



"We must find a way of providing the American family farmer with greater economic muscle. For as things now stand, he simply does not have the bargaining power he needs to achieve a fair price for his production."

-Senator Walter F. Mondale

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SENATE

S. 2973—INTRODUCTION OF BILL ENTITLED "NATIONAL AGRICULTURAL BARGAINING ACT OF 1968"

Mr. MONDALE. Mr. President, I introduce, for appropriate reference, the National Agricultural Bargaining Act of 1968, for myself and Senators BURDICK, McCARTHY, NELSON, McGEE, PROXMIRE, McGOVERN, YOUNG of North Dakota, METCALF, and MANSFIELD, and ask that it be received and appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2973) to provide for the orderly marketing of agricultural commodities by the producers thereof and for other purposes, introduced by Mr. MONDALE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

Mr. MONDALE. Mr. President, this legislation, which would create a national collective bargaining system for determining fair farm prices, offers two approaches toward providing greater economic muscle for farmers. Title I of the bill enables farmer-elected market-

ing committees to bargain and negotiate with processors and other buyers for decent and adequate prices on a commodity-by-commodity basis. Title II makes all commodities eligible for marketing orders, and provides a broad new range of powers for farmers under market orders—including collective bargaining for minimum price and nonprice terms of sale of the particular commodity involved.

I expect that this proposal will become a center of controversy. This is, in fact, one of the main functions it is intended to serve. Farm bargaining has been debated and considered for many years, but nothing has been done because it has been too controversial.

The distinguished chairman of the Committee on Agriculture and Forestry, the Senator from Louisiana [Mr. ELLENDER], has contributed, in statesmanlike fashion, to the discussion of the objective of improving the bargaining power of the farmers, which I think is wise and proper, because I believe the time has come now to fish or cut bait, to get down to the hard specifics of legislation to see how this concept can best be achieved. This proposal is intended to

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accomplish that objective, by encouraging and focusing debate on the benefits and problems that may be associated with farmer collective bargaining.

This legislation, or something very nearly like it, is sorely needed and must be passed if we expect the American family farmer to continue in the business of farming. Without it, farmers are doomed to economic disenfranchisement. Without it, farmers will continue to be the low man on our economic totem pole, without any real hope of attaining the just portion of national income to which they are entitled.

No business—and farmers do run substantially large businesses—could function or stay in operation under the conditions under which farmers operate. First of all, they are at the mercy of many variables, including the weather, entirely outside their control. In addition, farmers have no economic power to establish the price on the commodities they produce. They must take, in all reality, whatever is offered by way of the market price or federal programs. They have no alternative.

There is no doubt, and the records are clear, that this inherently weak bargaining position has caused the American family farmer to lag far behind the prosperity enjoyed by nearly every other segment of our society. The record is quite clear. Consumers in this country are estimated to have expended about \$85.5 billion during 1967 for domestic farm products. This represents an increase over the last 20 years of 100 percent.

The farmer's share of the farm value of that food marketing bill is only \$27.5 billion and has increased in the last 20 years by only one-half.

It certainly is instructive to note what the farmer's share of the consumer dollar amounts to for market basket commodities. The farmer receives only 2.7 cents for the wheat in a pound of a loaf of white bread, or 12 percent of the cost of that loaf. The farmer receives overall only 39 cents out of every dollar spent on food by the American consumer. And this share of the consumer dollar has not varied materially in the last 10 years despite a marked increase in the farm retail spread.

It is fact that the American farmer subsidizes his consumer counterpart, by continuing to produce food for substandard returns. At the same time the farmer has been increasing his own productivity fourfold over the last 30 years. Between 1950 and 1965 alone, the output per man-hour in agriculture rose nearly three times as fast as in nonfarming occupations, 132 percent in agriculture against 47 percent for the rest of the economy. In one sentence, that sums up the farm subsidy to consumers. Consumers pay more but farmers get less.

It is not unheard of to seek to improve the economic and bargaining position of depressed segments of our society. The most striking example of Federal legislation to achieve this purpose is, of course, the Wagner Act of 1935. This legislation has very successfully elimi-

nated sweatshop conditions and permitted working men and women with no commodity to offer other than their labor, to bargain and receive a fair price in return for that labor.

Statistics from 1966 adequately show the tremendous strides made by organized labor in improving their wages and working conditions. General construction trades laborers earned an average of \$3.87 an hour, trucking warehouse workers \$3.18 an hour, railroad workers \$3.09 an hour, factory workers \$2.71 per hour, and retail food workers \$2.39 per hour. The farmer average return per hour was only \$1.60 an hour, and this will undoubtedly appear high to many and perhaps most of the American family farmers, where the average for most major types of farming operations was closer to \$1 an hour.

And, therefore, I think the American farmer must borrow a page out of the book of organized labor. The American farmer needs a magna carta for agriculture similar to the Wagner Act of 1935.

And, therefore, I think it is very important that we begin this year to consider in a constructive manner the farm bargaining legislation which is introduced today and which might be introduced in the future by others. I intend to ask that the Senate Agriculture and Forestry Committee conduct searching in-depth hearings on this issue. I am hopeful that all interested persons and groups will join critical comments with alternative ideas, proposals, and suggestions. Only in this way will we be able to determine the wisest course of action to follow.

I wish to make clear that this bill is not a replacement for existing farm programs. We do not regard the National Labor Relations Act as a total solution for all the ills of the workingman, nor can this bill be a panacea.

This approach to bargaining, or any other, cannot work without substantial unity among farmers, and a willingness to act as a cohesive group. Unity is an absolute essential. This bill is a self-help tool which farmers can use if they wish. It is not, therefore, a replacement for existing farm programs. The National Labor Relations Act has not superseded the need for minimum wage legislation or unemployment compensation legislation, and I do not see how we can regard farm bargaining as a substitute for existing programs.

Mr. President, I ask unanimous consent that a section-by-section analysis of the proposed legislation be printed at this point in the RECORD.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION BY SECTION ANALYSIS OF THE NATIONAL AGRICULTURAL BARGAINING ACT

TITLE I. NATIONAL AGRICULTURAL BARGAINING ACT

Section 101. *Policy and Findings.*—Farmers do not have the opportunity to bargain effectively for a fair and reasonable return for their production, because of an inherently weak economic position.

Section 102. *National Agricultural Relations Board.*—This independent five-member Board, appointed by the President with Senate confirmation, is established to provide administrative, technical, and supporting assistance to farmer Marketing Committees and Purchasers Committees. It does not represent either farmers or buyers. It would administer farmer referendums and assist the Committees in holding meetings.

Section 103. *Marketing Committees.*—

Section 103(a). *Petition and Referendum.*—When the Board receives a petition from the producers of a particular agricultural commodity, stating that the average market price is below a fair and reasonable level, it shall proceed to conduct a referendum among producers to determine whether a Marketing Committee should be established and who should be elected to that Committee. The Board may also initiate a referendum upon its independent determination that the market price is below a fair and reasonable price. This procedure may be used for any commodity or commodity group.

Section 103(b). *Referendum.*—The Board supervises and administers all phases of the balloting, including voting qualifications in addition to 103(c).

Section 103(c). *Voting and Candidates.*—ASC County Committees will furnish names of candidates to the Board, which shall include on the ballot at least twice as many as will be elected. Candidates may be elected at large or from lesser subdivisions. Basic eligibility for voting and membership requires that at least 60% of income must be from farming or ranching, and the particular commodity must be a "significant portion" of the farming operation.

Section 103(d). *First Meeting.*—Upon a majority referendum vote, the Board will convene the first meeting of the Marketing Committee.

Section 103(e). *Notification to Prospective Buyers.*—The Board must notify prospective purchasers of the existence of the farmer Marketing Committee, requesting them to select a Purchasers Committee to meet and negotiate price and nonprice terms of sale of the particular commodity involved.

