore, oppose Section 3 of S.2070 on the basis that it would duplicate existing Florida Farm Labor Registration Act (Crew Leader Law). There is already too much governmental duplication with regard to agricultural labor and agricultural employers. For instance, approximately five months ago, one of our sugar cane growers had an official housing inspection at which representatives of the following governmental agencies were present:

1. A representative of the U. S. Department of Labor Rural Manpower Service from Washington,

2. A representative of the U. S. Department of Labor Rural Manpower Service Regional Office from Atlanta,

3. The local representative of the Division of Employment Security, Florida Department of Commerce,

4. The area representative of the Rural Manpower Service Division of Employment Security, Florida Department of Commerce,

5. A representative from the Regional OSHA office in Atlanta of the U. S. Department of Labor,

6. Two representatives from the OSHA area office in Ft. Lauderdale, Florida,

7. A local County representative of the Sanitary Department of the Florida Department of Health & Rehabilitative Services, and, in addition,

8. Representatives of the British West Indies Central Labour Organisation, this Association and the grower were present.

There were a total of nine (9) governmental officials inspecting one housing complex! It is not unusual for four (4) or five (5) various governmental representatives to be present at regular housing inspections.

Situations like this not only border on harassment but are needless expenditures of taxpayers' money and should not be fostered. We believe crew leaders who operate only on an intra-state basis should not become subject to the Federal Act in those states which have adequate crew leader laws of their own.

Section 5 of S.2070 would increase the required insurance coverage. We oppose any increased coverage. Florida already has a State law regarding insurance coverage of crew leaders and any further increased requirements could be counterproductive because the insurance costs would be so expensive that a crew leader

would not register in order to avoid the high costs. Even now, very few carriers will write crew leaders' insurance policies. Setting higher coverage would only aggravate this problem.

We are against Section 6, which would extend the life of a certificate from one (1) to three (3) years. Crew leader certificates - - State or Federal - - could be a big help to growers if the certificate really means something. If a grower could be assured when a crew leader exhibits a certificate that the crew leader has liability insurance, that he covers his workers by Workmen's Compensation, that he takes out and remits proper Social Security deductions, etc., the certificate would then become more than a piece of paper and would have a much greater value to growers. In order to be of greater value, certificates should not be issued for over a one (1) year period. For instance, it would be virtually impossible for a crew leader to obtain either liability or Workmen's Compensation insurance for over a one (1) year period, and therefore, if he was issued a certificate for three (3) years, there would be much less assurance that he has adequate insurance coverage when he exhibits his certificate.

Although we can see some value in the changes proposed in Section 7 wherein crew leaders would be required to exhibit their certificates to U. S. Employment Service Offices in order

to utilize their facilities and services, we believe that in states that have their own crew leader laws, this requirement should be confined only to those instances where crew leaders are using the Employment Service facilities to obtain jobs in other states. It would be another duplication if the crew leaders would be required to exhibit both their State and Federal crew leader certificates when they are working strictly within a state that has a crew leader law.

We are against Section 10 which would add a new section (Sec. 16) to the Farm Labor Contractor Registration Act. In Florida, the majority of migratory labor is in South Florida counties which have a Federally-funded Migrant Legal Services program whose efforts are specifically directed at migrants. In virtually all other counties with a high migrant population, there is at least an "aid to the indigent" program. Free legal service is available to the majority of Florida's migrants and the addition to Section 10 is not necessary. Genuine problem cases now have recourse and we believe Section 10, if passed, would only aid groups wishing to "harass" crew leaders and growers for their own purposes.

We agree with Section 4, which would eliminate the necessity that crew leaders "...subscribe and swear to...." the application, and Section 2, which would exclude "day-haul" crews from the Federal Act.

Over the years, and particularly since the demise of the Bracero Program under Public Law 78 in the early 1960's, there has been an increase in the use of the crew leader system and, particularly, by the fruit and vegetable segment of the agricultural industry. The crew leader system efficiently develops the greatest numbers of workers for agriculture and has served a useful purpose from the standpoint of both employers and workers alike.

This Association has not, and will not, back the few unscrupulous crew leaders who "taint" the rest. We fully back the position that all agricultural employers, including crew leaders, should comply with all applicable State and Federal laws pertaining to agricultural workers and employers. However, preservation of the crew leader system is necessary to continue a viable fruit and vegetable industry in the State of Florida, and all efforts should be directed toward making it as easy as possible for crew leaders to comply with applicable State and Federal laws and avoiding duplication and harassment in the enforcement of these laws. In our estimation, the passage of S.2070, as now written, would add duplication and harassment and should not be passed.

FLORIDA FARM LABOR REGISTRATION LAW
(Crew Leader Law)

An act relating to farm labor; regulating the transportation, hiring and supervision of migrant farm workers; requiring persons importing ten (10) or more such workers into the state, and labor contractors, as defined, to register with the Farm Labor and Rural Manpower Service of the Bureau of Employment Services of the Department of Commerce; providing for application for, issuance of, and revocation or suspension of certificates of registration; requiring the procurement of liability insurance by persons transporting farm workers; prohibiting contracts with farm labor contractors not registered with farm labor department; providing for the promulgation of rules and regulations; providing penalties for violations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short Title. This act may be cited as the Farm Labor Registration Law.

Section 2. Definitions.

(1) "Farm labor contractor" means:

(a) Any person who, for a fee or other valuable consideration, recruits, transports into or within the state, supplies or hires at any one time in any calendar year ten (10) or more farm workers to work for, or under the direction, supervision, or control of, a third person; or

(b) Any person who recruits, transports into or within the state, supplies, or hires at any one time in any calendar year ten (10) or more farm workers and who for a fee or other valuable consideration, directs, supervises, or controls all or any part of the work of such workers.

(2) "Farm Labor and Rural Manpower Service" means:

The Farm Labor and Rural Manpower Service of the Bureau of Employment Services of the Department of Commerce.

Section 3. Exclusions. This act does not apply to any person who is the owner or lessee of a farm or who is the owner or lessee of a packing house or food processing plant and who employs workers in planting, cultivating, harvesting, or preparing agricultural products for delivery to such packing house or food processing plant.

Section 4. Requirement of certificate of registration.

(1) No person shall act as a farm labor contractor until a certificate of registration has been issued to him by the Administrator of the Farm Labor and

Rural Manpower Service, and unless such certificate is in full force and effect and is in his possession.

(2) No certificate of registration may be transferred or assigned.

(3) Unless sooner revoked each certificate of registration shall run to and include the thirtieth day of June next following the date of issuance and may be renewed each year upon application on a form prescribed by the Farm Labor and Rural Manpower Service.

Section 5. Prerequisites to issuance of certificate of registration.

The Administrator of the Farm Labor and Rural Manpower Service shall not issue to any person a certificate of registration as a farm labor contractor, nor shall he renew such certificate, until:

(1) Such person has executed a written application therefor in a form and pursuant to regulations prescribed by the Administrator of the Farm Labor and Rural Manpower Service and has submitted such information as said Administrator may prescribe;

(2) The Administrator of the Farm Labor and Rural Manpower Service is satisfied that the applicant complies with rules and regulations promulgated by him.

(3) Such person pays to the Farm Labor and Rural Manpower Service a registration fee of twenty-five dollars ($25.00) at the time the certificate or the renewal is issued.

Section 6. Grounds for revocation; suspension and refusal to renew certificate of registration. The Administrator of the Farm Labor and Rural Manpower Service may revoke, suspend or refuse to renew any certificate of registration when it is shown that the farm labor contractor has:

(a) Violated or failed to comply with any provision of this act or the rules and regulations promulgated pursuant to Section 10.

(b) Made any misrepresentation or false statement in his application for certificate of registration;

(c) Given false or misleading information concerning terms, conditions, or existence of employment to persons who are recruited or hired to work on a farm.

(d) The revocation, suspension of or refusal to renew any permit hereunder will not render any then current and valid contract invalid nor affect the terms of such contract for the duration of the growing season then in progress.

Section 7. Duties of farm labor contractor.

Every farm labor contractor must:

(1) Carry his certificate of registration with him at all times and exhibit the same to all persons with whom he intends to deal in his capacity as a farm labor contractor prior to so dealing, and, upon request, to persons designated by the Administrator of the Farm Labor and Rural Manpower Service.

(2) Promptly when due, pay or distribute to the individuals entitled thereto, all monies or other things of value entrusted to the registrant by any third person for such purpose.

(3) Comply on his part with the terms and provisions of all legal and valid agreements and contracts entered into between registrant in his capacity as a farm labor contractor and third persons.

(4) Have displayed prominently at the site where the work is to be performed and on all vehicles used by the registrant for the transportation of employees:

(a) A copy of his application for a certificate of registration; and,

(b) A written statement in English, and in Spanish when any employee is Spanish-speaking, showing the rate of compensation he receives from the grower with whom he has contracted and the rate of compensation he is paying to his employees for services rendered to, for, or under the control of such grower.

(5) Take out a policy of insurance with any insurance carrier which insures said registrant against liability for damage to persons or property arising out of the operation of, or ownership of, any vehicle or vehicles for the transportation of individuals in connection with his business, activities, or operations as a farm labor contractor. In no event shall the amount of such liability insurance be less than that required by the provisions of the financial responsibility law of the state of Florida.

(6) Maintain such records as may be designated by the Farm Labor and Rural Manpower Service.

(7) Semi-monthly or at the time of each payment of wages furnish each of the workers employed by him either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing in detail each and every deduction made from such wages.

(8) File, within such time as the administrator of the Farm Labor and Rural Manpower Service may prescribe, a set of his fingerprints.

(9) Produce evidence to the Administrator of the Farm Labor and Rural Manpower Service that each vehicle he uses for the transportation of employees has been inspected in accordance with the provisions of the safety equipment inspection law of Florida and has been found to comply with the standards and requirements thereof, or in lieu thereof, bear a valid inspection sticker showing that the vehicle has passed the inspection in the state in which the vehicle is registered.

Section 8. Prohibited acts of farm labor contractor. No licensee shall:

(1) Make any misrepresentation or false statement in his application for a certificate of registration.

(2) Make or cause to be made, to any person, any false, fraudulent, or misleading representation, or publish or circulate or cause to be published or circulated any false, fraudulent, or misleading information concerning the terms or conditions or existence of employment at any place or places, or by any person or persons, or of any individual or individuals.

Section 9. Certain contracts prohibited. It is unlawful for any person to contract for the employment of farm workers with any farm labor contractor as defined in this act until said labor contractor shall display to him a current certificate of registration issued by the Farm Labor and Rural Manpower Service pursuant to the requirements of this act.

Section 10. Rules and regulations. The Administrator of the Farm Labor and Rural Manpower Service may promulgate rules and regulations necessary to enforce and administer this act.

Section 11. Cooperation with federal agencies. The Administrator of the Farm Labor and Rural Manpower Service shall, whenever appropriate, cooperate with federal agencies.

Section 12. Penalties. Any person who violates the provisions of Sections 7 and 9 of this act is guilty of a misdemeanor and upon conviction shall be punished as provided by general law.

Section 12A. Penalties. Any person who violates the provisions of Sections 7 and 9 of this act is guilty of a misdemeanor of the second degree, punishable as provided in sections 775.082 or 775.083.

Section 12B. In the event HB 935, introduced in the 1971 regular session of the Legislature, is enacted into law, section 12 of this act will stand repealed and be omitted from the Florida Statutes. In the event HB 935 is not enacted into law, section 12A will stand repealed and be omitted from the Florida Statutes.

Section 13. This act shall take effect July 1, 1971.

STATEMENT TO THE SENATE SUB-COMMITTEE
ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR

Submitted by the California Department of Industrial Relations
H. Edward White, Director
Robert E. Howard, Labor Commissioner - Div. of Labor Law Enforcement
Albert J. Reyff, Assistant Labor Commissioner

Re: Senate Bills S.2070 and S.3202

The Division of Labor Law Enforcement, under California Labor Commissioner Robert E. Howard, is charged with the enforcement of the licensing requirements pertaining to farm labor contractors in California, of whom there are approximately 850 licensed at the present time. These requirements apply to three types of contractors:

1. Those who are the employers of the workers whom they recruit and sometimes transport.
2. Those who recruit workers for the farmer and supervise the field work but who do not provide transportation for the workers or become their employer.
3. Those who operate as day haulers by recruiting and transporting the workers for the farmers where they (the workers) will become the employees of the farmers.

At the present time, under category 3, there are no day haulers licensed in California and under category 2, there are only approximately three to five contractors licensed. The remaining 845 are the actual employers of the workers and these contractors are insured for workmen's compensation.

We have reviewed and compared the two captioned bills with respect to their effect on California law as well as to their need nationally and we recommend that S.3202 be the one accepted.

We request that consideration be given to the following suggested changes in S.3202:

1. In Section 3(b) amend the sentence beginning, "Such term shall not include", by changing subsection (1) to read, "Any non-profit charitable or educational institution".

   This change is recommended because of the possibility that educational institutions could be formed to operate for profit and use their students in farm labor contracting situations.

2. In Section 5(a)(5), add a statement requiring that contractors notify the Secretary and comply with the safety standards for any vehicles or real property which they acquire after having received their Certificate of Registration.

We especially approve of two new provisions in S.3202; one which requires that the farmer or processor be held liable for damages if he engages the services of an unregistered farm labor contractor, and the second which provides for the reinstatement of coverage of contractors who transport or recruit workers on a daily basis only. (Even though we did not object to the

33-491 O - 74 - 15

exclusion of such contractors when we presented our statement in Fresno -- since such contractors are covered under California law -- we now agree that because of lack of coverage in other states, this type of operation should be covered by Federal law as provided in S.3202.)

We also approve of the increase in the amounts of liability for vehicle insurance and the addition of the bond requirement since many other states apparently do not have sufficient coverage in this regard. However, in respect to these latter two provisions, we should like to add the following comments:

1. In California all licensed contractors must file a $5,000 bond, which amount to date has been sufficient in every case to meet all claims filed against it. In view of this, since the California bond provides for the same security against liability as required by the proposed Federal bond, we should like to propose that Section 5(a)(4) be further amended to permit the Secretary to accept as being in compliance with this section the posting of a bond with the licensing agency of any state provided the provisions of the bond equal or exceed those required of the Federal bond. This amendment seems equitable since in many areas of the U.S., state laws do not require bonding and contractors operating in

those areas would be required to obtain only one bond.

2. In California all contractors who are the employers of the farm workers must obtain workmen's compensation insurance. The bodily injury and death benefits for this type of insurance greatly exceed, in most respects, those benefits that are required in the proposed vehicle liability insurance in Section 5(a)(2). Workmen's compensation insurance covers all injuries and deaths occurring on the job as well as in transit. Furthermore, there are no limits on medical care needed for a job-related injury or illness, which care could continue for the life of the employee. The one area, however, in which the benefits provided by California workmen's compensation insurance are less than those of the proposed Federal insurance is the minimum payment for the death of one person.
Under the proposed Federal law, this amount is $50,000 and applies only when death occurs as a result of a vehicle accident. Under California workmen's compensation law, the statutory death payment is either $40,000 or $45,000, the latter amount applying if there is a widow with dependent children. Under workmen's compensation insurance, the death benefit is payable in addition to any medical costs and other

indemnity payments incurred prior to death and would be payable irrespective of whether the death occurred as a result of a vehicle accident or an on-the-job accident. Furthermore, in addition to the aforementioned death benefit, the workmen's compensation law provides for additional payments where serious and willful misconduct by the employer is established plus a funeral benefit not to exceed $1,000. (Under the proposed vehicle liability policy the $50,000 would be the maximum payment possible irrespective of the amount of medical care, etc., occurring prior to death.)

