



AgEcon SEARCH
RESEARCH IN AGRICULTURAL & APPLIED ECONOMICS

The World's Largest Open Access Agricultural & Applied Economics Digital Library

This document is discoverable and free to researchers across the globe due to the work of AgEcon Search.

Help ensure our sustainability.

Give to AgEcon Search

AgEcon Search
<http://ageconsearch.umn.edu>
aesearch@umn.edu

*Papers downloaded from **AgEcon Search** may be used for non-commercial purposes and personal study only. No other use, including posting to another Internet site, is permitted without permission from the copyright owner (not AgEcon Search), or as allowed under the provisions of Fair Use, U.S. Copyright Act, Title 17 U.S.C.*

Historic, archived document

Do not assume content reflects current scientific knowledge, policies, or practices.

a HD 1751
USG
RESERVE

5

United States
Department of
Agriculture

Economics,
Statistics, and
Cooperatives Service

ESCS-83

24th National Conference of
Bargaining and Marketing Cooperatives,
January 10-11, 1980, New Orleans, Louisiana

PROCEEDINGS

PRODUCTION SECTION
CURRENT SERIAL RECORDS

AUG 6 '80

U.S.D.A.
NATIONAL LIBRARY
RECEIVED



U.S. DEPARTMENT OF AGRICULTURE
ECONOMICS, STATISTICS, and COOPERATIVES SERVICE
WASHINGTON, D.C. 20250

E R R A T A

The report "24th National Conference of Bargaining and Marketing Cooperatives, January 10-11, 1980, New Orleans, Louisiana, Proceedings," ESCS-83, issued July 1980 has the following changes:

page i, last line of contents, page number

is "83"

should read "86"

page 17, author's name

is "Compton Chase-Landale"

should read "Compton Chase-Lansdale"

page 35, sixth paragraph, first line

is "The California Canning Pear Association..."

should read "The California Canning Peach Association..."

page 35, sixth paragraph, third line

is "amount of envy the resolution of the price long..."

should read "amount of envy the resolution of the
cling peach price long..."

page 38, head

is "THE USDA PRICE SUPPORTING FUNCTION"

should read "THE USDA PRICE REPORTING FUNCTION"



PREFACE

This is a report of the proceedings of the 24th National Bargaining Conference, January 10-11, 1980, in New Orleans, Louisiana. The conference was jointly sponsored by the Economics, Statistics, and Cooperatives Service, USDA, and the National Committee of Agricultural Bargaining and Marketing Associations. ESCS prepared this report as a part of its activity of arranging and conducting the conference at the request of bargaining and marketing cooperatives.

These proceedings include speeches at the conference and related information. Opinions expressed here reflect the views of the participants and do not necessarily represent the views or policies of the U.S. Department of Agriculture. Use of commercial names does not constitute endorsement.

Single free copies of the proceedings may be obtained from the Economics, Statistics, and Cooperatives Service, U.S. Department of Agriculture, Room 550 CHI Bldg., 500-12th Street, S.W., Washington, D.C. 20250.

CONTENTS

| | <u>Page</u> |
|--|-------------|
| INDUSTRY DEVELOPMENTS AND PROSPECTS | |
| An Overview of Food Manufacturing | |
| John M. Connor | 1 |
| The Scope and Status of Cooperative Bargaining | |
| Gilbert W. Biggs | 9 |
| Cooperative and Proprietary Processor Responses to Farmer Bargaining | |
| Compton Chase-Lansdale | 17 |
| BARGAINING EXPERIENCES AND VIEWPOINTS | |
| Dairy | |
| Tom Camerlo | 25 |
| Broilers | |
| Walter Shockley, Jr. | 30 |
| Tomatoes | |
| Richard Ricker | 33 |
| Pears | |
| Joe W. Mapes | 35 |
| FARM PRICE DATA: AVAILABILITY AND ADEQUACY FOR BARGAINING | |
| The USDA Price Reporting Function | |
| John W. Kirkbride | 38 |
| Viewpoint of Michigan Agricultural Cooperative Marketing Association | |
| Harry A. Foster | 41 |
| Viewpoint of Raisin Bargaining Association, Inc. | |
| Kalem Barserian | 43 |
| Viewpoint of Michigan Blueberry Growers Association | |
| John Shelford | 45 |