Section 103(f). Board is authorized to fix the time and place of a meeting between the Purchasers Committee and the Marketing Committee. The Marketing Committee must invite consumer representatives to present the viewpoint and information on behalf of consumers at such meetings.

Section 103(g). Statistical and factual data are to be supplied to the respective Committees by the Board and USDA. Provides that the Board may act as an arbitrator if both Committee invite its participation and if both Committees accept the Board's conditions.

Section 103(h). *Failure of Referendum.*—Provides procedures for resubmission through referendum on the questions of establishing the Marketing Committee and the membership in following years.

Section 103(i). *Powers of the Marketing Committee.*—

Establish minimum price and nonprice terms of sale pursuant to agreements in negotiations.

Where negotiations for whatever reason do not result in a minimum price, the Board is required to mediate the dispute. If this does not lead to agreement within 30 days, the disputed issues are referred to a Joint Settlement Committee composed of a Purchasers representative, a farmers representative, and a neutral selected by each. The Joint Settlement Committee, after reasonable opportunity for the parties to be heard, must decide the questions at issue, and its decision is judicially reviewable.

Other powers dealing with operation of the Marketing Committee, and enforcement of their responsibilities. See also Section 111.

Section 103(j). *Dissolution of Marketing Committees.*—Provides for termination of a Marketing Committee unless approved by referendum every three years.

Section 103(k). *Prohibition.*—Prohibits the sale or purchase of the commodity below the established price.

Section 104. *Recordkeeping.*—Farmers are required to keep certain records to aid in carrying out the Marketing Committee's functions.

Section 105. *Exemption.*—The Board may, with the approval of the Marketing Committee, where it will not interfere with the purposes of this Act, allow some farm production in the commodity to be marketed for specific markets outside the limitations of this Act.

Section 106. *Injunctions and District Courts.*—Injunctive proceedings provided, through U.S. Attorneys in U.S. District Courts.

Section 107.—The Board is required to pay for and conduct all referenda, and cost of operation of the Marketing Committee.

Section 108. The Board's decisions on the boundaries of marketing areas, the scope of the commodity, and the results of the referenda are final.

Section 109. *Appropriation authorization.*

Section 110. *Antitrust exemption.*

Section 111. *Supply Control.*—Provides that the Marketing Committee, when necessary to achieve the purposes of the Act, may prepare in consultation with the Board and the Secretary of Agriculture a plan of marketing allotments, with or without acreage or production limitations, for submission to farmers for approval in a referendum. If approved, the Secretary of Agriculture will administer the program.

Section 112. Authorization for the Secretary to implement the plan approved under Section 111.

Section 113. *Definitions.*

Section 114. *Separability.*

TITLE II. MARKETING ORDERS

Section 201. Amends the Agricultural Marketing Agreement Act of 1937, as amended, in eight respects, as follows:

Section 201(1). Amends Section 8c(2) to make any additional agricultural commodity or product (except canned or frozen products) eligible for a marketing order if the Secretary, after a special preliminary referendum of affected producers, finds that a majority of those voting favor making that commodity or product eligible for such an order.

Sections 201(2) and 201(5). Provide authority to include in marketing orders provisions establishing a method of establishing, by collective bargaining (including provisions for the designation by election of committees of producer representatives to bargain with handlers or groups of handlers), minimum prices and terms and conditions under which handlers may acquire a regulated commodity or product thereof (other than milk and its products) from producers or associations of producers. The minimum prices and other terms prior to becoming effective would have to be agreed to by the handlers of 50 per cent of the commodity and would be subject to approval by the Secretary.

These provisions also specify special pricing standards to be the statutory objective for such price determining purposes if the Secretary finds that parity for a regulated commodity is not adequate. The alternative pricing standard would take into account factors such as production costs, prices to consumers, and other factors affecting supply and demand for the commodity, including any limitations on marketings that may

otherwise be included in the marketing order.

In addition, Section 201(5) would authorize the pooling of proceeds of sale of a commodity other than milk when minimum prices are established on a use-classification basis. If the Secretary found that pooling and producer marketing quotas were necessary in conjunction with pricing provisions to provide equitable distribution of returns and market opportunity among producers, he could require the use of such combined authority.

Section 201(3). Authorizes the establishment of minimum pricing for milk through a collective bargaining process.

Section 201(4). Amends Section 8c(6) (A) through (e) by adding "species or other classification" after "grade, size, or quality" to make this regulation available by such categories with respect to livestock and other commodities.

Section 201(6). Adds a section 8c(7) (E) to—

(1) Authorize the Secretary to issue producer allotment bases for any commodity including milk on the basis of (i) the amount produced or marketed by such producer or from the farm on which he is a producer in a representative prior period, subject to adjustment for abnormal conditions and other factors the Secretary may determine, or (ii) the current quantities available for marketing by such producer, or (iii) any combination of (i) and (ii) that will result in the total allotment being apportioned equitably among producers. A minimum allotment could be fixed for producers whose production does not exceed that amount.

(2) Establish an administrative procedure, with subsequent court review, for reviewing the lawfulness of a producer's allotment. This would be similar to the section 8c(15) (A) and (B) review procedure for handlers.

(3) Specify that a handler may not handle more of a producer's allotment base than is authorized to be marketed.

Section 201(7). Adds a Section 8c(2) to authorize the Secretary to establish a producer advisory committee for any commodity to provide advice on starting proceedings to promulgate a new order and formulate specific hearing proposals.

Section 201(8). Provides that orders containing price bargaining or producer allotment provisions under proposed Section 8c(6) (J) or Section 8c(7) (E) (see items 5, 6) would impose administrative assessments pro rata on producers, payable through handlers to the agency administering the order. Handlers would have the responsibility of collection from producers.

Section 202. Would make it clear that the new authorities provided by Title II shall not supersede the provisions of other statutes relating to marketing quotas, acreage allotments or limitations, or price support and that no action taken or any provision of an order issued under Title II shall be inconsistent with such other statutes or actions taken by the Secretary thereunder.

TITLE III. AGRICULTURAL FAIR PRACTICES

Sections 301 to 311 include the substance of the version of S. 109 on which the Senate held hearings, with amendments recommended by the Department of Agriculture in its report on that bill.

Section 312 would protect associations and organizations of producers and their members or officers from being held responsible for acts where it is not clearly established that they participated in, authorized or ratified such acts after full knowledge and limits the authority for issuance of injunctions to instances where after a full hearing the Court

finds that such association or person actually engaged in the acts in question authorized them or ratified them with full knowledge thereof. This is similar to the type of protection given to labor organizations involved in labor disputes. (29 U.S.C. Sections 106 and 107).

Mr. MONDALE. Mr. President, I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

TITLE I

Mr. MONDALE. Very briefly, title I of the bill provides that when the price of a particular agricultural commodity is unfair and unreasonable, farmers producing that commodity may ask the newly established National Agricultural Relations Board to conduct a farmer referendum for the purpose of electing a bargaining committee to negotiate a fairer price and other terms of sale in bargaining sessions with a similar committee representing processors and other purchasers of that commodity.

The Board is established as an independent agency to assist farmers and buyers in the process of bargaining. If no agreement can be reached—whether on price or nonprice terms of sale—or if the purchasers fail to bargain in good faith, the unsettled or disputed issues would be resolved by a three-man joint settlement committee. This joint settlement committee would be composed of a farmer representative, a purchasers representative, and a neutral party.

The price and nonprice terms of sale of the commodity, whether reached through the bargaining process or through the joint settlement committee, would be binding on all producers and all buyers.

This procedure is available to the producers of all commodities without exception, and would also permit the farmer bargaining committee to recommend a plan of marketing controls for approval by farmers in an additional referendum.