In view of the foregoing, we should like to request that Section 5(a)(2) be amended so that by offsetting the far greater and more extensive benefits afforded by California workmen's compensation insurance against a slightly lower death benefit, the Secretary could accept a workmen's compensation insurance policy such as required by California as "proof satisfactory" of the applicant's financial responsibility.

It is understood that our request for substitution of a workmen's compensation insurance policy in lieu of the Federal liability insurance policy for bodily injury and death pertains only to contractors who transport their own employees; it would not affect the Federal insurance requirements for contractors who

operate under categories 2 and 3 referred to on page one. Furthermore, it would not affect the Federal requirement for property damage insurance. The $50,000 requirement in this regard would have to be obtained by each contractor who transports workers even though said contractor has a workmen's compensation insurance policy.

We request that serious consideration be given to the foregoing proposals because of the cost of these various insurances and bonds. If contractors are required to duplicate these insurances, the cost would become prohibitive to many which very easily might bring about a greater number of contractors operating without licenses -- which in turn would increase enforcement costs and decrease the benefits to the workers. Also, if this bill becomes law the California office of the U.S. Employment Standards Administration, which handles these Certificates of Registration, will have to process more than 800 additional applications each year. Therefore, if they can accept the California bond and workmen's compensation insurance in lieu of having to process additional bonds and insurance policies for the same contractors, their workload would be substantially less without decreasing benefits to the workers.

Senator NELSON. Our first witness today is State Senator James B. Stephen, Spartanburg, S.C., who is accompanied by Senator Hollings.

Please proceed, Senator Hollings.

STATEMENT OF HON. JAMES B. STEPHEN, STATE SENATOR FROM THE STATE OF SOUTH CAROLINA; INTRODUCED BY HON. ERNEST F. HOLLINGS, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator HOLLINGS. It is my pleasure to introduce Senator James B. Stephen to the committee from Spartanburg, S.C.

He appears before your subcommittee to testify on behalf of S. 3202, the Farm Labor Contract Registration Act Amendments of 1974.

Senator Stephen has served in the South Carolina State legislature since 1961, first in the house, and he has been in the State senate since 1969.

Presently he is the chairman of the South Carolina Commission to Study the Problems of Migrant Workers.

The Senator has maintained an active interest in the plight of some 4,000 to 5,000 migrant workers in our State. In this regard, he has sponsored legislation entitled "Crew Chief Registration Act," in the State legislature there.

I hope he does a little bit better today on your bill than he has done on his own back home, because it is not easy to move it along which is modeled after the Florida and New Jersey State laws.

I know his experience in this area will be helpful to the committee. He has traveled wide and far, actually seeing on the ground all these conditions.

He knows and understands, so when he legislates in this area, he legislates from a background of experience.

I appreciate his coming all the way here to appear before your subcommittee and your allowing me to present him.

I would ask, please, to be excused because I have got some legislative hearings on appropriations going on right now.

Senator NELSON. Thank you very much, Senator Hollings.

The committee is very pleased to have Senator Stephen here today, aand we are sure that his experience in the field will be very helpful to us.

Senator HOLLINGS. Thank you.

Mr. STEPHEN. Thank you, Senator Hollings.

Mr. Chairman, Senator Nelson, thank you very much for inviting me to appear here. I have no written statement to give.

I have been involved in this as a legislator now for 4 years. It has captured my interest and some of my legislative efforts. It has been a very frustrating experience to work in the State legislature.

First, I would like to say that my remarks are in the context of a State senator, and it is restricted to my own experience in South Carolina.

You, no doubt, have a better picture nationally than I do. I have no way of knowing.

As Senator Hollings said, we do not know how many migrants we have, but about 4,000 or 5,000 a year, we think, go through our State, mostly originating from Florida. That is where most of the crew chiefs are from, Florida, and they bring their own crews through Georgia on up through South Carolina.

There are two streams, one along the coast and one along the Piedmont region for the peaches and apples, and the farmers, of course, rely on this migrant labor to harvest their crops. There is very little unemployment locally, so it is a very important source of labor, important to the "agribusiness," as we say now, rather than "the farmer" like it used to be.

I have examined your bill, and was very pleased that it had been introduced.

Senator Hollings commented that I have been chairman of a special legislative committee in my own State since 1971. We have been to Florida, to Tallahassee. I have talked to the State Senator there that is my counterpart, and he advised me that the first thing we needed to do in South Carolina was to get a State Crew Chief Registration Act.

Our committee promptly said, yes, we do need it. We introduced it, and it is still sitting in the Agriculture Committee in Columbia, S.C., waiting for public hearings.

I have very little reason to be encouraged about the passage of any State legislation.

For instance, on Workmen's Compensation, in which Senator Javits has been active and has set guidelines, our State has recently acted on a package of bills to amend our State Workmen's Compensation laws.

Not surprisingly, the State Senate, in which I serve, decided to except agricultural employees by a vote of 27 to 13.

Senator NELSON. To except them?

Mr. STEPHEN. Right.

So that tends to give me an idea of what is going to happen to my Crew Chief Registration bill.

It is a local situation. I am from a State which has espoused State's rights for years, ever since the history of the Nation.

But, at the same time, you have these problems. The migrant worker is coming through, maybe is there 6 or 7 weeks, whereas the agricultural interests are there and vote.

Interestingly, when our committee went to Atlanta, Ga., to see what Georgia was doing, we felt that Georgia must have some problems, but we found there was no State legislative activity and no intent of the State legislature to develop any programs for migratory labor going through Georgia. Nobody cared because there were not any votes there and, of course, that is true.

It is not politically popular to do this type of missionary work in the State legislature.

I find myself having committed myself in this direction, so here I am.

Senator NELSON. Are any of the farm laborers residents, or are they almost all from out of State?

Mr. STEPHEN. There are some locally, but the great bulk of them are in Florida. They bring their own crews up. They form their crews in Florida.

From what I could gather in Tallahassee, their State has crew chief registration. Florida enforces housing requirements. They issue citations, but still Florida has such a long agricultural season, that it is a different problem.

Our seasons in South Carolina are short. So, these people are really passing through.

But as they do pass through, you have got your community general hospital expense, your medical expense, your sanitation, your health problems of our labor camps. I would say this is a burden on a county.

Our hospital administrator in my own city said they had one case that cost them $25,000. So this is a problem.

Whether there could be any preventive measures in health, I do not know. But these are real problems that the States have with the migrant situation.

Now, as I suggested, it is hard for a State to cope with the problems. We slap at it with not much success.

It has occurred to us, those serving on this State committee, that this is peculiarly in interstate commerce, and ever with some intrastate recruitment, still it is enough mixed in with the whole movement across State lines that it is permissible and probably desirable for the national government to exercise its jurisdiction in this area.

If Congress does legislate, I think it should exercise its jurisdiction fully. If you are going to preempt the States, go ahead and do it in this area.

Now, one thing we noticed in our travels was the long association that the recruiters working for the Rural Manpower Division has with the farmer. It is a part of the employment security commission of our State.

These recruiters are fine gentlemen but they have had such great rapport with the farmers over the years, such real close friendships, that they may be insensitive to the migrant problems. When we got the 1963 Crew Chief Registration, and then the Federal regulation by the Secretary of Labor that it would deny recruitment services if the housing conditions were not proper—you recall that has been done administratively, we found that there was a winking at substandard housing conditions. These gentlemen with the Rural Manpower Division knew the farmers and sometimes knew that the housing that the farmer was going to provide was not up to the standards, but would nonetheless go on with the recruitment.

Sometimes they would recruit indirectly. They would not do it directly. It would be hard to prove there was any participation of these persons working for the Rural Manpower Division, but there is certainly evidence that they were not denying their services as the law would require.

I think it was in April, 1972, a New York Times article by an investigative reporter that pointed out—it was April 23, 1972—that there was migrant abuse by the Rural Manpower Division.

I can see how it would happen through these long associations between the State employee working for Rural Manpower Division and the farmer.

Not only in that agency, but in other agencies, there seems to be over tolerance with the poor conditions, housing and otherwise. The State Health Department that is charged with the duty of housing inspection, but is reticent to enforce.

Somehow the Health Department feels that if the migrant does not sleep at this camp, though it is inadequate, he might sleep in a tree or a car, so they just go ahead and pass it—it is a winking at the whole stream of law designed to provide minimum living conditions.

This over tolerance is pervasive by most of your State health agencies. So this legislation that you now propose, I would say, in a certain sense is like your Civil Rights Law which was designed to protect people against abuses because of over tolerance of State law enforcement.

You could remove it to the Federal jurisdiction. It is unfortunate that this situation developed in some States, but it is nonetheless true.

Senator NELSON. You say that the workers are not covered by Workmen's Compensation because agriculture labor is exempt.

Is there any requirement of any kind of insurance, health insurance or accident insurance?

Mr. STEPHEN. None whatsoever.

Sir, we cannot even identify them. We do not have a State Crew Chief Registration Act.

I was pleased to note in your bill that there will be a public register for the crew chiefs. I assume the identity of the crew chiefs would be passed on to the affected States that they are going to pass through, and also the identity of the camps where these migrants might stay.

Senator NELSON. How are most of these migrant workers transported in your part of the state?

Mr. STEPHEN. In a variety of ways, from the school bus to the truck.

Senator NELSON. Are they mostly transported by the crew chief?

Mr. STEPHEN. The crew chief sometimes provides transportation. Sometimes the migrants themseles have a car. But, so often, there is reliance on the crew chief for transportation. There is total dependence.

You know, about 2 years ago in my own county in South Carolina, we had the first case tried for involuntary servitude. It was tried in the Federal District Court there about 2 years ago and resulted in a conviction of two farm labor contractors.

The defense was that these people really are free to go; that it is not really a slavery thing, that they could have walked out any time.

But the jury did not buy it. They did not think, because of the absence of transportation, stuck out in a field, with red mud all over the place, no place to go—that the migrants in fact, were voluntarily staying there.

As I recall, the conviction stood on appeal.

This case got me further interested in the migrant. It is shocking when you can see a case in 1972 of involuntary servitude.

I suppose the committee could get the court record of that if you are interested.

As I say, I am speaking not as a worker, as a contractor, but as a State Senator that has dealt with the problem and has been frustrated for some time.

Senator JAVITS. Mr. Chairman, I would just like to say to Senator Stephen that it is very refreshing and inspiring to have a legislator who also has to run for election and also depends upon the very same votes that you refer to within the framework of your community and its social order to have an enlightened point of view in terms of the humanities as well as the legalities which are involved.

It simply demonstrates why, in this case, as in Workmen's Compensation, we simply have to have an overriding national statute that the citizen, the individual migrant is a citizen of the United States as well as a citizen of whatever state he may have his domicile in.

We have a very deep obligation. I am very hopeful, Senator, that we will be able to meet it.

I would like to tell you I think it is most admirable that you should come here and speak as frankly as you have.

I know, in a State like yours, there might be some who would decry what you are saying on the ground that you are putting the State in a bad light. I would just like to tell you as one fellow legislator that I think you are putting the State in a good light, excellent light, that it is capable of producing men and, I am sure, women who have got so enlightened an outlook in that framework.

Thank you.

Mr. STEPHEN. Thank you very much.

I have likened this to legislation of the 1930's with the cotton mills. I am from a cotton mill town. And when everybody "owed their soul" to the company store in the 1930's, labor reform legislation was passed, and it rectified that. Somehow I think this is a continuation of that crusade of the 1930's.

I wish you a lot of success with your bill.

Senator NELSON. Did you, in your visits to Florida, study their statute?

Mr. STEPHEN. I got a copy of their crew chief bill and copied it, and just changed it to South Carolina, maybe with a few modifications.

Senator NELSON. Did they have Workmen's Comp coverage in Florida?

Mr. STEPHEN. I do not know. My guess would be that they would have it.

Florida, as I see it, is pretty well advanced because they stay there so long. They are there almost 6 months a year. They do not leave until about February.

So their longest period of residence is in Florida. They may well be covered.

Senator NELSON. Thank you very much for your appearance. We appreciate your coming.

Our next witness is Alcario Samudio from the Migrant Division of the Wisconsin State Department of Labor.

We are very pleased to have you here this morning, Mr. Samudio.

Your statement will be printed in full in the record. You may present it however you desire.

STATEMENT OF ALCARIO SAMUDIO, MIGRANT DIVISION, WISCONSIN STATE DEPARTMENT OF LABOR

Mr. SAMUDIO. If you do not mind, I would like to read it.

Senator NELSON. Fine.

Mr. SAMUDIO. First, I want to thank the Subcommittee on Employment, Poverty and Migratory Labor of the Labor and Public Welfare Committee, and specifically Hon. Gaylord Nelson of our State of Wisconsin.

I ask one forgiveness in addressing this committee, and that is my nervousness, and not for my accent for which I am proud.

I will try to be brief.

When you are dealing with farm labor contractors, it is not easy to me, and by the end of this presentation, you will probably think of me as a reformed alcoholic talking about drunks.

I was born to migratory parents in 1937 in Merecedes, Tex., hub for the largest out-migration area in the United States.

In my early childhood, we migrated to the States of New Mexico, Arizona, Oklahoma, and within Texas, weeding, thinning and harvesting cotton and onions primarily.

My father was killed in my preschool years, and I kind of grew up with my uncle who was a crew leader. He kept changing scenes. Sometimes it would be locals—Chicanos—Braceros, illegals, free wheelers, and for about 3 years, Kickapoo Indians from Northern Mexico who came through Eagle Pass, Tex.

It was all a matter of mood who he wanted to exploit next or for the most. This is where I received my first real exploitation experience, but at that time I thought—maybe from my uncle—that that was the thing to do. It was always a matter of how much can you cheat them out of.

I was on my own at the age of 14, and migrated to the Northwestern States of Washington, Oregon, Idaho, and Colorado. I lied about my age to get a job, and I thought I was conning them, the employers, because they could not tell the difference. We worked in potatoes in Idaho, onions in Oregon, hops in Washington, and sugar beets in Colorado.

By the age of 16, we started migrating to the Midwest, working in corn, peppermint, onions, spinach, potatoes, carrots, cucumbers, and cherries.

At the age of 20, I was offered a crew leader job in Wisconsin for a fairly large operation. It was my job to recruit, supervise, and retain 150 migrant warkers for a period of 6 to 8 months. It was also my job as a crew leader to perpetuate the exploitive way of the employer.

I was part of that inhuman, unequal and involuntary servitude system for 10 years, by the time it hit me. Year after year, I would go to Texas to recruit, and there I would meet other crew leaders and we would discuss ways of making more money, either from the employer or the workers.

When the Crew Leader Registration Act came about in 1963, I registered, and I have to admit that I and my colleagues were scared for a while, but then we found out that the Government did not have

anybody to enforce the new laws, so many of us did not even bother to register, much less walk a straight line.

That was the only time I registered, and I have actively been recruiting since 1957 through the federally funded Employment Service system in various States.

At the age of 30, after I woke up, I started working for the State of Wisconsin, Department of Industry, Labor, and Human Relations, as a recruiter for Wisconsin employers of migrants. The only difference now was that I was playing a watchdog type of role.

I am very happy to announce that we in Wisconsin have not exactly been sitting still. Our legislature has enacted some of the best migrant-protective legislation in the country, and the enforcement agencies are diligent in application of the laws.

We have closed as many doors to exploitation of migrants by crew leaders in Wisconsin as possible, because we have on our staff several ex-crew leaders who know most of the tricks of the trade.