CONTENTS--Continued

| | <u>Page</u> |
|--|-------------|
| VIEWS ON LONG-TERM CONTRACTUAL ARRANGEMENTS | |
| Innovative Methods of Bargaining | |
| Jack Hayes | 47 |
| Multiyear or Term Contracts | |
| Jerry Heilig | 49 |
| Ontario's Contract Security Program | |
| Tim Carroll | 51 |
| The National Farmers Organization Perspective of Bargaining | |
| Ed Graf | 54 |
| NATIONAL FARM BARGAINING LEGISLATION OUTLOOK | |
| Viewpoint of the American Farm Bureau Federation | |
| Kirk Miller | 59 |
| Viewpoint of the National Farmers Union | |
| Robert G. Lewis | 60 |
| Viewpoint of the National Council of Farmer Cooperatives | |
| Robert N. Hampton | 61 |
| Viewpoint of the National Grange | |
| Robert M. Frederick | 62 |
| Developing "Grass Roots" Support for Legislation | |
| Harry Kubo | 62 |
| The Role of Arbitration in Agricultural Bargaining | |
| Ronald W. Haughton | 66 |
| UNDUE PRICE ENHANCEMENT | |
| Viewpoint of the U.S. Department of Agriculture | |
| Alden C. Manchester | 73 |
| Viewpoint of McCutchen, Doyle, Brown & Enersen Law Firm | |
| Samuel D. Hinkle, IV | 79 |
| NATIONAL COMMITTEE OF COOPERATIVE AGRICULTURAL BARGAINING AND MARKETING ASSOCIATIONS, Annual Meeting, January 10-11, 1980, New Orleans, Louisiana, Attendance List | |
| | 83 |

INDUSTRY DEVELOPMENTS AND PROSPECTS

AN OVERVIEW OF FOOD MANUFACTURING*

John M. Connor
Economics, Statistics, and Cooperatives Service
U.S. Department of Agriculture

INTRODUCTION

I intend to review some recent research on competition in the U.S. food manufacturing industries. My approach is that of an industrial organization economist, since I am interested in the structure, conduct, and performance of these industries. Structure is the extent of concentration, product differentiation, and barriers to entry into the industry. Performance is measured by such indexes as profitability, price levels, and progressiveness. I will examine the causes and consequences of increasing concentration, and will conclude with a few remarks on the role of marketing cooperatives in what I see as the emerging food processing sector.

The food sector is of enormous economic importance. The \$280 billion consumers spent for food in 1978 was 20 percent of their total expenditures. U.S. food manufacturers utilize nearly 70 percent of the farm output, and employ a labor force of 1.6 million persons.

A few large conglomerate enterprises dominate U.S. food manufacturing. Just 1 percent of the 18,000 companies now control over four-fifths of the total assets of all food manufacturers. ^{1/} The entrenched market positions of these large corporations and their financial strength in terms of assets, profits, and advertising expenditures mean that their decisions permeate nearly every aspect of the American diet from nutrition to pricing to the actual shaping of consumer demand.

Food processing costs have been a major cause of inflation. Until the seventies, farm prices had been virtually constant for a quarter century. Retail prices increased only 35 percent--less than the general rate of inflation--even though there was an 80-percent increase in processing and distribution margins. This caused the rapid increase in processing and distribution costs to go unnoticed by consumers. However, in 1972, as worldwide food shortages and higher farm costs pushed raw food

*Portions of this paper are adapted from testimony before the U.S. Senate Subcommittee on Antitrust, Monopoly, and Business Rights on April 6, 1979.

^{1/} Data on 1978 asset concentration was calculated from that supplied to the Federal Trade Commission quarterly financial statistics program. Other data and references can be obtained as working papers 6, 19, and 29 from North Central Regional Project 117, Food System Research Group, University of Wisconsin, 905 University Avenue, Madison, Wis. 53706.

prices up sharply, the continued rise in marketing margins aroused public concern. Attention was directed to the competition in food manufacturing and to potentially anticompetitive structural changes because of growing dominance of the sector by large conglomerate firms.

ASSET CONCENTRATION

Fifty corporations accounted for nearly two-thirds (64 percent) of all food manufacturing corporation assets in 1978. One hundred firms accounted for 74 percent and 200 firms for 82 percent. The top 50 food manufacturers conducted 75 percent of total media advertising and 90 percent of network television advertising. Comparable data for the 200 largest are 85 percent and 100 percent, respectively.