The bill does not provide a specific, detailed test for determining whether farm prices are unfair or unreasonable, but relies on basic economic realities and prevailing market factors to achieve this objective. While farmer bargaining committees would be free to ask for any price level they feel necessary, they could not demand an unreasonably high price without running a very serious risk of competition from substitutes, increased integrated farming, loss of export markets, increased imports, or, in the absence of supply control, tremendous surplus-producing increases in production.

But while this proposal will require the fullest consideration of the realities of the marketplace it does seek to overcome the American family farmer's chief handicap; namely, that he is the weakest

link in the marketing chain from the land to the table. He does not have the power he needs to achieve a fair price for his production. Thus we have seen his prices reduced while what he must buy increases in price. We have seen his prices fall while the price to the consumer on that production rises. This measure seeks to remove this cruel predicament in which the farmer has traditionally found himself.

The bill does not describe in detailed terms who may serve on a purchasers committee, nor spell out how that committee must be selected by the purchasers. It seems to me that further detail on this question may fairly be reserved until we have the viewpoint of the purchasers during hearings on this measure.

TITLE II

Title II is an amendment to the Agricultural Marketing Agreements Act of 1937. It would enable the producers of any agricultural commodity to form a market order, with a new broad range of powers available for use in the order—including collective bargaining for the establishment of minimum prices.

Under this title, an agricultural commodity is eligible for a market order if a majority of the producers favor the establishment of an order in a special referendum conducted for that purpose by the Secretary. Orders could include collective bargaining, minimum pricing, pooling of proceeds for commodities in addition to milk when prices are established on a use-classification basis, and producer allotments based on historical marketings or quantities currently available or any combination to assure equitable distribution of returns.

Prices or other terms agreed upon between farmers and processors or handlers would become binding on all producers and all buyers on the approval of the Secretary and on reaching agreement with processors or handlers taking 50 percent of the volume of the commodity.

Provision is also made for the establishment of a producer advisory committee for the guidance of the Secretary on formulation of new market orders and specific order provisions.

In my judgment, titles I and II are not contradictory. Congress could pass either or both or a combination of the two. They are different approaches to the same objective bargaining power for farmers.

There is little doubt that this measure, or something very close to it, must be adopted if the American family farmer is going to stay in the business of farming. Without it, thousands of farmers and farming as we know it are doomed to extinction.

The reason is concisely stated in a quotation from a statement by President John F. Kennedy:

The farmer is the only man in our economy who buys everything he buys at retail, sells everything he sells at wholesale, and pays the freight both ways.

This has remained true despite the important progress made in farm legislation and farm income over the last 7 or 8 years.

If I may be permitted to reach back into the past, some 20 years ago, another individual said much the same thing in forceful terms. He said:

The farmer is an individual. He has no economic power to protect himself in our present big economy. He cannot strike. Our farm organizations and cooperatives have never suggested such a weapon. He cannot fix the prices of his commodities.

That speaker went on to say, concerning the farmer's inability to set his own prices:

Organized labor would strike before accepting such a position of economic disparity. Manufacturers would not produce except in control of price making. Banks would liquidate instead of continuing services under such doubtful conditions as confront farmers. Public utilities would liquidate if their present protection were to be discontinued.

These words are taken from the testimony of a great farm leader before the Senate Agriculture Committee in late 1947—the testimony of M. W. "Bill" Thatcher. For as long as I can remember—and for much longer than that—Bill Thatcher has been a strong advocate and champion of the concept of a Wagner Act for Agriculture.

The farmers of his country ought to recognize the tremendous debt they owe him for his refusal to abandon such a worthwhile and necessary proposal. Farmers need only look around them to know that in just about every way that the adequacy of farm income can be measured, they are the low man on the economic totem pole.

The existing programs have worked very well in eliminating and preventing disastrous surpluses and tailspins in prices. They have provided a floor under farm income, but have not helped the farmer bring his return up to an adequate level. In short, they have prevented disaster but have not assured prosperity.

This measure would not solve every problem of the family farmer or of agriculture in general. But it could permit the farmer to get what he deserves through his own efforts, and it would provide "self-help" tools to achieve fairness in farm income.

EXHIBIT 1

S. 2973

A bill to provide for the orderly marketing of agricultural commodities by the producers thereof, and for other purposes

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 National Agricultural Bargaining Act.

TITLE I

Policy and findings

SEC. 101. The Congress finds that production and marketing of agricultural commodities constitutes a fundamentally basic and essential industry of the United States, involving the supply of the Nation's food,

feed and fiber which must be available in adequate volume without impairing or wasting the soil resources of the country.

The bulk of agricultural commodities are produced for commercial purposes and are marketed either in the current of interstate and foreign commerce or in a manner which directly burdens, obstructs or affects such commerce and the marketing of that part of such commodity as enters directly into the current of interstate and foreign commerce cannot be effectively regulated without also extending the regulations, in the manner provided in this Act, to that part which is marketed within the State of production.

Farmers, ranchers and other producers of agricultural commodities are located and operate throughout the United States, produce the same or similar or competitive crops in many States carry on their farming operations with the use of borrowed funds and on leased land as well as their own land, and their operations are subject to uncontrollable and unforeseeable natural causes which often adversely affect the supply and directly affect consumer and national welfare.

Agricultural producers do not now enjoy the opportunity, comparable to that of industrial workers and those in many other forms of enterprise or employment, to organize and bargain effectively for a just and reasonable return or compensation for the commodities they offer for sale in domestic and foreign commerce. Neither is adequate government protection or assistance available to the vast majority of them in their effort to market their agricultural commodities in an orderly manner at reasonable prices. The producers of agricultural commodities are one of the very few economic groups, if not the only economic group, which must sell in markets largely controlled by the buyers, brokers, commission agents and other representatives of buyers. As a result, producers of agricultural commodities are unable to effectively prevent or avoid the wasting of natural resources, the disorderly marketing of their commodities, congestion in transportation, storage and processing and other burdens on interstate and foreign commerce.

Disorderly marketing of abnormally excessive supplies of agricultural commodities unduly depresses the prices received by the producers, burdens and obstructs interstate and foreign commerce, causes wide and injurious disparity between the prices received by producers of such commodities and the cost to such producers of the materials and supplies required to produce such agricultural commodities, thus depressing the net return received by such producers and threatens the maintenance of a continuous and stable supply of agricultural commodities to meet the requirement of the Nation and the consumers of said commodities.

National Agricultural Relations Board

SEC. 102(a)(1). There is hereby created a board, to be known as the "National Agricultural Relations Board" (hereinafter referred to as the "Board"), which shall be composed of five members, who shall be appointed by the President, by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, two for a term of three years, and two for a term of five years, but their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The President shall designate one member to serve as chairman of the Board. Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

SEC. 102(a)(2). The Board is authorized to delegate to any group of three or more members any or all of the powers which it may itself exercise. A vacancy in the Board shall not impair the right of the remaining members to exercise all of the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence hereof. The Board shall have an official seal which shall be judicially noticed.

SEC. 102(a)(3). The Board shall at the close of each fiscal year make a report in writing to Congress and to the President stating in detail the business it has conducted over the preceding year, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the Board, and an account of all moneys it has disbursed.

SEC. 102(a)(4). Each member of the Board shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment. The Board shall appoint an executive secretary, and such other employees as it may from time to time find necessary for the proper performance of its duties.

SEC. 102(a)(5). All of the expenses of the Board, including all necessary traveling and subsistence expenses outside the District of Columbia incurred by the members or employees of the Board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Board or by any individual it designates for that purpose.

SEC. 102(a)(6). The Board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of title I of this Act.

SEC. 102(a)(7). The Board is authorized to use the services of the employees of the Department of Agriculture and of the committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, in the performance of all of its duties and responsibilities provided for herein.