The crew leader in Wisconsin now makes his money from the employer instead of the workers. To our knowledge, we do not have any crew leaders in Wisconsin who pay workers. It is totally the responsibility of the employer.

Regardless of piece rates, the adult workers are guaranteed $1.69 per hour and minors $1.35 per hour in the field, regardless if they came recruited through the Employment Service or not. In application, the Federal system of minimum wage exists.

The coverage of our State laws is such that it is no longer advantageous for an employer to bypass the Employment Service, as our State laws apply no matter how the workers are recruited. All laws apply, and they are practically alike.

In other words, there is no advantage for an employer or crew leader to recruit his labor to avoid the Federal law, such as in housing, minimum wage, equal rights, social security, workmen's compensation. All migrants in Wisconsin are covered under the workmen's compensation law.

This is unlike some or most of the other migrant using States, where employers decide or are advised to recruit on their own behalf so they do not have to adhere to tougher Federal laws.

If an employer recruits on his own, all he has to do is meet—or get along with—the local, State, county or municipal inspector and the local applicable laws. In many cases, the inspector and the employer eat out of the same plate.

Also, in Wisconsin, for the canning company workers, we have a guarantee of a minimum of 32 hours of work per week per worker, and some guarantees go as high as 50 hours of work per week per worker.

Senator NELSON. You mean if they are recruited to work in a cannery or vining station, or what have you, they are guaranteed a minimum of 32 hours a week?

Mr. SAMUDIO. That is right.

Senator NELSON. And you say some guarantees go as high as 50 hours per week.

What field would that be?

Mr. SAMUDIO. The same, canning.

The guarantees apply only to canning workers of which over one-half of the migrant workers are employed in canning.

Senator NELSON. Is that guaranteed by statute?

Mr. SAMUDIO. By rule.

Thirty-two hours is our own rule, manpower rule, from the State of Wisconsin.

The DOL rule that came out about 2 months ago—maybe less than 2 months—is 20 hours.

Senator NELSON. The Department of Labor you are talking about?

Mr. SAMUDIO. Right.

Senator NELSON. The Wisconsin Department of Labor?

Mr. SAMUDIO. No. U.S. Department of Labor.

Senator NELSON. The Wisconsin regulation is 32 hours minimum?

Mr. SAMUDIO. Right.

We went back to 1964, when the Bracero Act terminated and at that time, 10 years ago, there were guarantees of 32 hours to Braceros. I felt it my responsibility—as chief of rural manpower—that 10 years later we should ask at least that minimum for people that reside here.

Senator NELSON. Go ahead.

Mr. SAMUDIO. We have been able to get time and one-half coverage for nursery workers, which is considered agriculture. We already had $2 per hour minimum in Wisconsin canneries prior to the Federal law.

We, in the Department of Industry, Labor, and Human Relations, are enforcing the applicable laws. And in housing, for instance, in the past 5 years we have had approximately 5 million cubic feet of new housing, not to mention the remodeling that has continuously been going on to meet codes.

This, we had to take into consideration that Wisconsin is not a big migrant using State.

Senator NELSON. How many migrants would you say there are in Wisconsin in season?

Mr. SAMUDIO. Last year we had at peak 7,000 workers. That is about a total of 10,000 migrants.

Seven thousand workers accompanied by about 2,500 to 3,000 non-workers.

Senator NELSON. You mean family?

Mr. SAMUDIO. Yes, and kids.

Senator NELSON. I see. That is about 10,000 people.

Mr. SAMUDIO. Right.

What is truly remarkable is the relationship that our office still maintains with the majority of employers throughout the State. We have successfully closed many camps of the chronic violators for various reasons other than housing.

For instance, to apply to operate a migrant labor camp in Wisconsin, an employer must tell us he pays the minimum wage, keeps records, has Workmen's Compensation coverage, if the crew leader is registered, and so forth. Failure to meet any of the requirements could result in denial of a license to operate a migrant labor camp.

We have approximately 100 crew leaders in the State of Wisconsin, and we keep an eye on them most of the time. We have also some of the best crew leaders in the country.

Quite a few of the bad ones have been weeded out through one form of prosecution or another.

Senator NELSON. Did you say earlier that the crew leaders are all employees of the farmer?

Mr. SAMUDIO. Right, or the processer.

Senator NELSON. When you use the term "crew leader," is that the same as farm labor contractor?

Mr. SAMUDIO. Right. We still have a few left. I will be the first to admit that for some companies it is impossible to operate without a crew leader, and thus the company pays a pretty good sum of money.

We have several crew leaders in Wisconsin making over $30,000 a year, and twice as many in the $20,000 bracket. Take into consideration that this is from their work in Wisconsin which averages 20 weeks.

I still have quite a few relatives who are in the migrant stream and who I visit during summer months, and can still experience the outright exploitation by crew leaders in our neighboring States. Twice I have gotten my relatives fired for my complaints to authorities in their behalf.

Very little can be done to corrupt crew leaders in this country for lack of adequate legislation and the right staff to enforce it. I think that is very important.

Our Department and I wholeheartedly support Senate bill 2070 and the stronger S. 3202 to amend the Federal Farm Labor Contractor Registration Act of 1963.

We do, however, have some comments to make to strengthen the bill. Some of the following comments are slightly touched on in the bill.

Some of them I have discussed with staff, and I find that it is in there. I just cannot read between the lines. I will still go through them though.

No. 1, include all recruiters, such as the agriculture related—food industry—cannery, packing shed workers—poultry processing plant, ginners, and so forth. Include those employers and/or recruiters who recruit interstate or intrastate regardless of whether they only recruit for themselves or a combination of employers.

Two, eliminate or prohibit the crew leader or contractor from the responsibilities of certain laws, such as SSA deduction, record keeping, and so forth, and place those responsibilities where they belong—the employer. If the crew leader is the employer, then the crew leader is to give a record, copy or stubs of earnings to workers.

Three, identify clearly the employer, migrant, farm labor, for the purpose of this legislation.

Four, instead of just informing the workers of where they are going to work and working conditions, the crew leader must give them a signed copy in written form of the job order or contract in his or her most communicable language.

Senator NELSON. Is that required in Wisconsin?

Do you require in Wisconsin that they not only inform them where they are going to work, working conditions, but also require they be given a signed copy in written form of the job order or contract?

Mr. SAMUDIO. That is right. The U.S. Department of Labor does have a similar rule.

However, I have been actively recruiting, like I said, since 1957, and I do not know that that rule has been enforced any place else where the workers are actually given a copy of the contract.

Senator NELSON. But it is the Federal law?

Mr. SAMUDIO. Yes.

Senator NELSON. In Wisconsin, does the farmer keep the record, Social Security records and so forth?

Mr. SAMUDIO. Yes.

Senator NELSON. Is he required to give a copy of the record to the employee?

Mr. SAMUDIO. Yes. Let me backtrack a little bit. Piece rate workers throughout the Nation have never been governed prior to 1973, such as cucumbers and strawberries.

Senator NELSON. They had never been covered by social security?

Mr. SAMUDIO. Right.

Senator NELSON. Was there a change in the law in 1973?

Mr. SAMUDIO. Yes. Senator Nelson, after the Governors Committee of Migratory Labor, State of Wisconsin, pushed it off, and we held surveys in the State of Texas and in Wisconsin, and the Social Security Administration, last year, passed a new ruling.

Before the ruling, what they had done was that the crew leader or head of household was the employer. What was happening with that was that the employer was washing his hands, and the crew leader was, in some cases, deducting for social security and not turning it into the proper authorities.

In most cases, the head of household was being made the employer.

You know darn well with the meager wages that the migrants were making, they were not going to pay into social security. I can only talk about Wisconsin, which I have more knowledge of.

In Wisconsin, the workers had never been covered under social security, working in cucumbers which, for a long time, was a major user of migrants in Wisconsin.

Senator NELSON. What about the workers whose social security was deducted from the check and who did not get credit for it? Was there any effort by the State to assist those workers?

Mr. SAMUDIO. Well, in those cases that we find out about, we try and we pour it to the employment administration, but regardless of the cases, we do not find out about—well, that is why we have had to take that to social security or the Social Security Administration saw to it that the responsibility was not the crew leader's or the head of household, that the responsibility lay where it belongs, and that is the employer or processor.

We feel there should be fines for crew leaders who place workers with employers who violate appropriate housing codes, wage and hour laws, WC laws, equal rights laws, with the proper legislative and, most important, injunctive powers.

Six, that all crew leaders and employers who hire migrant seasonal interstate labor through any type of system—through the federally-regulated ES system or through private licenses—adhere to Fed-

eral regulations or more stringent State or local laws in regard to treatment of workers, housing, pay, insurance, and so forth. This should apply to all those private license recruiters such as those in the supply States who sell bodies to employers.

That is quite a system, Senator. I wish somebody would look into it.

That moneys be authorized under the act through the best possible means in each State where season farmworkers or migrants are employed for the purpose of using said moneys to immediately provide emergency services to the affected persons when a migrant camp or seasonal farmworkers camp must be closed and workers removed and relocated for violations of this act.

To make it a violation and a fine and/or dismissal of any State or Federal employees who knowingly assist an employer or crew leader who violates this act. A fine or dismissal or both to State or Federal employees who do not process expediently migrant or seasonal farmworkers complaints in violation of this act. A fine or dismissal or both to Federal or State employees who know violators of this act in their district or elsewhere and who do not report it to the proper authorities.

To make it a violation of this act to over-recruit or over-refer migrants or seasonal farmworkers to depress wages.

Senator NELSON. Is there any provision in Wisconsin law that requires the employer to carry health insurance?

Mr. SAMUDIO. No, there is not.

Senator NELSON. So there is no compulsory health insurance coverage?

Mr. SAMUDIO. No.

The majority of canneries do carry health insurance. We have about five of them at no cost to the worker.

Senator NELSON. The canneries themselves have a health insurance policy?

Mr. SAMUDIO. Right, for their workers.

Five out of the 46 at no cost to the workers. Some of them off-the-job insurance at a minimum cost. It is $1.98 for singles, and $5.45 for a family per week.

Senator NELSON. Do you know what percentage of the migratory workers in Wisconsin are transported in vehicles furnished by the crew leader, or do most of them transport themselves?

Mr. SAMUDIO. Let me break it down.

In agriculture, the majority of workers come in individual automobiles, individually privately-owned automobiles of which the employer has advanced transportation money. A very small percentage come in trucks like they used to.

In the cannery workers, where the majority of the workers are employed in Wisconsin, we have about half and half. Half are family type workers, where they bring their whole families, and about half of them are singles, both men and women.

And the singles, the majority of the singles, come in commercial transportation, Continental Greyhound and similar things.

The families, however, the majority come in individual transportation, where the employer has advanced them the transportation moneys.

Senator NELSON. Does the employer have any obligation for any accident injuries incurred when they are traveling to the employer's job from wherever they are coming?

Mr. SAMUDIO. The Department of Industrial Labor and Human Relations right now is working on that type of legislation. There is nothing on the books now.

Senator NELSON. Even though the employer is paying for the transportation?

Mr. SAMUDIO. That is right.

Senator NELSON. If there is an accident, there is no coverage under Workmen's Compensation or any other statute?

Mr. SAMUDIO. Right.

Senator NELSON. And the employer is not required to carry any insurance to cover that kind of accident arrangement?

Mr. SAMUDIO. Not at the present time.

When they are transporting on commercial carriers, of course they are insured then, but not in their private automobiles.

Senator NELSON. Some of them are transported, you say, by the crew leaders in the crew leader's vehicle, is that correct?

Mr. SAMUDIO. Right.

Senator NELSON. Is there a requirement that they carry insurance?

Mr. SAMUDIO. Yes.

But I would consider that to be very, very minimal. There is nobody to check on it. It is like I testified before, I registered in 1964, I think it was. I never registered again.

At that time, I was hauling. Nobody checked on me. I have never been asked.

Senator NELSON. What does the Wisconsin law require?

It requires the crew leader to register, does it not?

Mr. SAMUDIO. That is Federal law.

Senator NELSON. You do not require registration by State law?

Mr. SAMUDIO. Our Department now checks to see that crew leaders are registered. But, under the present act, I do not have to register, and many of the cannery recruiters do not have to register, by far the majority do not have to register.

They are exempt.

Senator NELSON. You are saying the crew leaders who recruit for work in the canneries are not required to register?

Mr. SAMUDIO. Right.

Senator NELSON. This pending legislation would require registration for that purpose.

Mr. SAMUDIO. Good.

Senator NELSON. Did you have anything else you wished to add, Mr. Samudio?

Mr. SAMUDIO. No.

Senator NELSON. Well, thank you very much.

Your testimony has been very valuable to us. We appreciate your taking the time to come this morning.

Mr. SAMUDIO. Thank you for the opportunity.

Senator NELSON. Our next witness is Rudy Juarez, Homestead, Fla.

Mr. Juarez, we are very pleased to have you here this morning. Do have a prepared statement?

STATEMENT OF RUDY JUAREZ, HOMESTEAD, FLA.

Mr. JUAREZ. No, sir, I do not. I am sorry.

Senator NELSON. That is perfectly all right.

Mr. JUAREZ. I cannot write very well.

I want to thank you, Senator Nelson, and your fellow members of the committee for allowing me to be here. It is certainly a privilege to be here before you, and at last try to provide some enlightment which might lead for better legislation or better laws or enforcement mechanisms which might help us who are out in the fields.

I am from Texas and I was recruited with my parents along with about 17 other families for the first time when I was about 5 to follow the migrant stream into the State of Ohio where we were led to believe we were going to make a lot of money in sugar beets.

However, that began my first experience. My experience as a migrant farmworker following my experience and other families to the State of Ohio, where we were sold by the contractor to the sugar beet company for $150 that he got for bringing us there.

Since then I have followed my family through various States, through Wisconsin to South Carolina, Georgia, Michigan, Iowa and many other States that we followed trying to survive and follow the crops.

I am here to give you my own personal view and my own personal experience having worked under crew leader system, contractor system, whatever you want to call it, with various farmers in various states.

I was mostly raised in Missouri and Arkansas in the cotton fields, and there we generally migrated to Wisconsin or Michigan, eventually to Florida.

I have been in the State of Florida since 1953, off and on, going back and forth through different States, and never did really return to Texas until 1959 when I went back to see what the State that I was born in looked like.

I hope that what I am going to say can help to make the amendments that you are proposing stronger because they do seem to—what little I can understand of them—I do feel that they are realistic and they are laws which I feel can help us do away with the amount of exploitation and harassment that my people suffer in the fields.

For the past 6 years I have been out of the fields, except for the weekends in 1971 when I did migrate again to go into Indiana to pick tomatoes.

As far as I am concerned very little has changed in that system of contractors and crew leaders and the farmers.

Everywhere we have gone we have on top of being exploited and harassed and humiliated by farmers and contractors, we are also faced with the local discrimination and unwanted attitudes of the communities in which we arrive merely to harvest crops.

The contractors registration law, which is the amendments that you are presenting here, I feel are at least going to help us a little bit more, but there seems to be a lot of problems because where you have the social security, for example, that it must be required, if you have no one out there who enforcing the law or who would see that

this law be enforced, I mean the farmworkers themselves are at the mercy of those who do know that such a law exists.

They are confused because they do not understand the law. They have had social security deducted before, which has never been reported. Then again they do not know whether they will live long enough to receive any benefits of that, since they get very old in a very early stage because of the hard work that we have to do, the pesticides and everything else, and lack of proper foods and the bad conditions of housing in which we have to live.