Concentration is increasing. The 50 largest firms' share of food manufacturing assets in the decade and a half between 1963 and 1978 increased by more than half, from 42 to 64 percent. This 1.5 percentage point annual increase is an acceleration of an upward trend which for the previous decade and a half (1950-63) saw asset concentration increase at a half a percentage point a year. If the present trend continues, 50 firms will account for all food manufacturing assets by the year 2000.

Some Causes of Increasing Concentration

The trend toward increasing concentration is greatly altering the structure of the U.S. food processing industries. It is strongly associated with a drastic decline in the number of local or regional food firms. Behind these twin trends lie three main causes: increasing merger activity, increasing plant sizes, and rising barriers to entry facing new firms.

In contrast to the rest of manufacturing, where the number of companies has been increasing, the number of companies in food manufacturing declined between each census year since 1947. The rate of exit has been increasing. The 1947 census enumerated over 40,000 companies in food manufacturing; in the most recent 1972 census, this number stood at 22,172. Between the two earliest post-World War II censuses, the rate of decline averaged a little less than 0.9 percent per year. Over the most recent decade, 1963-72, the rate of exodus averaged 3.2 percent annually.

Half the current number of food manufacturers will disappear if this trend continues over the next decade. The principal reason for the decline in company numbers in the postwar period was the elimination of inefficient sized plants operated by small firms. The exodus was particularly rapid in the dairy industry and other local market industries. However, as the postwar period progressed, declines in company numbers were widely distributed among food industries with respect to average establishment size. Small plant inefficiency was not the prime cause of increasing company exodus. Mergers coupled with increasing barriers to entry were a prime cause of company disappearance.

The merger activity of food companies accelerated rapidly during the late fifties and early sixties, coincident with an increasing merger trend for the whole economy. The increasing activity in the years following 1963 and particularly the increasing acquisition rate of medium-size and larger food companies threatened the survival of a viable middle tier of independent companies which competed with the very largest companies.

Through 1977, 217 large food companies with over \$10 million in assets had been acquired. These were 11 percent of all large manufacturing mergers for the period 1948 through 1977. Most of the acquisitions took place since 1965. After 1965, the number of large food companies acquired yearly increased not only absolutely but also as a percentage of all large manufacturing companies acquired (13 percent after 1965,

compared with 9 percent before). Many acquiring companies are only large food manufacturers but conglomerate enterprises whose activities include the manufacture of nonfood grocery products, grocery products distribution, and services that are related to these areas.

By 1975, at least 40 percent of the total assets of the 100 largest food manufacturers were attributable to mergers occurring between 1950 and 1975. Were it not for these mergers or replacing merger expansion with internal growth, assets concentration would have been lower in 1975 than in 1950.

In 1963, prior to the increase in large mergers, a special census tabulation for the National Commission on Food Marketing showed 100 food manufacturers controlled nearly 70 percent of the top four producing positions in food manufacturing industries and almost the same percentage of the top four positions of more narrowly defined census product classes (NCFM 1966). Control of top positions by the largest food manufacturers was much greater in concentrated industries. The increase in large-firm acquisitions since 1965 has doubtless tightened the grip on important positions in individual food product areas. This is particularly important since a leading market share is one of the main determinants of financial success of firms.

The principal barrier to new entry by regional and local firms is the huge expenditure required to launch new consumer food products. Initial-year advertising costs for a new product often exceed \$20 million today. In 1978, an estimated \$13 billion was spent on all forms of food product advertising: media costs, point-of-purchase displays, direct mailings, free samples, coupons, and other sales promotion devices. These expenditures were only \$2 billion in 1950. Because advertising expenses have risen faster than sales, advertising intensity has more than doubled between 1950-75, making it even more difficult for smaller firms to advertise their products.

It is no accident that the enormous rise in advertising expenditures since 1950 coincides with the appearance of television. TV advertising, particularly network TV, has been used heavily by food manufacturers with nationally distributed brands. Food advertising accounts for nearly one-third of all TV advertising. Unlike newspaper advertising, TV is especially effective in creating an emotionally powerful image for a food product. While quantity discounts are largely a thing of the past, it is impossible for the networks to be completely impartial in allocating particularly choice advertising slots. Large advertisers of leading brands will usually be given preferential treatment with unusual advertising opportunities like the World Series or the summer Olympics.