Marketing committees

SEC. 103(a). In order to effectuate the policy of this title, whenever a representative group of producers of any agricultural commodity or relative group of commodities or any market classification or product thereof the initial sale of which is customarily made by the producer or his cooperative or other marketing representative, shall file with the Board a written petition stating that the average market price received by the producers of said agricultural commodity or commodities is below a fair and reasonable price to the producers thereof or that the price to the producer of said agricultural commodity or commodities may reasonably be expected to be below a fair and reasonable price to the producer thereof during the next marketing season or seasons and shall define the area within which said agricultural commodity or commodities is commercially produced or, if said agricultural commodity is produced in a lesser area than the entire United States, shall define the boundaries of the lesser area by States or political subdivisions of States; or, if the Board finds and determines that the average market price received by the producers of any agricultural commodity is below a fair and reasonable price to the producers thereof or that the price to the producers of such agricultural commodity or commodities during a future marketing season may reasonably be expected

to be below a fair and reasonable price to the producers thereof, taking into account: (1) the direct cost of production, including hired labor; (2) the reasonable value of the time, skill, and experience of the individual producing such commodity or commodities; (3) a fair return upon essential invested capital; (4) continuation of the American family farm pattern of agricultural production; and (5) other appropriate factors, including compensation comparable with that of other persons engaged in other means of earning a livelihood for themselves and their families, the Board shall announce the receipt of said petition or its findings and determination and promptly thereafter shall initiate and conduct a referendum among producers of such agricultural commodity to determine whether or not said producers favor the establishment of a representative marketing committee of the producers of said commodity to be chosen by such producers for the purpose of negotiating with purchasers of the commodity to determine a fair minimum price or nonprice terms for the sale and purchase of said commodity. If the Board determines that such agricultural commodity is commercially produced in a lesser area than the entire United States it shall so state in its announcement and define the boundaries of the lesser area by States or political subdivisions of States. Commodities of the same general class or which are used wholly or in part for the same purpose may be treated as a separate commodity for the purposes of this title.

SEC. 103(b). All phases of said referendum, including preparation and distribution of ballots, establishment of voting places and procedures defining the further qualification of producers eligible to vote, the tallying of the vote upon the issue of whether or not a marketing committee shall be created and authorized and the number of the initial members of the marketing committee for said commodity as hereinafter provided shall be prepared and conducted by the Board.

SEC. 103(c). Said referendum ballot shall contain the names of at least twice as many persons as the membership of the proposed initial marketing committee, to be selected by the Board from recommendations submitted to it by the agricultural stabilization and conservation county committees established by section 8(b) of the Soil Conservation and Domestic Allotments Act, as amended. The membership of the marketing committee shall be elected at large or the whole area may be divided into divisions or subareas and the number of members to be selected from each division or subarea to be elected by the eligible producers resident in such division or subarea shall be fixed by the Board. No person shall be eligible to vote for or serve on any marketing committee unless more than 60 per centum of his annual gross income received from production during each of the preceding three calendar years has been derived from farming or ranching as owner-operator or lessee-operator and the commodity named in the Board's announcement constitutes a significant portion of the total farming or ranching operations of said proposed marketing committee member.

SEC. 103(d). If a majority of producers eligible to vote and voting in said referendum shall approve the establishment of such a marketing committee, the Board shall so publicly announce and shall promptly notify the persons elected as the initial members of said marketing committee that a meeting of said committee will be convened at a time and place, either in Washington, D.C., or elsewhere, for the purpose of organizing and planning the work of the committee.

SEC. 103(e). Concurrently with its announcement of the creation of a marketing committee as provided for in this title, the Board shall give notice to prospective purchasers of such commodity and request such prospective purchasers to select a purchasers' committee for the purpose of participating in negotiating a minimum price at which said commodity shall be offered for sale and sold by the producers thereof and negotiating nonprice terms of such sales.

SEC. 103(f). If prospective purchasers do not select a committee which is fairly representative of all prospective purchasers of the commodity within thirty days after date said invitation was issued by the Board, or within such additional period as the Board may fix, the Board is authorized to select a committee which it determines is fairly representative of all commercial purchasers of said commodity. The Board is authorized to fix the time and place of a meeting or meetings of the marketing committee and the purchasers committee for the purpose of negotiating a minimum price at which such commodity is to be offered for sale and sold by producers and on nonprice terms of such sales. The marketing committee and the purchasers committee shall bargain in good faith during such meeting or meetings. The marketing committee shall also invite the Chairman of the President's Advisory Council on Consumer Problems to designate one or more persons to represent the interest of consumers in said meeting and to present such data and information, recommendations and suggestions on behalf of consumers as said consumer representatives deem desirable.

SEC. 103(g). The Board and the Secretary of Agriculture are authorized and directed to make available to the marketing and purchaser committees such information, statistics and assistance as are reasonably available to them and will assist in determining the facts relating to the production and marketing of said agricultural commodity and a fair and reasonable minimum price. But no employee of the Board or of the Department of Agriculture shall participate in any meetings of such committees except that the Board or its delegate may act as an arbitrator in any bargaining negotiations between the marketing and purchaser committees if invited by a majority vote of the membership of both committees and both committees accept the terms and conditions prescribed by the Board concerning the scope and nature of its participation in such negotiations.

SEC. 103(h). If less than a majority of the producers eligible to vote and voting in the referendum favor the establishment of a marketing committee, the Board shall make public announcement of that fact and shall not take any further action to establish a marketing committee for that commodity during the current marketing year or season. The Board shall, however, be authorized to submit a referendum to the producers within the same area applicable to a subsequent marketing year or season, except that if a majority of said producers voting fail to vote in favor of a marketing committee in three successive referenda, the Board shall take no further action to establish a marketing committee for said commodity produced within said area unless at least 20 percent of the producers of said agricultural commodity in such area shall sign and submit to the Board a petition requesting another referendum.

SEC. 103(i). Each marketing committee constituted pursuant to this title shall be authorized and empowered:

(1) To establish the minimum price by size, grade, quality, or other type of condi-

tion, and other nonprice terms of sale, and the date upon which said price and terms shall become effective, for the agricultural commodity described in and produced within the area defined in the Board's announcement, in accord with agreements reached after negotiations with representatives of prospective purchasers of such commodity as provided in this title; or, if said representatives of the prospective purchasers of the product fail or refuse to negotiate, or, if after a reasonable period of negotiations in good faith as determined by the Board, the parties fail to agree upon a minimum price, then the Board shall promptly offer and provide such conciliation and mediation services to the marketing committee and purchasers committee as may be useful and helpful in bringing them to agreement. If such agreement is not thereupon reached within 30 days, the issues under dispute shall be submitted to a joint settlement committee to be selected as follows: One member to be chosen by the marketing committee, and one member by the purchasers committee, and the third member to be chosen within five days by the first two. If the first two members cannot agree upon such third member within such period, the latter shall be a neutral appointed by the Board. The Board may apply to the appropriate Federal district court to compel action unlawfully withheld or unreasonably delayed under this section. The joint settlement committee shall proceed to resolve such issues, allowing the marketing committee and purchasers committee reasonable opportunity to present pertinent information and argument, through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner. The decision of the joint settlement committee on the issues in dispute shall be judicially reviewable in the appropriate Federal district court to the extent provided hereafter. The reviewing court shall hold unlawful and set aside decisions found to be (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with this Act; (2) affected with bias or prejudice on the part of the neutral member of the joint settlement committee; (3) in excess of jurisdiction or authority granted under this Act; or (4) without observance of procedures required herein.

(2) To announce said minimum price and the effective date thereof of the commodity by any one or more of the usual and available media of publication and communication.