In Florida where I have been residing for the past 7 or 8 years, longer than other periods, the contractor and the crew leader system is terrible.

The contractors, some of them who are registered as contractors, I feel are still getting away with a lot of things because they hire crew leaders who bring farmworkers, most of the time illegals, knowingly they bring illegals and anybody else they can bring from Texas or Arizona or California or anywhere where they can recruit them.

In Florida generally you have three and four times the amount of farmworkers needed to harvest the crops. For the past 4 or 5 years farmworkers have nearly worked 2 or 3 days mostly out of the week and sometimes 2 or 3 hours in a day because of the tremendous amount of farmworkers that are brought into the State of Florida, into Dade County, for example.

You might have a 40-acre patch of tomatoes or a 500-acre patch of tomatoes which is mostly what migrant farm workers will follow in Dade County.

You pick them in about 3 or 4 hours, and while there is a minimum wage law, how the farmworkers know whether or not they have earned what it required within the minimum wage law—for example, they are taken out at 7 in the morning. They arrive in the field at 7 or 8.

They are told to wait so they can preserve and protect the vines. They do not start picking until 10 or 11. They pick about 3 or 4 hours. They get home about 6 or 7 at night in the evening and they have maybe earned $6 or $7.

Your amendments here I hope along with these amendments you will push for stronger enforcement of these laws, because there have been laws for many years which I feel could have been favorable to the migrant farmworkers, but they are not enforced.

I mean it does not do any good.

With the crew leader registration at least the migrant farmworkers have a better chance of getting paid for what work they have done, at least what they are supposed to be paid, because an unregistered contractor will sometimes hire farmworkers and will abandon them or leave them.

The farmworkers are not aware as to where to report or who to turn to get this contractor and to make him pay his money.

Two or three years later they will meet again and the contractor might claim he does not have any money or he did not get paid any, so the farmworker just gets cheated out of that money.

We have been trying to get farmers, trying to convince them to hire farmworkers directly because we feel that if some of these

responsibilities, like the deduction of social security, the workmen's compensation and so on, if it was placed in the hands of the farmer, we feel that the farmer is not going to run away, and if the farmworker gets hired by the farmer directly, then the farmworkers would not get cheated out of their wages like they have been in Florida most of the time.

Just as I was getting ready to come down here, there were two families who for the past 4 weeks have not gotten paid yet by contractor because the contractor was caught driving while intoxicated or something and he was still in jail and he claims that he has not got money and he could not pay it.

It might not be in the thousands of dollars that this family earned, but every little bit counts because they live day by day with what the earned, and not working a full week that money is needed to provide for food for their children and to pay the excessive amount of rent that is charged in Florida.

We have been successful in Florida in trying to provide better housing for farmworkers, but that is very slow. The unpaid wages which the contractors generally do not pay the farmworkers sometimes are never paid because there are no law officers or enforcement agencies which are favorable really to the migrant farmworker.

I feel that your amendments here which deal with many of the problems that we are faced with are going to be helpful, especially by maybe reducing the amount of workers that are in Florida, for example, because the contractors and the farmers are heavily recruiting illegals from Mexico.

Many times we have reported this to the border patrol, but they do not seem to be interested until the harvest is over.

Senator NELSON. Mr. Juarez, we have had testimony that it is very difficult, if not impossible, to identify who the illegals are. Is that so?

Mr. JUAREZ. I do not think it is possible because I think both the farmer and the contractor knows who these illegals are because the farmer in Florida basically provides the funds necessary to transport the illegals from Mexico.

The illegals are not hard to identify, especially by the contractor. The contractor can easily identify them because you see in the State of Florida contractors who do every year to Florida are familiar with the farmworkers that they work every day.

Every contractor mostly knows everybody in a given region where they go each year.

Therefore, it is easy to identify a new face, a new person, his different way of speaking, his different way of dressing and his different ways because their ways are different compared to those of the Mexican American.

That is not a problem.

Senator NELSON. Of course if somebody says, well, they are an American citizen and they produce a social security card and driver's license, then how do you know?

Mr. JUAREZ. Mostly the illegals do not have a driver's license, and in terms of social security, it is easy for them to get social security, because social security does not require a lot of identification for a person to obtain a social security card.

The crew leader and the farmer are very cooperative in those terms in supplying application cards for social security to the illegals most of the time because they feel that at least through the social security they are liable to flash that card and maybe get away from saying they are American citizens.

It is easy to see. It is easy to know who an illegal is. They know, because otherwise why would they go to so much trouble placing them in areas or in places where they are sure—or away from the other farmworkers?

For example, in Dade County you have various labor camps, like the south Dade labor camp, where the typhoid epidemic broke out last year, and other labor camps, and some of these illegals are not placed there.

They are placed in individual housing which is close to the farmer's backyard or in his grove or in areas where it is close to the field. They rent a huge house where they put them.

We reported a house where there were 74 at one time, and we reported it to the border patrol. They did not come to do anything until the harvest was over.

In the Naples area, for example, you had individual homes where the farmers and the contractors will place these illegals and knowingly they place them there. Knowingly they know if they put them in the other camps, it is easy for anybody to know where they are at, so usually they try to separate them, so they know they are illegals.

There is no doubt about that.

Senator NELSON. I understand you to say that the employers frequently pay transportation of the illegals?

Mr. JUAREZ. Yes, sir.

For many years I was a contractor myself. I have been on my own since the age of 12, following crops with contractors and crew leaders and then eventually at the age of 15 I bought my first truck and I went into the contractor and crew leader business.

So I know how easy it is to exploit people or get along with the farmer and find different techniques to exploit people. So I know how they do their recruiting.

There is one particular contractor right now in Texas who is faced with a charge of importing illegals because there are farm workers who had courage enough to be able to point this out.

There was one young man who was paid $300 just to go to—$300 to go down to McAllen, Tex., and pick up 13 illegals in a truck and bring them down to Florida.

Senator NELSON. How do they get across the border?

Mr. JUAREZ. Well, the contractor will establish a relationship with those who have been here before, and on the other side they will get people from different parts of Mexico to come into that particular site, and whenever they get a chance they will cross the border.

They have another location in McAllen or different towns where contractors and crew leaders and farmers know where these people are. Sometimes it is the contractor's son or sometimes it is the contractor and the farmer who go down to McAllen or one of those areas and establish a site where they can recruit illegals to the state of Florida.

The way they get past, for example, the places where they check, they stop you and check if you are an American citizen, and they search our car and all of this, but at 2 or 3 in the morning, which I think is a combination of—well, these people seem to know actually what hour they must cross with the illegals.

Sometimes they bring in as many as 15 or 20 in a car or truck or whatever, and they get across very easy, where others cannot, but it is a certain hour that the border patrol leaves that area and they can get across. I think it is early in the morning. They will get as far as Florida, Dade County, which is making it hard for farm workers in Florida because I mentioned before that you have four times the amount of farm workers that you need in Florida because of the mechanization that is taking place up north. In Michigan, in Indiana, and various other places crops have mechanized to the point where farm workers who used to migrate up north are now going to Florida to try to find work there.

There have been hearings in Dade County for example on the social security thing, and we have not seen any type of enforcement, and the registration of the contractors, and we got a list of—I forgot to bring it with me—but we did go over the list and we found that there are about 150 crew leaders that we know personally which are not registered yet which have been in Florida for the past 15 or 20 years.

Senator NELSON. About 150 not registered?

Mr. JUAREZ. Yes; that are not registered yet. But we see no type of enforcement and the one thing that I would like to say, in addition to your amendments, is that if there was some way which the migrant farm workers could be provided with a mechanism in which ourselves could have knowledge to be able to enforce this law, where we could report it, where we could be oriented as to how to go about reporting it, who are the people that we should report to, and if the local people do not respond to our complaints, where else do we go?

I think there needs to be a mechanism that we can use to inform farm workers about these laws. The best way to do that is through farm workers themselves through their organizations through farm workers organizations, so that they themselves—or the farm worker unions, whatever—so that these laws can be enforced.

Certainly the contractor, farm worker and crew leader are not going to do anything. They are sympathetic at all. They are not going to do anything at all. They are totally against these laws.

They find all kinds of excuses so as not to comply.

They continue to pay daily on a cash basis in the field. How can you pay daily and on a cash basis and still deduct social security? They are not deducting it.

I am looking forward to the day when migrant farm workers can continue to provide this Nation with food. If you go into these camps, you would not know what I am talking about because I guess you would have to be a migrant farm worker to really understand the pain and humiliation that we go through, having been present at the typhoid epidemic and see my fellow farm workers who are still suffering from the effects of typhoid.

I do look forward to the day when we can be treated as American citizens and human beings.

Senator NELSON. Thank you very much, Mr. Juarez. Your testimony has been most valuable and we appreciate your taking time to come here and give us the benefit of your experience.

We want to thank you for it.

Mr. JUAREZ. Glad to be here, sir.

Senator NELSON. Our next witness is Elijah Boone, Immokalee, Florida.

We appreciate your coming here today, Mr. Boone.

Do you have a prepared text?

Mr. BOONE. Yes; I have a prepared statement.

Senator NELSON. You may proceed. Your full statement will be included in the record at the conclusion of your testimony.

STATEMENT OF ELIJAH BOONE, REGIONAL DIRECTOR, COMMUNITY ACTION MIGRANT PROGRAM, IMMOKALEE, FLA.

Mr. BOONE. Before I start, Senator, I would like to say that my statement is relatively generalized and there are pages of it that do not deal directly with the bill.

However, I felt the necessity of saying some other things that are involved in the statement. I am hoping that it will be of some value to you.

Senator NELSON. Thank you.

Go right ahead, Mr. Boone.

Mr. BOONE. Mr. Chairman and members of the subcommittee, it is indeed an honor and a privilege to have the opportunity to come before you to discuss the plight of migrant and seasonal farm workers.

Having spent the first 35 years of my life as a migrant laborer and as a migrant crew leader, I feel that I can speak as an authority on every aspect of their lives.

I was born in the citrus producing area of Highlands County, Fla., and was reared on the rich muck lands of Palm Beach County.

In November 1971, I joined the staff of community action migrant program, which is funded by the U.S. Department of Labor, as a Regional Director, a position I presently hold. The activities of this office keep me in constant contact with farm workers and their problems.

From 1956 until 1967, I was a farm harvesting contractor and a crew leader. I traveled the eastern stream from Homestead, Fla., to upstate New York, harvesting many varieties of farm vegetables and fruits. As a migrant, I have had many bad experiences with crew leaders, farmers, Government agencies, and even the general public.

We have been scorned and disowned by our native States and cities. We have been packed on trucks and buses and hauled across eight States without the use of bathroom facilities or the luxury of a hot meal. We have been degraded, humiliated, and forced to live in settings unfit for animals.

More than anyone else in this country, we have been denied, not only our civil rights, but our economic and social rights, because we have been denied strong legislation and the enforcement of it.

But the crew leader still remains as the most dominant individual in the life of a migrant. For the most part, the crew leader keeps the migrant suppressed and indebted and completely under control.

I would like, at this point, to say my experiences are relative to black migrants more so than to migrants in general. I realize that Spanish-speaking migrants have a different culture. This is part of my testimony relative to the black migrant.

He sells him his food and his drinks and takes him to town on Saturdays. Consequently, if migrants are ever to realize freedom from persecution, then the crew leader system will either have to be eliminated or controls will have to be implemented on them relative to how they handle their crews.

This means strong legislation and strong enforcement with stiff punishment for violators, so that crew leaders, such as some of those found in Homestead, Fla., can be either eliminated by law or controlled; and so that we will not have another incident like the one that killed 26 workers in a Belle Glade, Fla., canal a few years ago because of unsafe transportation.

So that in the future, when and if a farm worker reaches retirement age, he will not have been cheated out of his social security insurance, as has been the case so often in the past and is so often the case now.

Peonage is still practiced in both black and Spanish camps, but it is almost impossible to find a migrant who is not too afraid to testify. So peonage continues.

In the mid-1950's, the plight of the migrants first received national attention in a documentary sponsored by the Columbia Broadcasting System, and narrated by the then famous columnist, Edward R. Murrow. Everyone was horrified by its disclosure.

However, nothing was done about it.

Ten years later, NBC sponsored a followup documentary narrated by another famous columnist, Chet Huntley. This documentary showed that nothing had changed, and that the situation was as grave as it had been 10 years earlier.

At about the same time, Senator McGovern came with his Committee on Hunger and Malnutrition.

In Immokalee, where I am based, and which is totally a farming area, there was found to be much hunger and malnutrition. This brought about the immediate implementation of many agencies and programs in this area geared to serving the farm worker population.

However, it was obvious that this was a token gesture and that it was not really meant to render services because no effort was made to synchronize services. And to this day, no referrel agency has been created.

Consequently, there is mass overlapping as well as neglect in services rendered.

In 1963, the Crew Leader Registration Act was passed and although, in my opinion, it was a good bill at the time, it was never enforced because the bureaucrats who were given the responsibility to enforce it did not get out of the regional offices and into the field.

For the entire State of Florida there is today a meager staff of four or five persons having the total responsibility of enforcing the Crew Leader Registration Act. This number seems very insufficient

when one considers that this is winter home base for all of the Eastern Seaboard migrants.

I might add most of these people that are recruited to do this job were recruited from old rural manpower, which had already been shown to be ineffective.

Farm workers, on a whole, have been exempted from legislation directed at upgrading the economic status of agricultural patrons. They are exempted from minimum wage laws, insurance coverage, unemployment compensation, housing codes, health hazards protections, and pesticide control.

For the past 25 years, Federal, State and local governments of this country have spent most of their time related to migrants at being concerned with identifying, studying and categorizing them instead of helping to eradicate the social and economic evils that govern their lives.

In the meantime, they are still dying of old age at 45, and trying to catch up with Americanism and modern living.

The once gigantic black migrant labor force that once roamed the Eastern Seaboard of the Nation is no longer in existence.

Social depression, mechanization, low wages and inflation have caused them to flee to the Nation's cities in desperation and join the already overburdened welfare roles as it became apparent that the transition from the farm to city life was a failure.

It is obvious that you lawmakers here today are aware of the farm workers' plight by the fact that you are here to create legislation to bring about change. But legislation alone is nothing.

Of all the laws created to economically and socially assist migrants, none are being enforced.

There are child labor laws but the law is never enforced in farming areas. So we still end up with a sixth grade education and marry at 14.

Migrants have no equal protection under the law—even from each other.

I have never seen an energetic investigation of grand larceny or even murder on a labor camp.

When housing laws are enforced, the farmer merely closes down the camps and again leaves the farm workers with no place to go.

It is quite obvious that the Government of this country has no intention of helping farm workers solve their problems, because they have not helped in the past. Maybe it is because farm workers are oppressed and have no voice of their own.

Are we afraid to tell USDA that they have an obligation to the people that harvest the nation's crops?

We need stronger laws relative to crew leaders and workers, but we need a guarantee that they will be enforced and this will not happen if the same bureaucratic system is used

Such laws should include the following provisions:

(1) The registration of crew leaders can only be monitored by people who have a vast knowledge of the farm workers' culture and lifestyle and someone who is free from political pressure. I would suggest that DOL contract with an independent agency to monitor crew leader registration, or appoint a task force made up of at least some former farm workers and other knowledgeable individuals.

(2) To enhance job security for established crews, an all-out effort should be made to eliminate "wildcat," or unregistered crew leaders.

(3) Written contracts should be mandatory as this will guarantee job stability, not only for the registered crew leader but for the farm workers themselves. When a crew leader is fired, it affects the workers even more.