Another marketing advantage enjoyed only by the largest food companies is direct field sales forces. These are especially common for direct store-delivered items (dairy products, bakery products, snacks, and soft drinks), but only the largest food manufacturers can justify a sales force in other product areas. Nabisco is said to have over 3,000 driver-salesmen. These salesmen provide many routine services, but are crucial in battles over shelf space and position. With expensive market share data, test marketing results, generous allowances, computer-calculated layout plans, and the like, they can be a potent force in winning a place for their company's newest product.

Some Effects of Increasing Concentration

The trend in concentration has changed the nature of competition in the processed foods market. The largest companies have become increasingly conglomerated, selling scores of products in dozens of different markets. Grocery products have proliferated with as many as 6,000 "new" items introduced in 1 year. Market concentration has also risen. Two other effects are the creation of monopoly profits and monopoly prices.

Larger food manufacturers have not only been acquiring other large food manufacturers, but large companies in other industries as well, particularly in other grocery product areas. They also have expanded forward into restaurant operations. Currently, the largest food manufacturers are also the owners of most of the largest fast food restaurant chains. Large food and tobacco manufacturers accounted for 18 percent of all large manufacturing and mining mergers occurring in the United States between 1950 and 1975; most recently (between 1971 and 1975), they accounted for 28 percent.

The impact of diversification on some firms is dramatic. In 1950, 14 of the 25 largest food manufacturers held significant positions in only 1 or not more than 5 grocery products industries. By 1975, none of the 25 largest had significant positions in fewer than 6 grocery products industries, and 3 firms made sales of \$1 million or more in over 20 different grocery products industries.

When large firms acquired established firms in other product areas, case studies showed a doubling of the acquired companies' advertising expenditures. Typically, advertising switched from media such as newspapers, where price is often advertised, to television advertising. As a consequence of the diversification, particularly through mergers, upward pressure is put on industry concentration.

Food manufacturing ranks fourth among the 20 major groups within manufacturing in terms of average industry concentration. Average four-firm sales concentration in food manufacturing rose from 47 percent in 1958 to 52 percent in 1972. Concentration is particularly high in those industries which market such differentiated products as grain mill products, beer, candy, and soft drinks, for example.

If industries are classified on the basis of their levels of concentration, about four-fifths of the food manufacturing industries are oligopolies; only one-fifth are classified as unconcentrated. Between 1958 and 1972, the proportion of value added originating from highly concentrated industries rose from 24 to 34 percent of the sector's total, while the proportion in the two least concentrated categories declined.

Notwithstanding the generally larger size of food industry plants, scale economies at most explain only a fraction of the actual concentration levels observed in the food industries. The average level of four-plant concentration justified for the 23 food industries with over 40 percent four-firm concentration was 15 percent, one-fourth of the 60-percent, four-company level actually observed. Four-plant concentration of 15 percent is probably a substantial overstatement of the level of concentration justifiable strictly on the basis of plant scale economies. Firms often operate plants which exceed the minimum optimal sizes for their industries. Diseconomies due to very large plant size are not a problem in most food industries. Usually the production capacity of a food processing plant can be increased without increasing average unit costs simply by adding more production lines.

MONOPOLY PROFITS

Two large-scale statistical studies of the relationship between food manufacturer profit rates and indexes of monopoly in market structures, using different data sources and time periods, confirm that high concentration, high advertising intensity, and large market shares boost firm profits above competitive rates.

Since market structures have worsened, one would expect to see profit rates rise as well. This is precisely what has been observed. Food manufacturers' profit rates

were only three-fourths the rate of all manufacturers during 1951-55; however, by 1971-75 food manufacturers' profits were substantially higher than profits for the rest of manufacturing.

Monopoly Loss

Consumer loss due to monopoly has two parts. The first, and the largest, is the overcharge on quantities actually purchased; the second is an allocative loss incurred by consumers for additional quantities they would have purchased had the prices been at competitive levels.

The overcharge is a transfer of income from consumers to manufacturers. ^{2/} However, just how much of the overcharge manufacturers take home as profits depends on how much higher their average costs are compared to what they would be under competition. Over 200 years ago, Adam Smith described monopoly as the great enemy of good management. By that he meant that monopolists do not have as strong incentives to minimize their costs as do competitive firms. Besides the technical inefficiency of lax management, the monopolists' higher costs often include excessive expenditures on advertising, underutilized plant capacity, excessive wage settlement, and other strategies which protect the monopolists' profits from encroachments by competitors. Moreover, monopolistic firms often allow managerial withdrawals in the form of fancy offices, corporate jets, and other inessential perquisites.