(3) To establish reasonable rules for the operation of the committee, including the rules and procedures for the election of their successors and to fill vacancies on the committee.

(4) To establish terms of service on the committee.

(5) To request the Board to submit referenda to producers from time to time for the committee's guidance.

(6) After the second year or season of its operations, to recommend to the Board a reasonable assessment on the producers of the commodity, by unit or by value, for the cost of carrying on the activities of the committee, to be assessed and collected by the Board through the committees established by section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

(7) To recommend to the Board that injunctive or related actions to be instituted to prevent any buyers from purchasing or any producers from selling the commodity at less than the minimum price established under this section or in violation of other, non-price terms of sale so established.

(8) To establish additional penalties for violation of section 103(k) by producers after approval in a referendum by a majority of producers eligible to vote and voting.

SEC. 103(j). All marketing committees created pursuant to this title shall cease to have any authority and shall be dissolved by the Board after three years from the date of its first meeting if, during the third year of said three-year period, at least a majority of the producers then eligible to vote and voting fail to vote in favor of the continuation of the marketing committee in a referendum conducted by the Board.

SEC. 103(k). In order to effectuate the purposes of this title, no producer shall offer to sell or sell and no buyer shall offer to purchase or purchase from a producer said commodity at a price lower than the minimum price agreed upon and fixed by the marketing and purchasers committees or, in the absence of an agreement by said committees at the price established by the joint settlement committee under this section. Compliance by a producer with the minimum prices established by a marketing committee under this title for a commodity shall be established by the Secretary as a condition of eligibility for price support, loans, purchases, and other similar payment authorized under any other Act.

SEC. 104. All producers of a commodity covered by the provisions of this title for which a marketing committee has been elected shall keep such records and furnish such reports with respect to production, storage, marketing, and other relevant matters as the marketing committee may require; and all persons purchasing or acquiring possession of any such commodity shall supply such information concerning such commodity as the marketing committee finds to be necessary to enable it to carry out the provisions of this title. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than \$500.00.

SEC. 105. Notwithstanding the foregoing provisions of this title the Board may, with the approval of the marketing committee, if it deems such action will not substantially interfere with the achievement of the purposes of this title or the effective operation of the marketing committee, determine for any agricultural commodity a uniform amount of production (in terms of acreage, production units or commodity units) per farm which may be marketed in specified markets free of restriction for all uses or limited uses.

SEC. 106. Injunctive proceedings or other penalties provided for by this title shall be brought by the Board in the name of the United States. The several district courts of the United States are vested with jurisdiction of such suits, and it shall be the duty of the United States attorneys in their respective districts, at the request of the Board and under the direction of the Attorney General, to prosecute such proceedings. The remedies and penalties provided for herein shall be in addition to and not exclusive of any of the remedies or penalties under existing law.

SEC. 107. To effectuate the purposes of this title, the Board is directed and authorized to pay the costs of conducting any referendum required to be submitted to producers, including the cost of publishing notice in newspapers, radio and television announcements, posting notices throughout the area, giving notices to prospective purchasers of the commodity, pay the costs of operation of the marketing and purchasers committees including a meeting room, temporary clerical and stenographic assistance, necessary transportation, meals and housing costs of members while traveling to and attending such meeting or any adjournment or continuation thereof.

SEC. 108. The decision of the Board with respect to the boundaries of the area and the commodity to be affected by his announcement and the results of the referendum conducted pursuant thereto shall be final.

SEC. 109. There is authorized to be appropriated to the Board such sums as Congress may from time to time determine to be necessary to enable it to carry out the purposes of this title I including the reasonable and necessary expenses and per diem of any marketing committee elected by the producers of a commodity. Obligations may be incurred in advance of appropriations therefor and the Commodity Credit Corporation is authorized to advance from its capital fund such sums as may be necessary to implement this title during any current fiscal year.

SEC. 110. No bargaining or negotiating activities by a marketing committee pursuant to this Title and no price agreement reached as a result of such negotiations and bargaining shall be deemed to be in violation of any of the antitrust laws of the United States.

SEC. 111. Whenever a marketing committee shall have established a minimum price for any commodity and thereafter shall also determine that the total supply of said commodity produced within the defined area will so substantially exceed the effective demand for said commodity during the marketing year as to nullify or defeat the purposes of this title, said marketing committee, in consultation with the Board and the Secretary of Agriculture, shall develop a plan or program of marketing allotments, with or without acreage or production limitations, and shall request the Board to submit said plan or program by referendum to the producers of said commodity within said defined area for the approval or rejection of said producers. If a majority of producers eligible to vote and voting in said referendum approve said plan or program, the Board shall instruct the Secretary of Agriculture to proceed immediately to put said plan or program into effect.

SEC. 112. The Secretary of Agriculture is hereby authorized to establish all reasonable rules and regulations necessary to effectuate such plan and program, including the fixing of reasonable penalties for the violation of said rules and regulations. The Secretary is further authorized to use any existing authorities available to him for the purpose of putting said plan or program into effect and, in the event he determines that he is without sufficient authority to effectuate any part of said plan or program, the Secretary is directed to suggest enabling legislation before the Congress of the United States.

SEC. 113(a). For the purposes of this title, the following definitions shall apply:

(1) "Secretary" shall mean the Secretary of Agriculture.

(2) "Commodity" shall mean any agricultural commodity or any regional or market classification, or product thereof, the initial sale of which is customarily made by the producer, or his cooperative, or other marketing representative, and shall further include a combination of agricultural commodities of the same general class which are used wholly or in part for the same purpose. The plural shall be included whenever the context so requires.

(3) "Total supply" of any agricultural commodity for any marketing year shall be the carryover at the beginning of such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports

of the commodity into the United States during such marketing year.

(4) "Marketing year" for an agricultural commodity shall be any period determined by the Board during which substantially all of a crop or production of such commodity is normally marketed by the producers.

SEC. 114. If any provision of this title, or any section thereof, is declared unconstitutional or the applicability thereof to any person, circumstance, commodity or product is held invalid, the validity of the remainder of this title and the applicability thereof to other persons, circumstances, commodities or products, shall not be affected thereby.

TITLE II—MARKETING ORDERS

SEC. 201. The Agricultural Adjustment Act of 1933, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

(1) Section 8c(2) is amended by inserting after the third sentence ending with the words "Southwest production area," the following:

"Notwithstanding any of the commodity, product, area, or approval exceptions or limitations in the foregoing sentences hereof, any agricultural commodity or product (except canned or frozen products) thereof, or any regional or market classification thereof, shall be eligible for an order, exempt from any special approval required by the preceding sentences hereof, if after referendum of the affected producers of such commodity the Secretary finds that a majority of such producers voting in such referendum favor making such commodity or product thereof, or the regional or market classification thereof specified in the referendum, eligible for an order: *Provided, however,* That such referendum shall not be required for any commodity or product for which an order otherwise is authorized under the preceding sentences of this subsection (2) and for which no special approval or area limitation is specified therein."

(2) Section 2(3) is amended by inserting "such minimum prices and other terms and conditions for the acquisition of commodities by handlers as are provided for in section 8c(6)(J)," immediately after "establish and maintain".

(3) Section 8c(5)(A) is amended by inserting "by collective bargaining in good faith (including provisions for the designation, by election of committees of producer representatives to bargain with handlers, or groups of handlers), or otherwise," after the phrase "method for fixing."

(4) Sections 8c(6)(A), (B), (C), (D), and (E) are amended by inserting ", species or other classification" after the words "grade, size, or quality" wherever the latter words appear.