(4) However, none of these things will be possible unless the responsibility of compliance is shared by the crew leader and the farmer. When farmers know and condone the foul actions of crew leaders, then they are part of the conspiracy and should be considered just as guilty. In many cases, crew leaders and farmers unite in conspiracies to exploit and control farm laborers for the purpose of guaranteeing the maintenance of an ample labor force.

I think this has been expressed in former testimony.

No. 5, day haul farm labor recruitment should be considered as migratory activity. Day hauling in some areas of Florida covers up to 100 miles a day. And workers covering such crops as corn travel from 75 to 125 miles a day each way.

I cannot overemphasize that farm work, like other work, often is specialized. Certain crews will harvest certain crops. Black crews, and not Chicano crews, for example. will harvest corn because of the nature of the work. The same is true for watermelons. Thus, local crews often are not adequate for a harvest.

I have seen farm workers transported over such distances on a daily basis only to find that there was no work available or, in many cases, the bus would break down, and people, including women and children, would have to walk for miles homes, arriving home after midnight.

Day hauling, therefore, should be treated like all other farm labor recruitment.

(6) Finally, all future laws relative to the well-being of farm workers should be very clearcut. Nothing should be left to personal interpretations. This will eliminate personal prejudices that are sometimes obviously displayed by local administrators in key positions.

It is not humane for the fate of many to be determined by one, especially when the judgment is not his to make.

In this short presentatioin, I have tried to relate to you feelings of hope and despair that I have felt, and anxieties of those farm workers I have come here to represent.

I thank you again for your time and attention. Hopefully, I have been of some assistance to you.

Senator NELSON. Thank you, Mr. Boone, for your very useful and valuable testimony.

We appreciate your taking the time to come here and testify today.

Mr. BOONE. I have just a couple of things to add, if I might.

Senator NELSON. Sure.

Mr. BOONE. I have been hearing questions relative to crew leaders and contractors. And I thought I might bring some light to that subject.

First of all, I do not think anybody has taken into consideration the fact that in some cases where farming is really big business,

where you have the gigantic farms, that there is another added echelon to the harvesting of that crop.

In other words, we might have a contractor who is contracted to harvest the crop a certain way, who will hire crew leaders to recruit labor for the contractor.

Now, under this system, you will find that maybe there are going to be some loopholes, that somebody is not going to be covered.

Take, for instance, in Florida, you look upon the contractor as being the same person as a crew leader and, in many instances, he is not. A contractor might be a very well to do, upper middle-class white businessman, who has money to invest in necessary machinery that a farm worker would know of.

In the harvesting of corn, a corn harvesting machine would approximately cost $10,000. Now, the average crew leader is not going to have that kind of money to invest.

So, a contractor, who might very well be a business man, would buy this machine, and he would be contracted to do the job, and then he would hire the crew leader who would recruit the labor, and the crew leader would not be responsible for paying the people.

The contractor would.

The crew leader would be responsible only to the contractor. I thought I might bring that out.

Senator NELSON. The crew leader is an employee of the contractor in this case?

Mr. BOONE. Right.

Senator NELSON. In that case, is it correct that the farm workers are employees of the contractor, not the farmer?

Mr. BOONE. In that case, the farm workers are recruited by the crew leader who makes the promises to them, but they are paid by the contractor.

It is a very complex, diversified situation, you might say. That is why I mention it, because it might bear looking into.

Senator NELSON. Is it a common practice in Florida for independent contractors to furnish the machinery for harvesting the farmers' crops?

Mr. BOONE. Depending on the crop, yes.

Like I mentioned, crops like sweet corn require a certain amount of investment for harvesting.

Senator NELSON. There may be corn picking machines, but it is common practice for the contractor to buy equipment and go on to the farm with his own equipment?

Mr. BOONE. The farmer himself in some cases—well, in some cases, it is the farmer himself who buys it, and in some cases it is the contractor.

We have a dual system there.

And we are saying, too, that in many instances the crew leader is a very small operator. He has maybe 8, 10, 12, people working for him at the most.

The big crew, as we once knew it, is nonexistent. They are nonexistent to a point. There are not that many of them any more.

Senator NELSON. There are not many what?

Mr. BOONE. Large crews, as it were.

You find a lot of small crews working for the same person.

Senator NELSON. What is the average size crew in Florida?

Mr. BOONE. In Florida, that depends on the region and area. The average fruit picking crew is about 18 or 20.

Senator NELSON. What would a large crew be?

Mr. BOONE. A large crew, 35 or 40 at the most.

Senator NELSON. In this case, is it commonly the crew leader who was also the contractor?

Mr. BOONE. Well, it depends on the amount of equipment that is necessary for a particular job.

If it is the kind of harvest where equipment is not necessary and the crew leader can, in fact, act in the capacity of the contractor, then he is usually the contractor.

If it requires some investment, then he is not.

Senator NELSON. Does the crew leader usually keep the same crew?

In other words, does he hire a group of farm workers and then find them jobs from farm to farm?

Mr. BOONE. Usually, the crew leaders work for the same person year after year. They try to work for the same farmer year after year.

But like Mr. Juarez said, as far as farm workers themselves are concerned, because of the mechanization and because of the phasing out of farmers like the Southeast Coast of Florida, has now become an asphalt jungle—it is becoming cities, and the farming area is being taken up with housing and all the farmers are moving over to the base of the Everglades and that area. There is not as much farming as there once was.

There are more farmworkers coming in, the aliens and all of this, which contribute to having more than an adequate supply of farmworkers, which means the contractors and crew leaders can be very choosy about who they take.

Here again is a situation where the workers themselves are being exploited.

They might take you out today and decide they do not want you any more, and there is nothing binding. He does not have to take you.

Senator NELSON. Is that all you have?

Mr. BOONE. That is all.

Senator NELSON. Thank you very much, Mr. Boone. We appreciate your testimony.

Mr. BOONE. Thank you.

[The prepared statement of Mr. Boone follows:]

STATEMENT OF ELIJAH BOONE, JR.
REGIONAL DIRECTOR
COMMUNITY ACTION MIGRANT PROGRAM
BEFORE THE
SUBCOMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR
SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE
APRIL 9, 1974

Mr. Chairman and members of the Subcommittee:

It is indeed an honor and a privilege to have the opportunity to come before you to discuss the plight of migrant and seasonal farmworkers. Having spent the first thirty-five years of my life as a migrant laborer and as a migrant crew leader, I feel that I can speak as an authority on every aspect of their lives. I was born in the citrus producing area of Highlands County, Florida and was reared on the rich muck lands of Palm Beach County. In November, 1971, I joined the staff of Community Action Migrant Program, which is funded by the United States Department of Labor, as a Regional Director, a position I presently hold. The activities of this office keep me in constant contact with farmworkers, and their problems.

From 1956 until 1967, I was a farm harvesting contractor and a crew leader. I traveled the eastern stream from Homestead, Florida to upstate New York, harvesting many varieties of farm vegetables and fruits. As a migrant, I have had many bad experiences with crew leaders, farmers, government agencies and even the

general public. We have been scorned and disowned by our native States and cities. We have been packed on trucks and buses and hauled across eight states without the use of bathroom facilities or the luxury of a hot meal. We have been degraded, humiliated and forced to live in settings unfit for animals. More than anyone else in this country, we have been denied, not only our civil rights, but our economic and social rights, because we have been denied strong legislation and the enforcement of it.

But the crew leader still remains as the most dominant individual in the life of a migrant. For the most part, the crew leader keeps the migrant surpressed and indebted and completely under control. He sells him his food and his drinks and takes him to town on Saturdays. Consequently, if migrants are ever to realize freedom from persecution, then the crew leader system will either have to be eliminated or controls will have to be implemented on them relative to how they handle their crews. This means strong legislation and strong enforcement with stiff punishment for violators, so that crew leaders such as some of those found in Homestead, Florida, can be either eliminated by law or controlled; and so that we won't have another incident like the one that killed twenty-six workers in a Belle Glade, Florida canal a few years ago because of

unsafe transportation. So that in the future when and if a farmworker reaches retirement age, he will not have been cheated out of his Social Security insurance, as has been the case so often in the past and is so often the case now.

Peonage is still practiced in both Black and Spanish camps, but it is almost impossible to find a migrant who is not too afraid to testity. So peonage continues.

In the mid 1950's the plight of the migrants first received national attention in a documentary sponsored by the Columbia Broadcasting System, and narrated by then famous columnist, Edward R. Murrow. Everyone was horrified by its disclosure. However nothing was done about it. Ten years later, NBC sponsored a follow-up documentary narrated by another famous columnist, Chet Huntley. This documentary showed that nothing had changed, and that the situation was as grave as it had been ten years earlier.

At about the same time, Senator McGovern came with his Committee on Hunger and Malnutrition. In Immokalee where I am based, and which is totally a farming area, there was found to be much hunger and malnutrition. This brought about the immediate implementation of many agencies and programs in this area geared to serving the farmworker population. However, it was obvious that this was a token gesture and that it was not really

meant to render services because no effort was made to synchronize services, and to this day, no referral agency has been created. Consequently there is mass overlapping as well as neglect, in services rendered.

In 1963, the crew leader registration Act was passed, and although, in my opinion, it was a good bill at the time, it was never enforced because the bureaucrats who were given the responsibility to enforce it did not get out of the regional offices and into the field. For the entire State of Florida there is today, a meager staff of four or five persons having the total responsibility of enforcing the crew leader registration Act. This number seems very insufficient when one considers that this is winter home base for all of the Eastern Seaboard migrants.

Farmworkers, on a whole have been exempted from legislation directed at upgrading the economic status of agricultural patrons. They are exempted from minimum wage laws, insurance coverage, unemployment compensation, housing codes, health hazards protections, and pesticide control.

For the past twenty five years, the Federal, State and local governments of this country have spent most of their time related to migrants at being concerned with

identifying, studying and categorizing them instead of helping to eradicate the social and economic evils that govern their lives. In the meantime they are still dying of old age at forty five and trying to catch up with Americanism and modern living.

The once gigantic black migrant labor force that once roamed the Eastern Seaboard of the nation is no longer in existance. Social depression, mechanization, low wages and inflation have caused them to flee to the nation's cities in desperation and join the already overburdoned welfare roles as it became apparent that the transition from the farm to city life was a failure.

It is obvious that you law makers here today are aware of the farmworkers plight by the fact that you are here to create legislation to bring about change. But legislation alone is nothing. Of all the laws created to economically and socially assist migrants, none are being enforced. There are child labor laws but the law is never enforced in farming areas. So we still end up with a sixth grade education and marry at fourteen. Migrants have no equal protection under the law--even from each other. I have never seen an energetic investigation of grand larceny or even murder on a labor camp. When housing laws are enforced, the farmer merely closes down the camps and again leaves the farmworkers with no place to go.

33-491 O - 74 - 17

It is quite obvious that the government of this country has no intention of helping farmworkers solve their problems, because they have not helped in the past. Maybe it's because farmworkers are surpressed and have no voice of their own. Are we afraid to tell USDA that they have an obligation to the people that harvest the nation's crops?

We need stronger laws relative to crew leaders and workers, but we need a guarantee that they will be enforced and this will not happen if the same bureaucratic system is used. Such laws should include the following provisions:

(1) The registration of crew leaders can only be monitored by people who have a vast knowledge of the farmworkers' culture and lifestyle and someone who is free from political pressure. I would suggest that DOL contract an independent agency to monitor crew leader registration, or appoint a task force made up of at least some former farmworkers and other knowledgeable individuals.

(2) To enhance job security for established crews, an all out effort should be made to eliminate "wildcat," or unregistered crew leaders.

(3) Written contracts should be mandatory as this will guarantee job stability, not only for the registered crew leader, but for the farmworkers themselves. When a

crew leader is fired, it affects the workers even more.

(4) However, none of these things will be possible unless the responsibility of compliance is shared by the crew leader and the farmer. When farmers know and condone the foul actions of crew leaders, then they are part of the conspiracy and should be considered just as guilty. In many cases, crew leaders and farmers unite in conspiracies to exploit and control farm laborers for the purpose of guaranteeing the maintenance of an ample labor force.

(5) Day haul farm labor recruitment should be considered as migratory activity. Day hauling in some areas of Florida covers up to 100 miles a day. And workers covering such crops as corn travel from 75 to 125 miles a day each way. I cannot overemphasize that farm work, like other work, often is specialized. Certain crews will harvest certain crops. Black crews, and not Chicano crews, for example, will harvest corn because of the nature of the work. The same is true for watermelons. Thus local crews often are not adequate for a harvest. I have seen farmworkers transported over such distances on a daily basis only to find that there was no work available. Or, in many cases, the bus would break down and people, including women and children, would have to walk miles home, arriving home after midnight. Day hauling, therefore, should be treated like all other

farm labor recruitment.

(6) Finally, all future laws relative to the well-being of farmworkers should be very clear cut. Nothing should be left to personal interpretations. This will eliminate personal prejudices that are sometime obviously displayed by local administrators in key positions. It is not humane for the fate of many to be determined by one, especially when the judgment is not his to make.

In this short presentation, I have tried to relate to you feelings of hope and despair that I have felt and anxieties of those farmworkers I have come here to represent.

I thank you again, for your time and attention. Hopefully I have been of some assistance to you.

Elijah Poore Jr.

Senator NELSON. Our next witness is Mrs. Mabel Mascarenas, Biola, Calif.

STATEMENT OF MABEL MASCARENAS, WIFE OF FARM LABOR CONTRACTOR, BIOLA, CALIF.

Mrs. MASCARENAS. I do not have a written statement, Senator Nelson, because I did not know I had to have one.

First of all, before I tell you what I have to say, I would like to clarify a question that you asked yesterday, and I felt that you did not get the necessary knowledge.

You asked if a farmer—how does a farmer know whether a contractor is licensed.

First of all, when a person applies—and what I am going to say applies to the State of California; I do not know what other States do, and only mostly to Fresno County, because that is where we work—when we apply for a license, my husband takes a test, it is a five-category test on sanitation, bus transportation, social security laws, and child labor. It is much like our test that we take for driving.

You are permitted to miss so many questions. Then you fill out your application. You send it to the State Labor Office along with proof that you have a bond, that you have compensation insurance, and that you have the right liability and collision insurance on your bus.

When you do that, then you get a little card that is very similar to your driving license. It has a number on it. That is your operating number.

When you go to a farmer and you ask for a job, you show him this card. Then he knows then that you are a licensed contractor.

Senator NELSON. Does he make a record of it?

Mrs. MASCARENAS. I am coming to that.

When we make our payroll, we put the people who work for him, how many hours, and what they had coming, and then, at the end of our payroll, we put our license number and our State compensation number and the company we carry our compensation with, and our Federal identification number for social security. So that every farmer that works with us gets all that information. It is required by their accountants when farmers turn in their income tax, so they have to have a number if they hired a labor contractor.

Otherwise, they cannot get a deduction for the labor that they paid us out.

We turn in to every farmer that type of information.

So, you asked that question yesterday, and I thought I would like to give you that information.

Senator NELSON. Is it the common practice for the contractor to make out all the records, withhold social security?

Mrs. MASCARENAS. Yes, sir.

This year, I made out 215 W-2 forms for workers, and I turned in the Social Security report on $100,188.74.

Senator NELSON. Do farmers in some circumstances make out their own reports, or is this——

Mrs. MASCARENAS. No. When I make a report, I do all that.

Senator NELSON. Is it the common practice in California that the contractor makes out all the reports?