A full economic articulation of monopoly welfare loss would adjust the welfare loss of consumers (as consumers) by the welfare gain of the monopolist (as consumer) to derive a net welfare loss. Food is a basic necessity (a wage good) consumed by all roughly in proportion to dietary needs, regardless of income or wealth. The income transfers to monopolies go to relatively few higher income individuals, and therefore have a regressive effect on the distribution of income.

Estimates of overcharging may be overstated by the value received by consumers because of food manufacturers' subsidy of the information and entertainment media. The value consumers receive from these media is not directly measurable because it is not expressed in a market. Expenditure levels and content are not made in accordance with consumer preference--rather, they are chosen by companies to maximize advertising effectiveness.

We have calculated the monopoly loss to consumers of processed foods using three different approaches. The three overcharge estimation methodologies differ widely and use distinct data sets. About 60 percent of the first estimate, based on F.M. Scherer's framework of cost categories, is excess profits and advertising costs. These are calculated from estimating models specific to the food manufacturing industries and use of census sales concentration, measured media advertising, company profits, and other published data for the food manufacturing industries. The remaining 40 percent of our Scherer-type estimate consists of extrapolations of his estimates for the whole economy applied to food manufacturing. This 40 percent is considered the least reliable of the estimates and is included mainly for heuristic reasons.

The second estimating method is an adaptation of an exemplary structure-performance analysis of food manufacturing by Collins and Preston. Our analysis is an expanded and updated version of their original work. It utilizes price-cost margins developed from census statistics for manufacturing establishments. These data are highly regarded for their completeness and accuracy.

^{2/} Monopoly overcharge appears to be very similar to the concept of "undue price enhancement."

The third approach is an original one, based on price differentials between "national brands" and "private labels" of individual grocery store products. These data were collected by a subsidiary of Time, Inc. (SAMI), which obtains them from retailers making about 80 percent of grocery store sales. Thus, the data used for our three different methods were drawn from three different units of observation (companies, plants, and individual products) and were collected by unrelated institutions.

I believe the estimates are conservative (see tables 1 and 2). However, because of the data sets used and because of the estimating procedures employed, a considerable degree of error is likely in each of the estimates. We have no method for estimating the likely error range. We feel, however, that a 25-percent error on the individual estimates is the most that would reasonably be expected. The extent of convergence of all three essentially independent estimates gives strength to the conclusion that consumer loss due to monopoly in the U.S. food manufacturing industries in 1975 was at least \$10 billion, but possible as high as \$15 billion.

We have not estimated the trend in the amount of consumer loss due to monopoly in food manufacturing. However, general inflation in the economy, continued growth of the food manufacturing industries, and worsening competitive structures would indicate that an estimate of consumer loss for 1979 would be at least \$3 billion greater than the estimate for 1975.

Twelve billion dollars is a lot of money. (Previous estimates of the social losses due to monopoly have been in terms of a steak dinner per capita. Our results, at over \$55 per consumer in 1975, would fund a lavish feast in one of the country's most expensive restaurants.) For a family of four with an income at the federally defined poverty level in 1975, it would constitute 10 percent of their food budget. Alternatively, it represents about a month's rent for an average family of modest means.

Put another way, our monopoly loss estimate for processed foods represents 11 percent of U.S. personal disposable income and about 4.7 percent of household food expenditures in 1975.

The Role of Cooperatives in Food Manufacturing

Cooperatives account for about 8 percent of the sales of food manufacturing firms today. This represents a slight increase from about 6.5 percent in 1963. In the rest of the manufacturing sector, cooperatives account for only 0.1 percent of sales.

Recent data on the importance of cooperatives in particular industries are not available. From the 1967 Census of Manufacturers, cooperatives were found to originate the following proportions of industry sales:

| | |
|--|--------------|
| Butter, cheese, canned or dried milk, and ice cream | 41.9 percent |
| Canned fruits and vegetables | 18.8 percent |
| Fats and oils | 16.2 percent |
| Fluid milk | 15.1 percent |
| Processed meats and poultry | 12.5 percent |
| Grain mill products | 9.1 percent |

Table 1--Summary of monopoly loss estimates in U.S. food manufacturing, 1975

| Type of consumer loss | Scherer-type (adjusted) | Price-cost margin | Private label differential |
|------------------------|-------------------------|-------------------|----------------------------|
| <u>Million dollars</u> | | | |
| Monopoly profit | 3,613 | 12,933 | |
| X-inefficiency | 8,480 | | 11,877 |
| Allocative | 430 | 473 | 559 |
| Total | 12,523 | 13,406 | 12,436 |

Source: Russell C. Parker and John M. Connor, Estimates of Consumer Loss Due to Monopoly in the U.S. Food Manufacturing Industries, Working Paper 19, Madison, Wisc.; NC-117, September 1978.