(5) Section 8c(6), as amended, is further amended by adding the following at the end thereof:

"(J) Providing a method for establishing by collective bargaining in good faith between producers and handlers (including provision for the designation by election of committees of producer representatives to bargain with handlers or groups of handlers), the minimum price or prices and other minimum terms and conditions under which any such commodity or product, or any grade, size, quality, variety, species, container, pack, use, disposition, or volume thereof may be acquired by handlers from producers or associations of producers: *Provided,* That no such minimum price or prices or other terms and conditions shall become effective unless agreed to by handlers who during the pro-

ceding marketing year acquired from producers at least 50 percent of the commodity sold by producers which was produced in the production area subject to the order and unless thereafter approved by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture finds that the parity price of any such commodity, other than milk or its products, for which such minimum prices or other terms or conditions are to be established is not adequate in view of production costs, prices to consumers, and other economic conditions which affect market supply and demand for such commodity subject to such order (including any marketing limitation of the commodity otherwise provided by such order), the Secretary of Agriculture shall determine a price or prices for such commodity at such levels as he finds will insure a sufficient market supply of the commodity, reflect such factors, and be in the public interest, and such price or prices shall be used in lieu of the parity price for the purpose of section 2 of this title: *Provided further*, That the agency designated to administer provisions authorized under this subsection shall be a committee primarily composed of producers of the commodity: *And provided further*, That an order containing provisions authorized under this subsection shall also contain provisions authorized under section 8c(6) (K) or section 8c(7) (E), or both, if the Secretary of Agriculture finds that such combination of provisions is necessary to provide an equitable distribution of market opportunity and returns among producers.

"(K) With respect to orders providing for minimum prices on a classified use basis (i) providing for the payment to all producers or associations of producers of uniform minimum prices for the commodity or product marketed by them (within their allotments, if any), irrespective of the use or disposition thereof, subject, however, to adjustments specified by the order, including but not limited to adjustments for place of production or delivery, grade, condition, size, weight, quality, or maturity, or any other adjustments found to be appropriate to provide equity among producers, and (ii) providing a method for making adjustments in payments as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the commodity or product purchased or acquired by him at the classified use minimum prices fixed pursuant to such order."

(6) Section 8c(7), as amended, is further amended by adding the following at the end thereof:

"(E) Notwithstanding any other provisions of this title:

"(1) Allotting, or providing methods for allotting, the quantity of such commodity or product or any grade, size, or quality thereof, which each producer may be permitted to market or dispose of in any or all markets or use classifications during any specified period or periods on the basis of (i) the amount produced or marketed by such producer or produced on or marketed from the farm on which he is a producer in such prior period as the Secretary of Agriculture determines to be representative, subject to such adjustment for abnormal conditions and other factors affecting production or marketing as the Secretary may determine, or (ii) the current quantities available for marketing by such producer, or (iii) any combination of (i) and (ii), to the end that the total allotment during any specified period or periods shall be apportioned equitably among producers. Allotments hereunder may be in terms of quantities or production from given

acres or other production units. If the Secretary determines that such action will facilitate the administration of a marketing order hereunder and will not substantially impair the effective operation thereof he may fix, or provide a method for fixing, a minimum allotment applicable to producers and producers whose production does not exceed such minimum shall not be subject to the regulatory provisions of the order except as prescribed therein;

"(2) any producer for whom an allotment is established or refused under the authority of this subsection may obtain a review of the lawfulness of his allotment as prescribed by the order of the Secretary establishing the allotment and rules and regulations thereunder, which shall constitute the exclusive procedure for review thereof and section 8c(15) (A) of this title shall not apply thereto. Under such order, rules or regulations any officers or employees of the Department or any committees or boards created or designated by the Secretary of Agriculture may be vested with authority to perform any or all functions in connection with such review proceedings including ruling thereon. Committees or boards created or designated for this purpose shall be deemed agencies of the Secretary within the meaning of subsection 8c(7) (C) and section 10 of this title. The ruling upon such review shall be final if in accordance with law. The producer may obtain a judicial review of such ruling in accordance with the provisions of section 8c(15) (B) of this title;

"(3) when allotments for producers are established under this subsection the order may contain provisions allotting or providing a method for allotting the quantity which any handler may handle so that any and all handlers will be limited as to any producer to the allotment established for such producer, and such allotment shall constitute an allotment fixed for each handler within the meaning of section 8a(5) of this title."

(7) Amend section 8c by adding at the end thereof a new paragraph (20) as follows:

"(20) PRODUCER ADVISORY COMMITTEES.—The Secretary of Agriculture may establish a producer advisory committee with respect to any commodity, or group of commodities, for which a marketing order is potentially authorized. Such committee shall be composed of producers of the commodity or commodities for which the committee is established. Such committees may be called on by the Secretary of Agriculture to provide advice and counsel with respect to the initiation of proceedings for the promulgation of a marketing agreement or marketing order for such commodity or commodities and may also formulate specific proposals for purposes of a public hearing concerning such a proposed marketing agreement or marketing order. The establishment of such a committee shall not, however, be deemed necessary to the initiation of any such proceeding to promulgate a marketing agreement or marketing order."

(8) Amend section 10(b)(2) by adding at the end thereof a new subparagraph (iv) as follows:

"(iv) If the order contains provisions authorized by section 8c(6) (J) or section 8c(7) (E) it shall provide that the assessments payable by handlers under subsections (i) or (ii) shall initially be payable pro rata by the producers of the commodity to such handlers thereof, who shall be responsible for the collection thereof from producers and payment to the authority or agency established under such order."

SEC. 202. Nothing in this title shall supersede the provisions of other statutes relating to marketing quotas, acreage allotments or limitations, or price support, with respect to agricultural commodities and no action taken or provisions in an order issued under this title shall be inconsistent with the provisions of such other statutes or actions taken by the Secretary of Agriculture under such other statutes.

TITLE III—AGRICULTURAL FAIR PRACTICES
DEFINITIONS

SEC. 301. When used in this title—

(a) The term "handler" means any person engaged in the business or practice of (1) acquiring agricultural products from producers or associations of producers for processing or sale; (2) grading, packaging, handling, storing, or processing agricultural products received from producers or associations of producers; (3) contracting or negotiating contracts or other arrangements, written or oral, with or for producers or associations of producers with respect to the production or marketing of any agricultural product; or (4) acting as an agent or broker for a handler in the performance of any function or act specified in clause (1), (2), or (3) of this paragraph.

(b) The term "producer" means a person engaged in the production of agricultural products as a farmer, planter, rancher, dairyman, fruit, vegetable, or nut grower.

(c) The term "association of producers" means any association of producers of agricultural products engaged in marketing, bargaining, shipping, or processing as defined in section 15(a) of the Agricultural Marketing Act of 1929, as amended (49 Stat. 317; 12 U.S.C. 1141j(a)), or in section 1 of the Act entitled "An Act to authorize association of producers of agricultural products," approved February 18, 1922 (42 Stat. 388; 7 U.S.C. 291).

(d) The term "person" includes individuals, partnerships, corporations, and associations.

Prohibited practices

SEC. 302. It shall be unlawful for any handler knowingly to engage or permit any employee or agent to engage in the following practices:

(a) To coerce any producer in the exercise of his right to join and belong to an association of producers, or to refuse to deal with any producer because of the exercise of his right to join and belong to such an association; or

(b) To discriminate against any producer with respect to price, quantity, quality, or other terms of purchase, acquisition, or other handling of agricultural products because of his membership in or contract with an association of producers; or

(c) To coerce or intimidate any producer or other person to enter into, maintain, breach, cancel, or terminate a membership agreement or marketing contract with an association of producers; or

(d) To pay or loan money, give any thing of value, or offer any other inducement or reward to a producer for refusing to or ceasing to belong to an association of producers, or

(e) To make false reports about the finances, management, or activities of associations of producers or interfere by any unfair or deceptive act or practice with the efforts of such associations in carrying out the legitimate objects thereof; or

(f) To conspire, combine, agree, or arrange with any other person to do, or aid or abet the doing of, any act made unlawful by this title.