Mrs. MASCARENAS. If he is licensed, he is required to keep his records—we get periodical inspection and we have been inspected by the IRS on our reports periodically.

Periodically, they come and ask us for inspection. We keep all our records for the allotted time of years. In fact, I keep everything.

We pay by check so our workers get a stub with every pay they get. On top of that, we make a time card. It enters like if it is Juan Perez, we put "Perez, Juan,"—it is in alphabetical order, and then we put the social security number. Along with our check, we enter a date. He worked the 8th, the 4th month, the 8th of the month. It was the day he worked. He made this much money.

If he had earned his $150—after that, you have to start deducting social security—you enter the deduction for social security, disability, and his net pay.

The welfare officers—anybody can call in and ask us for a record of our employees, and we have it for them.

Senator NELSON. Do you carry a bond in California?

Mrs. MASCARENAS. Yes, sir, we carry a bond.

Senator NELSON. What is the bond guarantee, payment of wages, or what is the bond for?

Mrs. MASCARENAS. It guarantees that we pay—if my husband skiped town, that bond would guarantee payment for the people.

Another thing, you see, when any of our employees have a grievance, they can go to the Labor Commission and put out a grievance complaint against the contractor, and within 24 hours, he will be notified. And he has 5 days to make that payment or he is in trouble. He has to go before a hearing.

Senator NELSON. What is the amount of the bond?

Mrs. MASCARENAS. $5,000.

Senator NELSON. That is required by California statute?

Mrs. MASCARENAS. Yes, sir.

Now, I would like to give my statement.

Mr. Chairman and members of the Senate Committee, I hope that you realize the significance of this hour for me. I have come a long way at a sacrifice to attend this hearing because I believe there are great moral issues involved.

I am the wife of a farm labor contractor and have worked alongside my husband in any way I could. We have been in business for 11 years.

The farm labor contractor has been receiving some publicity that makes us look like we are people who are inhuman. And yet we control most of the working people, and that by the people's choice and not by any force on them.

Being a farm labor contractor is expensive business. We pay social security on employees, compensation insurance. In addition, we pay a comprehensive liability, property damage—this means that if our workers driving out of a farm and he hits or destroys something, or anywhere he is working he hits and destroys any property, he hits and destroys any other farmworkers' car, or anything, as he is driving out, we are covered with property damage. It does not cost him anything. Our insurance takes care of it.

We have product liability which means that if our worker is driving a tractor out of the field and he drops a trailer full of grapes or tomatoes, he is covered by our insurance. Our insurance pays for the loss of that product. And we have the complete operation.

We rent toilets, buy cups, ice—they have cups at all times. We put ice in our water. We buy all our equipment, such as hoes and stuff that the worker can work with at no expense to him. Year around, we have a big overhead at all times.

It is my understanding that in revising this bill we would be required to get license and insurance as one who hires interstate and other than his employees. It would be impossible to operate buses that way because all our employees are taken to the job free of charge, and we receive no gains for transporting them.

Although contractors have had some accidents that have taken some lives—and how regrettable that is—our accident rate is very low when you consider the mileage and terrain we travel through.

For instance, in Fresno, Calif., there are about 35 buses who pick up people and take them to many areas to work. These buses travel about 80 miles per day, making about 14,800 miles per week for the 35 buses.

They pickup people for about 10 months, and when you consider that is just one place, there are many hundreds of pickup places with a similar record mileage.

I would say our accident rate is very small. Because we receive so much publicity when it happens, we are made to look like people with no thought for human life. Yet, hundreds of these people have no other means of transportation other than this or they would then be on our welfare rolls.

Yet, I will say that all persons are covered with compensation insurance until they get off in the evening. As far as I know, no other business covers its employees to and from work.

I believe the State should enforce laws of bus inspection, and they do stop us periodically. We ourselves call the Motor Vehicle Department and have our bus inspected, and correct all written demands. We then have it inspected again and a seal of inspection placed on the windshield before we move it.

The fact that the contractor would have to secure a Federal license when most of us operate inside our State lines, and many of us do not even go out of our counties, only means that somehow it is a process of elimination. It would be impossible to procure a commission from the farming industry to cover such expense.

By forcing us out of business, it is an infringement on our constitutional rights to work free from fear in our chosen field. Not only that, but it is a rebuke to our States that Federal laws come in and minimize the State jurisdiction.

As I reviewed this bill, I find on section 10(f), the phrase, "whom he knows, or should know." The "should know" should be defined to get its full meaning.

Are people going to wear a sign that says I am an alien, or are we expected to act as Immigration Officers and know all the details of Immigration papers?

Moreover, most of our work is perishable. When we need people, and people come to us seeking work, we hire them. We are the most

integrated business in America. We never question a man's origin, or his citizenship. We hire him because there is a need for his service.

Again I may say if a licensed contractor would go across the border, or pay someone to get aliens, that is morally wrong. And there are many contraband contractors, who are not licensed, who may do just that. This group of people do us all great wrong, yet they get greater financial gains because they can get money from the worker and employer, they have no license to lose.

Section (g) states we are to refrain from working where there is a strike.

Again may I say that it is time we clarify what a strike is. On the last strike that AFL–CIO called against General Motors, the people striking were the employees of General Motors, affiliated with the union. I have not seen too many strikes, but many of my people who have been working where bands come and declare themselves strikers, some have not even worked in the fields.

This year, during the melon strike on the west side of Fresno, our trucks hauling melons were attacked by the so-called "strikers." They hit our windshields with bottles full of sand, rocks, sticks, and so forth. Some of the drivers were cut by glass, and yet the melon pickers were still in the fields picking melons.

I went by one day and saw a couple of adults in the strike line, many young people, and some of the hippy type of people. There were only a few people who could pass for melon workers.

To use our young people that way and encourage them to destroy property and use the language they were yelling at police and truck drivers means someone is contributing to the moral decline of our Nation.

No wonder we have high crime rates. This kind of strike could occur in every ranch, causing farmers great damage, putting the contractors out of work, and causing many workers to quit work and join a strike that they have not wanted to do voluntarily.

Again I say, like in General Motors, if the employee is within a farm, having worked for that company for a length of time, desires to strike, that is a different story. The strikes we had in Fresno this past summer were not of that kind.

May I say to this Senate Committee that during all those 8 months or so, that General Motors was on strike, no cars moved through the assembly line. Yet, in California, we have been in a state of farm labor strife for many years. Yet, have you ever wondered how thousands of acres of grapes, lettuce, tomatoes, fruits and vegetables get harvested year after year in spite of the harassment people go through?

Housing is one of the big headaches of contractors and farmers. Keeping camps to meet with sanitation laws is most difficult. We ourselves do not have a camp, but I know many who do and work very hard to maintain them.

I have in my possession a letter from an inspector telling one of our contractors that he found his camp very clean.

Because of the seasonal perishable commodity we work on, we have to look for housing. It is very expensive, and I believe we have the only business where we have to provide housing for our people.

But again may I say the housing should not be our responsibility.

Our government is 20 years behind the times in meeting the needs of my people. States should be provided with Federal funds to build labor camps and keep them up so that this traveling segments of our Nation who, with farmer and contractor, feed the Nation, and help provide the raw material for much industry.

Our Nation has built in Asia, Europe, South America, and is already building to provide a shelter for migrants to the Moon. But, because the migrant does not have big powers behind him, no camps are provided.

Again, instead of adding laws, the Federal Government should lend financial aid so States can carry a migrant program to lift the dignity and respect of the farm laborer.

Mr. Chairman and committee members, there are many more things in this bill that I feel are aimed at putting us out of business.

I am not a learned person in legislation to debate against such trained minds as are here.

In 1918, my uncle died in Germany on the battlefield. During 1942, between my husband and I, we had six members from our families who volunteered their services to our America in its hour of crisis. My husband's aunt had three sons lost in the Bataan March. My two sons have given their time voluntarily to the Armed Service of America.

We are many generations of American-born people, but it is a sad day for us if an alien comes and puts claims on us and even have court appointed defenders paid by our own taxes. Even if this claim were proved untrue, the time and money to defend ourselves would soon drain us both morally and financially.

We could be harassed by people provoked by outside instigators by 5 to 20 claims per day, of some who saw the possibility of easy money.

If men have not gained control of the farm laborer through the hiring halls and need the viciousness of a boycott and legislation to put contractors out of business by making it impossible to comply with such laws or procure money to operate then I say I have believed in vain in the Constitution that guarantees me to be free from fear.

I say, then, America would be no longer the home of the free and the land of the brave. To destroy the right of its citizens with impossible legislation, to infringe on State rights and serve its own people, is to destroy freedom, and that would not be a brave act.

Thank you, Senator Gaylord Nelson, for extending me the invitation to come and to you, the committee, for patintly listening to me.

I hope that some day you will be given the wisdom to protect those rights that you pledged under oath to uphold.

Thank you.

Senator NELSON. Thank you very much, Mrs. Mascarenas.

Our next witness is Mr. Alfredo DeAvila, San Juan, Tex.

Go ahead, please.

STATEMENT OF ALFREDO DeAVILA, ORGANIZER, UNITED FARM WORKERS OF AMERICA, SAN JUAN, TEX.

Mr. DE AVILA. Mr. Chairman and members of the Senate Subcommittee, my name is Alfredo De Avila. I am managing editor of El

Campesino, a Spanish language newspaper, and I am an organizer for the United Farm Workers of America, AFL-CIO, assigned to the Lower Rio Grande Valley, Tex.

I have come before you today to testify on the proposed amendment to the Farm Labor Contractor Iegistration Act of 1963.

The Lower Rio Grande Valley of Texas is the largest home-base area of farm workers in the Nation. An estimated 120,000 migrants leave the valley every year, migrating to all corners of the country, in order to support themselves and their families.

The reason it is important to testify here today is simply that farm workers in south Texas have fallen hundreds of times into the unforgettable nightmare of seeking a living and discovering that their economic condition is worse than what they previously had.

This is due to misinformation and outright lies told to them about good pay and steady work.

My personal opinion is that labor contractor, crew leaders or, as they are known in Texas, truckers, should be outlawed and the industry that employs them should be directly responsible for its own action.

However, if we are to act realistically, we must recognize that crew leaders will not be outlawed. Therefore, a definite legal structure must be developed to protect farm workers from false promises and misinformation, not only from the crew leaders, but also from the agricultural employer.

Personally, I have never heard of any crew leader losing his registration because of any violations of the Farm Labor Contractor Registration Act.

The research of our offices indicates that the majority of Texas crew leaders do not work through the established offiice of the Texas Employment Commission, and that a great percentage of them are not aware of the law. This one item alone shows the vast ineffectiveness of the existing legislation.

Two main points of the law, when applied, critically affect Texas farm workers. It is of the greatest importance that they be altered.

The first point deals with traveling. As it stands at the present time, this law covers only interstate workers. There is no coverage for intrastate workers with no minimum traveling distance regulations.

We also would like to see the regulations of registration for a crew leader to require registration for any crew leader with more than one worker.

My reasons for these suggestions are simple. The crew leader of south Texas is very different than that of California or Florida, since most do not run a large operation nor own any buses for workers' transportation. He is called a trucker since he uses the truck to transport both crops and workers.

More than 22,000 farm workers are employed seasonally in the Lower Rio Grande Valley, and at least 90 percent work through crew leaders.

However, the size of the average crew is nine persons.

When a company—such as Griffin and Brand of McAllen—harvests onions, it does not employ just one crew leader to hire the 200 workers. In actuality, the company hires 20 or more crew leaders. In this manner, the employer obtains two workers for the price of one—a

foreman and a trucker to transport the harvest from the field to the shed.

For years, the local agriculture industry has denied that it is responsible for minimum wage, child labor, or social security and compensation deductions of any kind. They do this by simply stating that they employ no labor; they hire contractors who, in turn, hire the workers.

But the facts prove that the crew leader of south Texas does not even set the ratio of pay or determine the hours worked. He merely follows the company orders. Therefore, he is nothing more than a crew foreman.

To illustrate this information, I cite *Hodgson* v. *Griffin and Brand of McAllen, Inc.*, 471 F. 2d 323 (1973).

The U.S. Court of Appeals affirms the decision of the U.S. District Court that Griffin and Brand had violated the Fair Labor Standards Act, U.S.C.A. § 201, et seq.

Both judges held the decision that the crew leader, although the employer of the harvest workers, was also an employee of the company. Griffin and Brand set the wages, assigned the workers to specific fields, and had supervisors in the field to transmit orders, through the crew leader, to the workers.

Although Griffin and Brand, as defendant, used the argument that the company never hired the workers, both judges stated that:

> Whether person is employer does not depend on technical or isolated factors but rather on circumstances of all activity for Fair Labor Standards Act purposes; it depends not on form of relation but on economic reality.

Fair Labor Standards Act purposes—"it depends not on form of relation but on economic reality." Fair Labor Standards Act of 1938.

Based on the information I have presented to you today, I would like to propose that section 2042, section (b), the Crews Leader Registration Act, be changed to read:

> The term "farm labor contractor" . . . or transports farm workers (excluding members of his immediate family) at any one time in any calendar year for intrastate or interstate agricultural employment. . . .

This proposed change would delete "ten or more migrant workers" replacing that phrase with "farm workers" and would add "intrastate."

In conclusion, I would like to say that only by amending and enforcing this act of legislation can farm workers attempt to seek some type of social justice.

Senator NELSON. The bill, S. 3202, does cover intrastate.

Mr. DE AVILA. Yes, I know that.

It did not change anything on the amount of numbers of workers that were covered for crew leader to register. I feel that in Texas if this number is not changed, we will simply have no effect as far as intrastate workers in our state.

Our workers basically work in the seasonal areas and where the farm crops are, which happens to be on border areas, like the Rio Grande area, and so on.

Workers are being transported a distance of 150 miles basically on a day system. We are not faced with large contractors, with huge

buses or whatnot, but we have individuals that travel in trucks which carry produce back to the warehouse.

We feel this is very critical to us. We feel there has to be some responsibility laid on the industry and the loader.

A contractor working a seven or eight-man crew goes out to haul citrus, and returns in the truck with citrus, and on top there are workers—you will find a truck with 10 tons or 20 tons of citrus on it, and 5 or 8 or 10 workers sitting on top of this truck.

In case any kind of accident should happen, there is no protection whatsoever.

I fear that it has only been a freak accident of nature that we have had no accidents yet.

Senator NELSON. What percentage of farm workers who are transported in Texas are in crews of ten or less?

Mr. DE AVILA. The great majority. The great majority of the crews are very small.

Let me give an example.

A week ago, there were workers working in onions, and you would go by the field and they would be in a field of relatively fair size, and you would find approximately 125 workers there. But you would find out that there was also 17 truckers there at the same time.

So that is how they hire. They hire individual contractors and they break it up. They have a very large working force, but it is broken up into several crew leaders.

Senator NELSON. And these truckers then pick up the farm workers and take them out in the morning?

Mr. DE AVILA. Yes.

Senator NELSON. Then they also haul produce?

Mr. DE AVILA. Also haul produce and the people back in the same vehicle.

Senator NELSON. How large are these trucks?

Mr. DE AVILA. I am not sure, 16 feet flatbeds is the average.

Senator NELSON. What percentage of the farm workers transport themselves to and from work?

Mr. DE AVILA. It depends upon the area and depends upon the company.

It runs about, I would say, 40 percent transport themselves in their own vehicles.

Senator NELSON. About 60 percent are transported?

Mr. DE AVILA. And 60 percent are transported.

We are also faced with the problem of illegals in the valley, aliens, a major problem at the present time.