Table 2--Estimates of wholesale price elevation due to monopoly in the U.S. consumer food manufacturing industries, 1975

| Industry categories | Elevation in wholesale prices due to monopoly | |
|------------------------------|---|---|
| | From price-cost regression equation No. 3 | From national brand-private label regression equation |
| <u>Percent</u> | | |
| Meatpacking | 0.0 | 0.0 |
| Meat processing | 5.6 | 1.6 |
| Poultry and egg products | 0.0 | 3.6 |
| Fluid milk | 5.3 | 7.8 |
| Other dairy products | 3.2 | 8.9 |
| Canned fruits and vegetables | 5.4 | 11.2 |
| Other canned and dried foods | 16.0 | 16.1 |
| Flour mixes | 21.9 | 26.2 |
| Brakfast cereals | 29.0 | 29.5 |
| Pet and animal foods | 8.6 | 20.0 |
| Other grain mill products | 8.6 | 16.3 |
| Bread, rolls, and cakes | 3.7 | 5.9 |
| Crackers and cookies | 16.3 | 21.2 |
| Sugar | 3.4 | 9.0 |
| Candy and chewing gum | 16.2 | 20.1 |
| Oils and margarine | 9.1 | 20.4 |
| Beer | 18.8 | 12.5 |
| Wine | 11.3 | 12.2 |
| Other alcoholic beverages | 24.2 | 14.3 |
| Soft drinks and flavorings | 19.3 | 15.3 |
| Coffee | 18.8 | 16.6 |
| Other processed foods | 12.6 | 13.2 |

Source: Russell C. Parker and John M. Connor, Estimates of Consumer Loss Due to Monopoly in the U.S. Food Manufacturing Industries, Working Paper 19, Madison, Wisc., NC-117, September 1978.

All other food manufacturing industries had less than 5 percent of sales by cooperatives. Bakery products, beverages, and miscellaneous food products had practically no cooperatives present.

A few cooperatives have quite large U.S. sales of manufactured food products. About 20 cooperatives today have sales exceeding \$100 million, which would place them among the top 250 food manufacturing firms. The largest food processing cooperatives in 1975 were Land O' Lakes, Mid-America Dairymen, California & Hawaiian Sugar, Riceland Foods, Agway, Farmland Industries, and Associated Milk Producers. As large as some cooperatives are, very few rank among the top four companies in any industry. Some exceptions are Land O' Lakes and AMPI (Butter), MFA or Agway (animal feeds), C&H and American Crystal (sugar), Riceland (rice), and Farmer Union Grain (malt). Most of these are industries making unbranded or commodity-type products.

The fact that food processing cooperatives concentrate their efforts on unbranded products is revealed by their expenditures on media advertising. In 1975, the 17 largest food processing cooperatives spent only \$10.9 million on advertising in eight different media. The rest of the 200 largest U.S. food manufacturers spent \$3,362 million. There are a few cooperatives with nationally recognized brands of food commanding definite consumer loyalty--Land O' Lakes, Sunkist, Welch's, and Ocean Spray are the main ones that come to mind. Thus, cooperatives primarily make producer goods (ingredients for further processing), private label products, or regionally distributed branded products with consumer franchises of questionable value. 3/

Finally, cooperatives tend to be quite specialized relative to proprietary food manufacturers of the same size. Few cooperatives have production in unrelated industries, though many engage in wholesaling-retailing activities alongside their manufacturing operations. While some cooperatives export, particularly in grains, none is multinational in its manufacturing operations, nor are any contemplating such expansion. Land O' Lakes is buying its way into the meatpacking industry, and Sunkist is undergoing modest brand proliferation by extending its brand to candy and soft drinks. But on the whole, food cooperatives have not been markedly acquiring nor proliferating their brands. In other words, manufacturing cooperatives rarely come close to the "multinational conglomerate" model that fits the largest U.S. food firms so well.