Enforcement

SEC. 303. (a) Whenever the Secretary of Agriculture has reason to believe that any handler has violated or is violating any provision of this Title, he shall cause a complaint in writing to be served upon the handler, stating his charges in that respect, and requiring the handler to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the handler a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such regulations as the Secretary may prescribe. Any person for good cause shown may, on application, be allowed by the Secretary to intervene in such proceeding, and appear in person or by counsel. At any time prior to the close of the hearing the Secretary may amend the complaint; but in case of any amendment adding new charges the hearing shall, on the request of the handler, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary finds that the handler has violated or is violating any provisions of this Title covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the handler an order requiring such handler to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until the record in such hearing has been filed in a court of appeals of the United States, as provided in section 305, the Secretary at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the handler to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary under this section may be served in the same manner as provided in section 5 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914 (38 Stat. 719, as amended; 15 U.S.C. 45).

SEC. 304. The Secretary of Agriculture shall have power, upon issuance of a complaint as provided for in section 303 of this title charging that any person has engaged in or is engaging in a practice in violation of this title, to petition the United States district court within any district wherein the practice in question is alleged to have occurred or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. 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 such temporary relief or restraining order as it deems just and proper.

SEC. 305. (a) An order made under section 303 shall be final and conclusive unless within thirty days after the service the handler appeals to the court of appeals for the circuit in which he has his principal place of business, by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such handler will pay the costs of the proceedings if the court so directs.

(b) The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon file in the court the record of such proceedings, as provided in section 212 of title 28, United States Code. If before such record is filed the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

(c) At any time after such petition is filed, the court, on application of the Secretary, may issue a temporary restraining order and injunctions, restraining, to the extent it deems proper, the handler and his officers, directors, agents, and employees, from violating any of the provisions of the order pending the final determination of the appeal.

(d) The evidence so taken or admitted, and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.

(e) The court may affirm, modify, or set aside the order of the Secretary.

(f) If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

(g) If the court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the handler, and his officers, directors, agents and employees from violating the provisions of such order or such order as modified.

(h) The court of appeals shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to review, and to affirm, set aside, or modify, such orders of the Secretary, and the decree of such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, if such writ is duly applied for within sixty days after entry of the decree. The issue of such writ shall not operate as a stay of the decree of the court of appeals, insofar as such decree operates as an injunction, unless so ordered by the Supreme Court.

SEC. 306. Any handler, or any officer, director, agent, or employee of a handler, who fails to obey any order of the Secretary issued under the provisions of section 303, or such order as modified—

(1) After the expiration of the time allowed for filing a petition in the court of appeals to set aside or modify such order, if no such petition has been filed within such time; or

(2) After the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) After such order, or such order as modified, has been sustained by the courts as provided in section 305;

shall on conviction be punished by a fine not

less than \$500 nor more than \$10,000, or imprisonment not less than six months nor more than five years, or both. Each day during which such failure continues shall be deemed a separate offense.

SEC. 307. Any person injured in his business or property by reason of any violation of, or combination or conspiracy to violate, any order of the Secretary issued under section 303 of this title may sue therefor in the district court of the United States for the district in which defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages sustained, and the cost of the suit, including a reasonable attorney's fee.

SEC. 308. For the efficient administration and enforcement of this title, the provisions (including penalties) of sections 6, 8, 9 and 10 of the Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914 (38 Stat. 721-723, as amended; 15 U.S.C. 46, 48, 49 and 50) (except the last paragraph of section 9), and the provisions of subsection 409(1) of the Communications Act of 1934 (48 Stat. 1096, as amended; 47 U.S.C. 409(1)), are made applicable to the jurisdiction, powers, and duties of the Secretary in administering and enforcing the provisions of this title and to any person, firm, or corporation with respect to whom such authority is exercised.

SEC. 309. The provisions of this title shall not be construed to deprive the proper State courts of jurisdiction in actions for damages.

SEC. 310. Nothing contained in this title shall be construed to supersede, displace, or in any way interfere with the jurisdiction of any Federal court or Federal agency.

SEC. 311. If any provision of this title or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the title and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 312. No court of the United States shall hold any officer, member of any association or organization of producers of agricultural commodities participating or interested in the marketing of agricultural commodities or any such association or organization responsible or liable for the unlawful acts of individual officers, members, or agents except upon clear proof of actual participation in, or actual authorization of such acts, or of ratification of such acts after actual knowledge thereof. No court of the United States shall have jurisdiction to issue a temporary or permanent injunction in any case against such an association or organization relating to activities in connection with actions relating to the marketing of agricultural commodities including disputes with respect to prices or other terms in connection with the acquisition thereof except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court to the effect that unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act against such an officer, organization, or member thereof except one making the threat or committing the unlawful act or actually authorizing or ratifying the same after actual knowledge thereof.

SEC. 313. There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

Draft Speech on Urban-Rural Balance

I want to speak to you tonight about something that you ~~in this~~
~~audience~~, and ~~that~~ Bufort Johnson know much more about than most people in
this country--the rural side, of ~~what should be considered the~~ today's
~~great society.~~ American landscape.
We are no longer an agrarian nation, as you know.
~~As you know, there are not as many people out here in America's~~
~~heart land as there used to be.~~ Today, the ^{America of} ~~small town~~ farm and small towns
~~know that was our grand fathers dream has given way to another~~
new kind of American reality.
~~kind of American concept.~~

In the two decades since the end of World War II, this country has
seen the greatest mass migration of any country in history. In the short
span of 20 years, some 18 million Americans left rural America and settled
in the cities. Now, twenty years after it began, 70 percent of all Americans
live on just over one percent of our land, and the march to the cities
continues.

Two strange things have happened in this process:

~~The First, is that somehow we have failed to see the~~
rural origin of many of the
~~relationships between the problems we now have in America's~~
urban problems.
~~teeming ghettos.~~

~~The Second, is that we seem to have forgotten the problems of~~
^{we tend to forget}
~~existing and growing in the rural areas today.~~

As the National Advisory Commission on Rural Poverty rightly
pointed out, ~~what is the~~ "the urban riots during 1967 had their roots,
in considerable part, in rural poverty. A high proportion of the people
crowded into the city slums today came there from rural slums."

~~The horror of this~~
Yet a second statement by the Commission shows the true
~~horror of the problem.~~ Four years after Michael Harrington's Other America
opened the eyes of the nation to the ghetto poverty in its midst,
rural poverty ^{remains} largely "invisible" to most Americans.

In the ghettos, the ~~probably~~ problem is too many people in too little space. In parts of the Chicago ghetto, people live 170,000 to the square mile, a population density at which the entire population of the United States, 200 million, could be contained in the six boroughs of New York City.

~~There the problem is somehow distributing the available resources so they get to the people. There are businesses and industry. People can work if they can be trained and matched to jobs. Population, transportation, and health, education, and welfare services are available. It's that they must be better organized and delivered. Even transportation and pollution could be solved, if there was the will to use available resources to do it.~~

~~Today, 14 million Americans in rural America are poor, more proportionately than in the cities.~~ It may surprise you to know that there is more poverty in rural areas--more than twice as much--as there is in urban areas. ~~As you know, but~~

~~many city dwellers do not,~~ Most rural poor live in small towns and villages, with a sagging economy; ~~and~~ with little industry and a poor tax base; not farms; and most are white. ↑ With unemployment rates in rural areas more

than four times the national average; with more than three million rural adults illiterate; with one in every 13 rural homes classified as unfit; ~~and~~

with infant mortality and chronic disease rates high above the national norms, people in rural areas ~~cannot~~ understand, but cannot condone the

~~present~~ national ^{neglect of} ~~inattention~~ to their problems. ^{PP} For the fact is that ~~most of the Great Society~~ ^{social} legislation has passed the rural ~~poor~~ poor by.

while we are beginning to meet the needs of the cities,

Farm people were excluded from the Social Security Act until the mid-1950's.