Senator NELSON. We have had testimony that it was easy to identify the illegals, and we have had testimony that it is impossible to identify them.

What is your view?

Mr. DE AVILA. I believe it is very least, at least in great majority. I am sure there are some that have been coming across country for a sufficient amount of time to know the habits and customs and, therefore, cannot be detected simply by speaking to them.

It is a very simple case in many instances to go by crews and look at them and see that they are not.

Two weeks ago, when the Lower Rio Grande Valley, Sissy Farenthald, who was the candidate for Governor in the primaries of Texas, came to visit us, and was on a tour of the valley. And we stopped at a speaking engagement at a school. And there was a crew of people working around the field.

I spotted the crew, and I walked across the field and started talking. And we went over and talked to them—most of them did not fear to speak to you—they had been in the States about a week, and they swam the river very easily, and they were all working there. And they all admitted they were from Guana Juato.

The were being paid 15 cents a bushel. They were being taken to the field—no Texas farm worker would have gone to—doing cleanup work.

The gentleman had earned, in 3 days, $5.

Senator NELSON. They were recruited, were they?

Mr. DE AVILA. They came across. They did not quite specify the trucker with them had actually recruited them. They just said they had crossed together as a group.

At the present time, we are faced with a massive amount of illegals simply because of all the propaganda that was established in New Mexico because of the whole concept of the Braceros program.

At the present time, we are faced with hundreds of individuals in Mexico simply robbing people blindly, and they are charging them $50 to $100 to fill out the forms and come to the United States as Braceros, and many of these people are finding themselves on border areas, stranded with no money, and they cross the border and attempt to earn some kind of living.

Senator NELSON. Thank you very much for your testimony.

Did you have anything else you wish to add?

Mr. DE AVILA. Just simply that I am not really quite sure what this bill will mean as far as enforcement. I am not sure that this bill itself, even though the letter is written more strongly, is attempting to control the industry through a stronger factor and hopefully put the responsibility upon those people who should be responsible, which is the employer, the grower. And I am not sure it will accomplish something.

And I would also like to recommend within a year that this whole bill be relooked at and see what types of changes have taken place in the country.

Senator NELSON. Whatever legislation we pass, there will be oversight hearings within approximately a year to find out whether or not it is, in fact, effective.

Mr. DE AVILA. Thank you.

Senator NELSON. Thank you very much.

As I stated this morning, the record will be open until April 30 for anyone who is interested to submit a written statement for the record on any aspect of this proposed legislation.

[Information subsequently supplied for the record follows:]



JOHN D. VANDERHOOF
Governor

JAMES M. SHAFFER
Executive Director

DEPARTMENT OF LABOR AND EMPLOYMENT

DIVISION OF LABOR
200 East Ninth Avenue
Denver, Colorado 80203

JAMES M. SHAFFER
Director

RONALD C. JAYNES
Deputy Director

April 5, 1974

Senator Gaylord Nelson
Chairman - Subcommittee
on Employment, Poverty and
Migratory Labor
Washington, D. C. 20510

Dear Senator Nelson:

I wish to thank the Subcommittee on Labor and Public Welfare for its invitation to me to testify at its hearings (on a bill to amend the Farm Labor Contractor Registration Act) in Washington on April 8 and 9, 1974. I regret that I will be unable to be present at that time as I am presently unable, due to doctor's orders, to undertake an extended trip. I would, however, like to take this opportunity to make some comments, for the record, in addition to my testimony in Fresno on February 8, 1974.

I have a copy of your revised Bill (S.3202) which was introduced on March 20, 1974. I am extremely pleased to note that it incorporates many of the suggestions I made in my appearance before the Subcommittee in Fresno. I think that now the Bill provides an excellent tool for effectively dealing with the chronic exploitation of migrant farm workers by unscupulous farm labor contractors and crewleaders. I think that the Subcommittee should be congratulated for its effort in this regard and feel that if meaningful enforcement can be guaranteed, this Bill will go a long way in resolving this problem.

I would like to make one additional suggestion with respect to the provision for civil relief in Sec. 12 of the Bill. In Sec. 12 (b) the Bill provides that "The court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs". Clearly the intention of the Subcommittee here is to encourage compliance with the Act through private action and to

promote private enforcement. It seeks to do this by removing the factor of attorney's fees as a disincentive to sue. In Colorado our statute in this regard provides "In addition to all actual damages (a worker) may have sustained, (he) shall be entitled to recover such reasonable attorney's fees as the court shall fix, "To be taxed as costs in any judgment recovered" (emphasis supplied). This, of course, makes mandatory an award of attorney's fees and is a real incentive to strong representation of the class of workers which this Bill seeks to protect. I would strongly recommend that the Bill be modified to incorporate such mandatory language.

Again I would like to reiterate my support of the Subcommittee's action on the Farm Labor Contractor Registration Act and offer to be of any further assistance that may be asked of me.

Sincerely,

MIGRATORY LABOR SECTION

ARTHUR GALLEGOS,
SENIOR INVESTIGATOR

AG:dl

Farm Bureau
MICHIGAN FARM BUREAU
7373 WEST SAGINAW HIGHWAY — BOX 960 LANSING, MICHIGAN 48904
517 485-8121

April 17, 1974

Honorable Gaylord Nelson, Chairman
Subcommittee on Employment, Poverty
and Migratory Labor
221 Russell Office Building
Washington, D.C. 20510

Dear Senator Nelson:

Enclosed is a statement containing our views on S. 3202. Michigan growers utilize seasonal labor in the harvest of a wide range of crops. S. 3202, as proposed, would have an adverse effect upon the ability of Michigan farmers to obtain seasonal workers.

We shall appreciate the consideration of your Subcommittee to our constructive comments.

Sincerely,

Albert A. Almy

Albert A. Almy
Legislative Counsel

AAA/wt

Enclosure

STATEMENT ON S. 3202 TO THE
SUBCOMMITTEE ON EMPLOYMENT, POVERTY AND MIGRATORY LABOR
OF THE
SENATE LABOR AND PUBLIC WELFARE COMMITTEE
PREPARED BY ALBERT A. ALMY, MICHIGAN FARM BUREAU

Michigan Farm Bureau is a voluntary, nongovernmental, nonprofit agricultural organization representing over 60,000 family members, the majority of whom are agricultural producers. Many of our members utilize crew leaders to obtain farm workers needed to perform seasonal farm work.

Michigan grows a wide range of crops, including apples, cherries, blueberries, cucumbers, grapes, lettuce, peppers, strawberries and tomatoes. The seasonal nature of these and other crops creates special problems for agriculture that other businesses do not encounter.

Labor contractors perform a valuable service to farmers in locating and securing farm workers to harvest crops on a seasonal basis. The farmer is assisted by having to make only a few contacts with labor contractors to determine the availability of seasonal workers. He can then indicate the number of workers needed, type of work to be performed, available housing, wage rates and other specific details. The alternative would be for the farmer to spend countless hours contacting individual workers to solicit their services. Time spent in this effort is time lost making management decisions vital to the production of crops the workers are being solicited to harvest.

The seasonal workers themselves also benefit from services performed by labor contractors. For example, the workers know employment is available and other important details that are reassuring to workers headed for distant jobs.

We believe restrictive legislation that would eliminate the responsible and dedicated labor contractor is not warranted. As in any group, there are those who are less desirable than others. However, it is our opinion that the

33-491 O - 74 - 18

undesirable labor contractors are a small segment of the total.

Any legislation enacted to regulate undesiraable labor contractors should not penalize those who are not a part of the problem. We believe S. 3202 would cause serious hardships to the responsible labor contractor if enacted in its present form.

Among our concerns with S. 3202 is the provision that would require $750,000 bodily injury insurance coverage per accident and a $5,000 bond. It is our opinion that these increased requirements are excessive and would pose serious hardships upon labor contractors. It is doubtful that labor contractors could even obtain such insurance coverage. We believe that if labor contractors are to remain in business, the insurance coverage now required in S. 3202 must be reduced to more realistic levels.

We also believe that S. 3202 should be limited in coverage to interstate activities of crew leaders. There is no sound reason for the federal government to become involved in intrastate activities of labor contractors. This point should be clearly spelled out in S. 3202.

Finally, we believe persons contesting actions covered by S. 3202 should be required to exhaust all administrative remedies before seeking relief in the courts. This requirement should also be written clearly into S. 3202.

The consideration of the Subcommittee on Employment, Poverty and Migratory Labor will be appreciated. We sincerely believe our suggested improvements in S. 3202 would result in an effective bill and still allow producers to utilize the services of labor contractors.

MGMWSHT HSA
1-045314A123 05/03/74
TLX W G A NPBH
1 NEWPORT BEACH, CALIF 4-3-74
ZIP 20005

western union Mailgram

UNITED STATES POSTAL SERVICE U.S.MAIL

SENATE SUBCOMMITTEE ON EMPLOYMENT, POVERTY, AND MIGRATORY LABOR
SENATOR GAYLORD NELSON, CHAIRMAN
SENATE OFFICE BUILDING
WASHINGTON, D.C. 20005

GENTLEMEN:

WESTERN GROWERS ASSOCIATION IS A TRADE ORGANIZATION REPRESENTING FRESH VEGETABLE, MELON, POTATO, AND STRAWBERRY GROWERS OF CALIFORNIA AND ARIZONA. OUR MEMBERS COLLECTIVELY GROW AND SHIP 80 PER CENT OF THESE COMMODITIES PRODUCED IN CALIFORNIA AND ARIZONA. WE SUPPLY APPROXIMATELY HALF OF THE NATIONS FRESH VEGETABLES. A NUMBER OF OKR COMMODITIES ARE PRODUCED BY GROWERS AND SHIPPERS WHO UTILIZE LABOR CONTRACTORS. WE SUPPORT THE CONCEPT OF RESTRICTIONS ON LABOR CONTRACTORS TO PROTECT GROWERS WHO USE THESE LABOR CONTRACTORS, AS WELL AS EMPLOYEES WHO WORK FOR CONTRACTORS. FOR THAT REASON, WE ARE VERY INTERESTED IN PROPOSED AMENDMENTS TO THE FEDERAL FARM LABOR CONTRACTORS REGISTRATION ACT.

WE ASK THAT THIS STATEMENT BE ADDED TO THE RECORD OF THE SENATE SUBCOMMITTEE ON EMPLOYMENT, POVERTY, AND MIGRATORY LABOR HEARING ON S. 3202 BY SENATOR GAYLORD NELSON. WE LAUD THE EFFORTS OF SENATOR NELSON AND THE SUBCOMMITTEE TO DEAL WITH THE PROBLEMS OF FARM LABOR CONTRACTORS ACROSS THE UNITED STATES. WE SUBMIT, HOWEVER, THAT THERE ARE MORE REALISTIC OPTIONS AVAILABLE TO THE COMMITTEE. WE FULLY SUPPORT H.R. 7597 AND H.R. 13342 AND WOULD SUPPORT ANY SENATE BILL WITH SIMILAR PROVISIONS. WE HAVE SERIOUS RESERVATIONS ABOUT S. 3202 IN ITS FORM AS INTRODUCED MARCH 20, 1974, HOWEVER.

WE OBJECT STRENUOUSLY TO THE CONCEPT THAT AN EMPLOYER MUST PHYSICALLY OBSERVE IN THE IMMEDIATE POSSESSION OF A LABOR CONTRACTOR A U.S. CERTIFICATE OF REGISTRATION. MANY TIMES FARM OPERATIONS IN CALIFORNIA AND ARIZONA ARE CONDUCTED WHERE THE LABOR CONTRACTOR IS CANTACTED BY TELEPHONE, HIS OFFICE IS MANY MILES AWAY FROM THE OPERATION OR HEADQUARTERS OF THE FARM WHICH IS RETAINING HIM, AND THERE MAY NEVER BE A PHYSICAL CONTACT BETWEEN A GROWER AND SHIPPER OF OUR FRESH PRODUCE AND THE LABOR CONTRACTOR. THERE IS NO WAY TO HAVE PERSONAL OBSERVATION OF THE POSSESSION OF A U.S. CERTIFICATE OF REGISTRATION. FURTHER, TO HOLD A GROWER OR EMPLOYER LIABLE FOR ACTS AND OMISSIONS OF A LABOR CONATRACTOR IS IN NO WAY RELATED TO THE REQUIREMENT THAT THERE BE AN OBSERVATION OF A LABOR CERTIFICATE. WE OBJECT TO THE PROPOSAL AS STATED IN THE BILL. IT MIGHT BE POSSIBLE TO REQUIRE THAT ANY

western union Mailgram

LABOR CONTRACTOR WHO IS RETAINED HAVE SUCH A CERTIFICATE, BUT TO FURTHER REQUIRE IMMEDIATE OBSERVATION OF THE CERTIFICATE AND TO IMPOSE THE SANCTIONS AS SUGGESTED BY THE BILL, WE FEEL, ARE TOTALLY UNCALLED FOR.

WE FURTHER OBJECT TO THE PROVISIONS OF THE BILL REQUIRING LABOR CONTRACTORS TO REFRAIN FROM HIRING OR RECRUITING ANY PERSON FOR WORK WHICH IS THE SUBJECT OF A STRIKE, SLOWDOWN, OR LABOR-MANAGEMENT DISPUTE, WHERE THE EFFECT OF HIRING THESE EMPLOYEES WOULD BE TO INTERFERE WITH THE STRIKE ON BEHALF OF THE EMPLOYER. WE SUGGEST THAT THIS LANGUAGE MAY BE UNCONSTITUTIONAL AS DENIAL OF THE DUE PROCESS RIGHTS OF EMPLOYERS. FURTHER, IT MAY BE UNLAWFULLY DISCRIMINATORY. IN ANY EVENT, WE FEEL IT IS HIGHLY IMPROPER FOR THE UNITED STATES SENATE TO IMPOSE THIS KIND OF REQUIREMENT ON LABOR CONTRACTORS. WE HAVE NO OBJECTION TO, IN FACT WE SUPPORT, THE PROVISION OF THIS BILL WHICH WOULD REQUIRE A LABOR CONTRACTOR TO ADVISE PROSPECTIVE EMPLOYEES OF THE EXISTENCE OF A STRIKE OR WORK STOPPAGE AT THE PLACE OF EMPLOYMENT WHERE THEY WOULD WORK. IF AN EMPLOYEE, AFTER BEING ADVISED OF SUCH SITUATION, DESIRES TO WORK , WE FEEL IT IS WRONG FOR ANY LAW TO PREVENT THAT EMPLOYEE FROM TAKING THE JOB. CERTAINLY AN EMPLOYEE SHOULD NOT BE FORCED TO BECOME A STRIKE BREAKER AGAINST HIS WILL. BUT IF HE VOLUNTARILY DESIRES THIS JOB IT WOULD BE WRONG TO PREVENT HIM FROM TAKING THA WORK.

FURTHER, WE OBJECT TO THE PROVISIONS OF THE BILL WHICH CREATE A LEGAL PRESUMPTION THAT A DISCHARGE OR ANY OTHER DISCIPLINARY ACTION OCCURRING 180 DAYS AFTER AN EMPLOYEE HAS ASSERTED HIS RIGHTS UNDER THE ACT WOULD THE ACE ASSUMED TO BE RETALIATORY BY THE CONTRACTOR A AN EMPLOYEE FOR EXERCISING HIS RIGHTS. WE FULLY SUPPORT A SYSTEM WHICH WOULD PROTECT EMPLOYEES UNDER THE LABOR CONTRACTOR ACT, AS WELL AS OTHER LAWS. HOWEVER, CREATING THIS TYPE OF PRESUMPTION, WE FEEL, IS IMPROPER.