CONCLUSIONS

Most food manufacturing firms can be categorized into one of two classes. The first group consists of large, highly diversified firms with an array of branded consumer products occupying leading positions in concentrated markets with growth potential. These firms are experts in identifying products or variants of products that are at least superficially "new," devising a promotion campaign that coordinates the activities of several marketing departments of the firm, test marketing the new products, and continually monitoring the production and distribution of successful brands. Lacking new products, these firms buy other firms that do have them or invest in production facilities in new geographic areas to exploit successful older brands. Management tends to be decidedly marketing-oriented.

The second group of food firms consists largely of medium and smaller firms producing a narrow line of unlabeled, privately labeled, or regionally distributed brands for relatively unconcentrated markets. Their products are made according to specification or are highly traditional, homogeneous commodities conforming to

3/ By comparison, BAT Industries recently paid Lorrillard Tobacco \$141 million for the trademark rights (outside the United States only) to Lorrillard's six cigarette brands, which have less than 1 percent of the world market.

standard grades. Their strategy consists of building long-standing relationships with brokers or buyers of other food firms and competing primarily on the basis of favorable prices or terms of trade. If a new consumer product is considered for manufacture, such companies design the product by closely imitating existing successful products. Management is predominantly production-efficiency oriented.

For the most part, food processing cooperatives fall into the latter category. They display few of the characteristics of firms with market power. Rather, cooperatives lie on the competitive "fringe" of most markets, are potential rather than actual competitors in the packaged consumer goods markets, supply commodity inputs to the leading firms, and invest in physical capital rather than in advertising used to create a consumer franchise. Such a strategy will bring uncertain, normal returns to their members but rarely the pecuniary riches enjoyed by the owners and managers of the major firms.

Cooperatives do not contribute significantly to the monopoly problem in the U.S. food system. But neither do they offer the kind of credible threats to leading proprietary firms that is likely to alter oligopolistic conduct on their part. If cooperatives had such influence, it could be interpreted as the exercise of monopoly power. For the most part, cooperatives and the leading firms follow different business strategies--interacting, but not competing.

THE SCOPE AND STATUS OF COOPERATIVE BARGAINING

Gilbert W. Biggs
Economics, Statistics, and Cooperative Service
U.S. Department of Agriculture

We recently conducted a study on the scope and status of cooperative bargaining. Our study was initiated by a request from Bob Holt, your president, and Ron Schuler, president of the California Canning Peach Association. They wanted to know the status and scope of fruit and vegetable bargaining in the United States including such factors as the number of associations, number of members, commodities bargained for (including physical units and dollar values), and methods of financing operations. I am reporting on the preliminary results of our findings at the end of 3 months. Dairy bargaining is also considered.

FRUIT AND VEGETABLE BARGAINING

With the increased consumption of processed fruit and vegetables, contracting will probably become more important to both the processor and the grower. There has also been increased interest in bargaining legislation, such as the National Agricultural Bargaining Bill of 1979. Just how much bargaining is going on and how many associations and members are involved is also becoming more important.

Number of Associations

We wanted to determine just how many associations actually engaged in successful negotiations over price and terms of trade with processors or handlers in 1978. By this we mean that the negotiations resulted in contracts. Since associations end their fiscal years at different times, 1978 was the latest year for which we could secure complete data. From a list of all known bargaining associations, only 34 of the 75 we contacted successfully negotiated with processors or handlers for price and

terms of trade during 1978 (table 1). Only 5 of the 37 State affiliates of the American Agricultural Marketing Association actually negotiated in 1978.

In addition to the associations shown, five others were contacted. Two refused to cooperate, one fruit and one national farm organization. The other three were organized in 1979 and therefore did not have data for 1978. One of these was a fruit association and the other two were vegetable associations.

Table 1--Status of bargaining associations
by type of association, 1978

| Type of association | Associations not negotiating in 1978 | Associations negotiating in 1978 |
|--------------------------|--|--|
| | <u>Number</u> | |
| Nuts | 0 | 1 |
| Fruits | 2 | 9 |
| Vegetables | 5 | 10 |
| Fruits and vegetables | 1 | 0 |
| Potatoes | 0 | 5 |
| Sugarbeets | 1 | 4 |
| AAMA | 32 | 5 |
| Total | 41 | 34 |

The farm organization that did not cooperate reportedly has bargaining programs in several commodity areas, including grain, slaughter hogs, feeder cattle, old dairy cows, sunflowers, cotton, lambs, and potatoes. These programs involved members in all States and active programs in 25 States. It is the policy of this organization not to disclose any information on membership, or quantity or value of products bargained for.