And rural workers are still excluded from other major labor legislation,

including unemployment insurance, Labor-Management Relations Act, the Fair

Labor Standards Act, and most State Workman's compensation acts. And Farmers

still have nothing like the Taft-Hartley Act to give them ~~any~~ bargaining power

with those who control the prices and income they can make.

In the ghettos, the problem is too many people crowded into too little space. In parts of the Chicago ghetto, people live 170,000 to the square mile, a population density at which the entire population of the United States, 200 million, could be contained in the six boroughs of New York City. While there are terrific--and seemingly insurmountable problems in schools, and all ^{social} ~~other~~ services, at least there are the resources ^{available} ~~to deal with~~. The problem of the cities is somehow organizing and delivering services more adequately.

Not so in the rural areas of America. There, the problem is few resources, or none at all. How are you going to get a doctor to stay down on the farm after he has seen a University Research complex?

substandard housing; ~~and~~ and a tax-base inadequate to provide the first-rate schools and community facilities needed to attract and hold high-wage industries.

This is our situation today., and what of tomorrow.?

Well, ~~If~~ If the census prophets are right, we're in for more of the same; an increasingly de-populated rural America; an increasingly congested and impacted urban America. According to the projections, ~~in~~ in another 32 years, by the turn of the next century, we'll have added another 100 million Americans *to our present population*. Eighty percent of them will be born or settle in the large urban areas.

To visualize what this means, imagine building ~~60~~ 60 cities the size of Minneapolis-St. Paul, two every year for the next three decades: This is the amount of housing, roads, waterlines, sewers, schools and factories we're going to build to hold this new population. If we put them all in ~~one~~ ^{one} city, it would stretch from the Atlantic Ocean to the Pacific in a belt seven-miles wide across Mid-America.

But of course this won't happen. Most of the new population will settle in the existing urban areas; more open space will be bulldozed; more high-rises will be built; more freeways will slice across established neighborhoods, ~~All~~ ^{will be} of this covered by more smog, more pollution, more hopelessness....unless we invent a different future....unless we regain the control over what we want America to be.

~~For it doesn't have to be this way.~~ For it doesn't have to be this way. If enough people care, we can build new towns, such as the one Vice President Humphrey

a has proposed for here in Minnesota. We can revitalize our rural areas, seeing they get their fair share of the programs that will help them hold and attract population. ^{and meet their needs for services.} We can strengthen the farm economy by ^{enacting} enacting bargaining legislation; by eliminating unfair tax competition from corporate ~~farm~~ farms, that write-off tax losses against non-farm income; we can improve and extend our ^{inadequate} basic farm programs beyond the one-year period, that ~~passed~~ passed this week.

What I'm saying, in short, is that we can change things, if we can only get ~~enough~~ enough good men in the Congress and the White House who are interested in changing them. And these are just a few of the issues that face us this year.

You see, it isn't enough just to say, as candidate Richard Nixon has been saying, that you're for high farm income and against low farm income; or that you're in favor of peace and against war; or that you feel education is a good thing and everybody ought to have some.

^{Generalities}
~~This~~ may be good politics but it isn't leveling with the American people. And it isn't enough ~~that~~ that a Congressman, such as Buford Johnson's opponent, makes a career out of voting no, and offers no positive alternatives; it's much more important to know what he's for. ~~and what he's against~~

~~This is why I have come to St. Cloud. We need Buford Johnson in Congress and we need Hubert Humphrey in the White House. If we have them, if we can just elect enough like them, we can change things, we can build a better America.~~

The Republican voting record on agriculture and rural development ~~for~~ while mouthing a lot of generalities, they have turned out to be the "aginnners." (shouldn't give anyone very much hope.) ~~Wix~~ During his years as Senator,

Nixon vote against the REA, and against important price support, and soil conservation legislation. In 1965, 89% of ~~the~~ GOP voted to kill the Food and Agriculture Act of 1965, which extended the voluntary program of acreage diversion and price support for corn and other feed grains with increased wheat price support, and provided high level payments for wool and mohair. That same year saw ~~zizz~~ 81% of House

Republicans vote against the Appalachian Regional Development Act to help develop this desperately underdeveloped area. 78% of House Republicans also voted against the 1967 amendments to this act. 92% of Republicans voted to recommit the Public Works and Economic Development Act of 1965, which ~~contained~~ would have consolidated area redevelopment and begun loans and grants to states.

~~Wix~~ We know where Hubert Humphrey stands on agriculture and rural development. And his voting record proves it. As early as 1954, he proposed to give preference to rural electric cooperatives in licensing for atomic energy-electric power projects. He has long championed legislation to promote rural redevelopment. He has consistently introduced legislation to establish price support and acreage allotments and to provide loans and other assistance to farmers. He believes in preservation of the family farm, and has sponsored legislation to make more credit, surplus, government lands, and other benefits available to small farmers.

You know where Hubert Humphrey stands today ^{as well}. He is for farm bargaining power; for expanded ^{credit} ~~and~~ for farm cooperatives; for including farm workers under the protection of the National Labor Relations Act; for full parity for farmers; for creation of new export markets; for escalating the war on hunger at home and abroad.

^{again} generalities may be good politics, ^{but Americans deserve the facts} ~~but it is not leveling with the American~~ people. It isn't enough that a Congressman like Burford Johnson's opponent, makes a career of voting no, and offers no positive alternatives; it's much more important to know what he is for.

If I were you, I'd ask some questions.

Mr. Nixon, Mr. Zwach Where do you stand...on

-son extension of the Food and Agriculture Act Mr. Humphrey has said he would extend permanently so farmers can plan for the future with assurance?

Mr. Nixon, Mr. Zwach, where do you stand artificial incentives for movement of non-farmers into agriculture Mr. Humphrey says must be reformed.

Mr. Nixon, Mr. Zwach, where do you stand on bargaining power for farmers, Mr. Humphrey says must be created?

Mr. Nixon, Mr. Zwach, where do you stand on health care for rural areas Mr. Humphrey pledges to improve through expanding rural health centers?

Mr. Nixon, Mr. Zwach, where do you stand on providing Farmers Home Administration loans, Mr. Humphrey would increase to help stabilize community development in rural areas?

If I lived in an area like this, I would be worried, very worried about the answers to these questions. For I would realize that, just because programs are on the books doesn't mean they are there for all times.

I would worry about the fate of a Congressional meat-axe chopping off of the good farm programs; ~~and these programs like Medicare, Headstart,~~

I would worry about the Congressional meat-axe that could be applied to funds for Medicare, Headstart, and rural ~~facilities~~ and community development program.

I would think for a minute what could happen if we had a hostile President, backed by a hostile Congress choking off funds, and leading us into another Republican recession--not only economic, but intellectual as well. The Republican years ~~years~~ lead us to the highest unemployment rate of any advanced industrial nation. We lost billions of dollars to the economy as well. ~~years when we should have been preventing the decline of social services in rural areas, and~~ And we lost the ideas, ~~and the brainpower~~ and the brainpower

~~of many who could have given us ideas helped us head off some of the problems~~

~~we face today.~~

→ were years when we did nothing.

decline of social services in rural areas, and

We haven't done as well as we should have done yet. We have got ~~to~~ ⁹⁰ far to ~~do~~ more not only on the urban side, but on the rural side of our social equasions as well.

→ Insert 1.

What happened before under the Republicans can happen again.

But it doesn't have to happen. With a President, and a Congress to match,

we can control our own future; we can build the America we all want. *I hope you*

will join me in helping Buford Johnson and Hubert Humphrey fulfill that promise.



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