FOR THESE REASONS, WE OPPOSE S.3202 AS CURRENTLY WRITTEN.

SINCERELY,

DARYL ARNOLD
EXECUTIVE VICE PRESIDENT
WESTERN GROWERS ASSOCIATION
NEWPORT BEACH, CALIFORNIA

CC: SENATOR JOHN TUNNEY
SENATOR ALAN CRANSTON
SENATOR BARRY GOLDWATER
SENATOR PAUL FANNIN

19:54 EDT

MGMWSHT HSA

NATIONAL COUNCIL OF AGRICULTURAL EMPLOYERS

337 SOUTHERN BUILDING • 15TH & H STREETS, N.W. • WASHINGTON, D.C. 20005 • (202)628-8650

April 29, 1974

President
Jack J. Miller
Los Angeles, Calif.

1st Vice President
Ernest Falk
Yakima, Wash.

2nd Vice President
Joffre David
Orlando, Fla.

Treasurer
Roy A. Myers
Rochester, N. Y.

Secretary
John Kline
LeSueur, Minn.

Executive Vice President
Joseph D. Phelan
Washington, D.C.

The Honorable Gaylord Nelson
Chairman, Subcommittee on Employment,
Poverty and Migratory Labor
Senate Committee on Labor and Public
Welfare
404 Russell Office Building
Washington, D.C. 20510

Dear Senator Nelson:

This letter is in response to your call for comments on your bill, S. 3202, amending the Farm Labor Contractor Registration Act of 1963. If you have no objections, we would appreciate it being made part of the official hearing record on that pending legislation.

For the record, the National Council of Agricultural Employers is a nationwide, non-profit organization representing some 650 major growers, processors and shippers of agricultural commodities in 46 states.

At the outset, allow me to state that the NCAE wishes to be associated with the written statement submitted, February 12, 1974, by the Florida & Vegetable Association, an NCAE member group, relative to your prior bill, S. 2070. We fully endorse the objections raised by Mr. Sorn to certain provisions in that bill, as well as the alternative suggestions offered in the statement.

We would like to add one further thought to the hope expressed by Mr. Sorn that states, such as Florida, with effective Crew Leader laws be exempted from the new amendments to the Federal law. If for purposes of uniform application of the law, or for any other reason, that is not deemed feasible, then we would recommend that the agency administering the state law also be the administering agency for the Federal law in the respective states. Either approach would serve to avoid duplication of the enforcement procedures and certainly the existing authorities, with the benefit of extensive experience, are much more familiar with the crew leader operations in their individual states.

Our overall impression of S. 3202 is akin to our feelings regarding the present Williams-Steiger Act of 1970 in that it is generally punitive rather than remedial in its thrust, particularly with respect to the potentially harmful effects upon the small businessman. It seems that the honest, law-abiding majority of labor contractors is to be penalized for the transgressions of the dishonest minority. It is yet another classic example of the proverbial baby going down the drain with the bathwater.

Our special attention is directed at those provisions added to the framework of S. 2070, dealing with (1)the extraordinarily high levels of required liability insurance coverage and bonding (Sect. 5); (2)employment of illegal aliens and alleged "strikebreakers" (Sect. 10), and increased civil and criminal penalties (Sect. 12).

With respect to the first-cited objection, would it not be worth the time and effort to query some of the pertinent insurance companies to determine whether such coverage would be available and the costs for same? We are alarmed at the increasing inclination of the Congress to write legislation without any apparent regard for who will bear the burden of the subsequent costs. Invaribly, it is the employer. One would get the impression that the Congress has a mandate to protect only a single segment of our society.

Even if it is ascertained that the insurance companies were willing to provide such high levels of liability coverage, it is doubtful whether the obviously heavy premiums would be "pass-through" costs. And if they are, the consumer will end up paying the bill; if not, an awful lot of growers will be going out of business.

It is our view that the imposition of the provision prohibiting the employment of illegal aliens would be tantamount to transferring to the employer a responsibility which correctly lies with the Immigration and Naturalization Service. Moreover, this provision poses the question of whether you are crossing jurisdictional lines with the Committee on the Judiciary. You will recall that this language was included in the proposed amendments to the Fair Labor Standards Act last year and was subsequently dropped for that reason.

In lieu of any workable alternative, it would be our recommendation that this provision be likewise deleted from S. 3202. However, if what you are seeking is a court test of its constitutionality, then that is another matter. And on the subject of "strikebreakers", who is to determine whether the recruitment of workers during the period of a strike, slowdown or labor-management dispute is designed to benefit the employer?

Harking back to an earlier opinion, we believe that the sections dealing with civil and criminal penalties are far too punitive, especially the latter. As far as civil actions are concerned, we think it would be in the best interests of both the judicial and executive branches if aggrieved parties were obligated to first exhaust administrative remedies before instituting litigation in civil court.

That the labor contractor is an integral and important part of the farm labor system is an accepted fact of agricultural economics. His services are particularly crucial to the fruit and vegetable industry, which is characterized by unavoidable high peak seasonal labor needs.

There is really nothing to be gained by belaboring that point, if you accept the basic premise of the crew leader's importance to the farm employer, and it is mentioned here for only one reason: In reading the statements of those who would give their unqualified endorsement to S. 3202, I failed to find any suggested alternatives for the present crew leader apparatus should large numbers of current operators decide to throw in the towel when confronted with the several impossible provisions your proposed amendments to the Farm Labor Contractor Registration Act of 1963.

We thank you and your fine Subcommittee for the opportunity to present our views and for keeping the hearing record open until this week.

Sincerely,

Joseph D. Phelan

Joseph D. Phelan
Executive Vice President

JDP/pjr

THE FARM LABOR CONTRACTOR

DEMON OR DEN MOTHER?

Several farm labor contractors operating in California and Arizona have signed field labor contracts with the Western Conference of Teamsters Agricultural Workers Organizing Committee. These contracts are the same as those held by growers themselves. In fact, the labor contractor is viewed as, and treated the same as, grower-employers. All are subject to constant, if not daily visits by union business agents and organizers. All are subject to payment of the same benefits on behalf of employees, and any non-compliance with the contract is met with grievance and arbitration procedure. Within the last 60 days preliminary settlements from labor contractors as a result of grievances brought by Teamster business agents have amounted to over $3,800. (see Enclosure No. 1). Employers (in this case labor contractors) holding Teamster contracts, who refuse to enter into a grievance and arbitration procedure are brought to trial in civil court (see Enclosure No. 2 - news clipping from the Salinas Californian 7/13/73).

Hundreds of farm workers have chosen to work for Teamster labor contractors. Given the haunting innuendos the farm labor contractor carries with him, we are quick to ask "Why?" Can the labor contractor possibly have something to offer the farm worker? If he holds a Teamster contract the answer is "Yes!" The Teamster labor contractor can provide workers the security, benefits and wages of a large established company that has a year-round operation and a union contract.

But What About the Contractor Himself?

The farm labor contractor in California cannot operate without a license from the Department of Industrial Relations, State of California, and is subject to periodic examinations by the Internal Revenue Service, the Social Security Administration, and the Health Department. Labor contractors in the spotlight of history depicted as parasitic leaches are in the minority. Hopefully legislation by both state and federal governments will virtually eliminate this "minority." (see Enclosure No. 3)

Contrary to popular belief the labor contractor does not charge the worker for his services, but instead assesses the grower a commission. The labor contractor operates in much the same way as a construction contracting firm. He makes bids, and if he bids successfully, does jobs in the field instead of the metropolitan jungle. The Teamster contractor has minimum wages and benefits he must afford his workers. Over and above this is his commission. The variance in contractors' bids rest upon the commission charged to the growers; not the worker. Currently the going commission charged the grower is 11-1/2%.

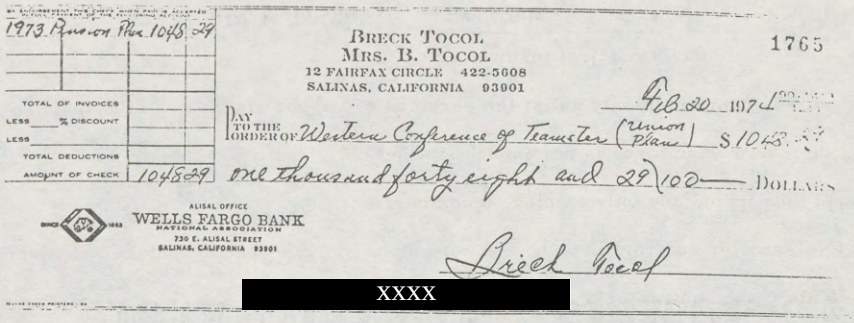
What Does This Do For the Worker?

To begin with, it allows the worker more time to himself as it is not he, but the contractor, who is out hustling jobs. Secondly, and very important, a worker in the employ of a labor contractor can show continuous service for one employer during the month even though he may have been working in four companies' fields during that time. On the surface this may not seem too consequential, but in some

commodities continuous hours in one month with one employer is a must for certain benefits, particularly medical insurance.

Many companies only enlist the services of a labor contractor after it is seen that their own work force is not enough for the job. Most produce companies accept bids from, and only employ, union contractors. Produce companies who do hold a Teamster contract but who are not employing union labor contractors must place all of the contractor's employees on their own company payroll. This assures the worker of all Teamster benefits, if he is working on a Teamster field, whether or not his prime employer (in this case the labor contractor) is union.

Finally, let it be clear that the farm worker is not obliged to work for a labor contractor. A worker can just as well go to work for the company in the first place, but often he welcomes the security afforded by the farm labor contractor.



1973 Union Pln 1048.29

TOTAL OF INVOICES
LESS ___ % DISCOUNT
LESS
TOTAL DEDUCTIONS
AMOUNT OF CHECK 1048.29

BRECK TOCOL
MRS. B. TOCOL
12 FAIRFAX CIRCLE 422-5608
SALINAS, CALIFORNIA 93901

1765

FEB 20 1974

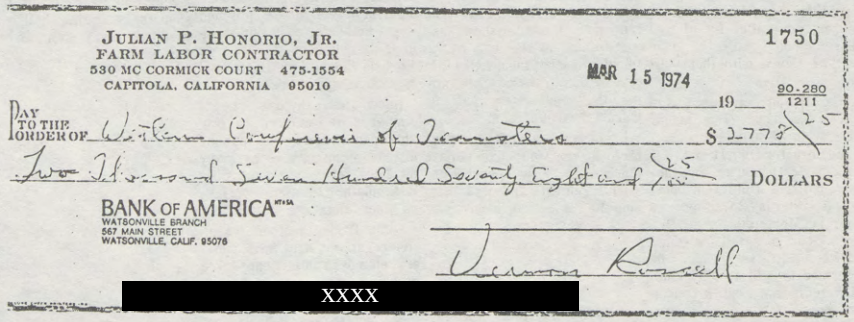
PAY TO THE ORDER OF Western Conference of Teamsters (Union Plans) $1048.29

one thousand forty eight and 29/100 DOLLARS

ALISAL OFFICE
WELLS FARGO BANK
NATIONAL ASSOCIATION
730 E. ALISAL STREET
SALINAS, CALIFORNIA 93901

Breck Tocol

[redacted]



JULIAN P. HONORIO, JR.
FARM LABOR CONTRACTOR
530 MC CORMICK COURT 475-1554
CAPITOLA, CALIFORNIA 95010

1750

MAR 15 1974

19___ 90-280 1211

PAY TO THE ORDER OF Western Conference of Teamsters $2778.25

Two Thousand Seven Hundred Seventy Eight and 25/100 DOLLARS

BANK OF AMERICA NT&SA
WATSONVILLE BRANCH
567 MAIN STREET
WATSONVILLE, CALIF. 95076

Julian Honorio

[redacted]

ENCLOSURE NO. 1

8--SALINAS CALIFORNIAN Friday, July 13, 1973

Teamsters Sue Contractor

A Salinas farm labor contractor is being sued by the Teamster Agricultural Workers Organizing Committee for alleged non-compliance with the contract he signed with them last March.

"They (Teamsters) want us to collect the dues. The people don't want to pay the dues," said contractor Gilbert Leal.

Teamster Organizer Sid Luscutoff outlined a different background yesterday to his union's filing in Monterey County Superior Court of a suit for court-ordered arbitration, which he confirmed is a first of its kind.

Luscutoff said Leal, as an independent labor contractor, signed with TAWOC after a demand for recognition by Teamsters based on indication a majority of his workers wanted Teamster representation.

"He has done nothing (to abide by the contract) and workers are complaining," Luscutoff said.

Hearing Sought

The civil suit—for which a hearing is sought for July 27—is the next step after repeated efforts to achieve voluntary grievance arbitration, Luscutoff said.

The Teamster grievance against Leal—as detailed by Luscutoff and in its civil complaint—is that he has failed to deduct TAWOC dues of $7 a month, health and welfare, pension premiums and has likewise been lax in paying taxes and unemployment deductions.

"All in all he's been very uncooperative. He's not abiding by the wishes of his people . . . The union's here to protect and represent those wishes and we're going to see to it by rational and legal means they are covered by all the benefits coming to them under the contract," Luscutoff said.

Leal said he didn't speak English too well, didn't have much more to say than his one brief comment, and was planning to contact an attorney.

An employe he said might be helpful in clarifying matters indicated only that the problem might be one of confusion stemming largely from Leal's poor English. But Luscutoff said Leal "speaks English fine."

Information through Leal's employe, who refused to provide identification, was that the dispute might involve as many as 1,000 farm workers since last month, but many working no more than one day.

Louis Uribe, another Teamster organizer, said farm workers employed less than three days in a month pay no dues.

Leal is one of several farm labor contractors who signed with Teamsters last March, along with contractors in the San Joaquin Valley.

The United Farm Workers Union (UFW), TAWOC's rival for the right to represent farm workers, has been openly hostile to the labor contractors and includes in its contracts provision for a hiring hall which would do away with all hiring through them.

ENCLOSURE NO. 2

THE INTERNATIONAL
Teamster
DEDICATED TO SERVICE
January 1974

LEGISLATIVE REPORT

Union Concern

Teamsters Support Changes in Law Governing Farm Labor Contractors

In addition to supporting H. R. 7597 which would strengthen in various ways the Farm Labor Contractor Registration Act of 1963, the Teamsters union has advanced amendments that require greater responsibility on the part of contractors and employers while safeguarding the interests of field workers.

The Teamsters' views were outlined in a communication to Chairman William D. Ford of the House Subcommittee on Agricultural Labor. Not only should farm labor contractors be required to register with the Labor Department but the law should cover "day haulers" and "intrastate haulers", said the communication signed by IBT Legislative Director Dave Sweeney and William Grami as Director of Organizing for the Western Conference. They added:

"The bill should not only prohibit grower use of unregistered contractors but it should also provide that growers could not receive any benefits under farm programs administered by the U.S. Department of Agriculture if unregistered contractors were used in any facet of a grower's operations."

While being agreeable to extension of the life of a registration certificate from one to four years, the Teamsters suggested that a provision be included "which would require an annual check with the Secretary of Labor by labor contractors." They also proposed expansion of a labor contractor's liability by authorizing damages for each day a violation of the Act continues and would require bilingual posting of workers' rights.

The Teamsters' communication advanced various changes in language to make H.R. 7597 more effective.

ENCLOSURE NO. 3

Senator NELSON. That will conclude the hearings.

[Whereupon, at 11:45 a.m., the subcommittee hearing was adjourned.]

○