Five out of 15 vegetable associations did not negotiate in 1978. All the potato associations negotiated in 1978.

One sugarbeet association (which owned processing facilities) did not negotiate in 1978. To get the information quickly, we worked through the American Sugarbeet Growers Association, a trade association representing nine regional associations. Four sugarbeet associations which negotiated in 1978 represent the American Sugarbeet Growers Association with its nine affiliates plus three non-affiliated associations. Although the Secretary of Agriculture sets the price of sugar, there is some latitude for the associations to bargain with the processors over terms of trade such as quality factors and delivery.

Geographic Location

Most of the 34 associations negotiating in 1978 were located west of the Mississippi.

California led with 10 associations, Washington ranked second with seven associations, and Idaho third with four associations. Wisconsin and Michigan had two each, and one association was located in Oregon, Utah, Arizona, Texas, Minnesota, Indiana, Ohio, Virginia, and Maine.

Membership, Quantity, and Value of Products

The 34 associations negotiated for some 27,000 members producing some 28 million tons of products with a value of \$1.3 billion in 1978 (table 2).

Table 2--Membership, quantity, and value of products negotiated for by type of association, 34 bargaining associations, 1978

| Type of association | : Assn. number | : Membership number | : Tons | : Dollar value |
|-----------------------|----------------|---------------------|------------------|----------------|
| | | | <u>Thousands</u> | <u>Million</u> |
| Nuts | 1 | 320 | 9.2 | 9.0 |
| Fruits | 9 | 5,166 | 716.7 | 230.0 |
| Vegetables | 12 | 2,981 | 4,508.1 | 306.3 |
| Fruits and vegetables | 3 | 3,382 | 598.7 | 85.6 |
| Potatoes | 5 | 3,874 | 3,595.1 | 227.7 |
| Sugarbeets | 4 | 11,625 | 18,764.0 | 487.6 |
| Total | 34 | 27,348 | 28,191.3 | 1,346.2 |

Sugarbeets were the largest item, representing some 12 million growers producing about 19 million tons of beets valued at almost one-half billion dollars.

The five AAMA associations negotiating in 1978 were classified according to type of products produced by their members. Three negotiated for both fruits and vegetables and two produced vegetables only.

Vegetables ranked second with about 4.5 million tons valued at \$306 million. A high percentage of the tonnage and value was accounted for by tomatoes.

Potatoes ranked third in terms of tonnage but fourth in value with about 3.6 million tons having a value of \$223 million.

Fruits ranked fourth in tonnage but third in value, with about 717 thousand tons having a value of \$230 million. About one-third of the tonnage was accounted for by Clingstone peaches, while one-third of the value was accounted for by raisins.

Fruit and Nut Products Negotiated

Eleven individual fruit products and one nut product were negotiated by bargaining associations in 1978 (table 3).

Table 3--Share of fruit and nut products negotiated for by fruit, vegetable, and nut bargaining associations, 1978

| Product | : | Percentage of U.S. production | |
|--------------------|---|-------------------------------|----------------|
| | : | <u>Tons</u> | <u>Dollars</u> |
| Apricots | : | 62 | 61 |
| Peaches-clingstone | : | 59 | 51 |
| Prunes | : | 45 | 49 |
| Tart cherries | : | 44 | 45 |
| Pears-canning | : | 41 | 37 |
| Raisins | : | 34 | 54 |
| Peaches-freestone | : | 33 | 23 |
| Red raspberries | : | 15 | 14 |
| Plums | : | 12 | 11 |
| Apples | : | 12 | 3 |
| Grapes | : | <u>1/</u> | <u>1/</u> |
| Filberts | : | 65 | 80 |

1/ Less than one-half of 1 percent.

The share of U.S. processed tonnage negotiated varied from 62 percent for apricots to less than 0.5 percent for grapes. Sixty-five percent of the U.S. tonnage of filberts was negotiated.

Vegetable and Sugarbeet Products Negotiated

Seventeen vegetable products and sugarbeets were negotiated for by bargaining associations in 1978 (table 4). The share of U.S. tonnage negotiated for varied from 79 percent for asparagus to less than 0.5 percent for popcorn. Seventy-two percent of the U.S. tonnage of sugarbeets was negotiated.

Table 4--Vegetable and sugarbeet products negotiated by fruit, vegetable, and sugarbeet bargaining associations, 1978

| Products | Percentage of U.S. production | |
|----------------------------|-------------------------------|-----------|
| | Tons | Dollars |
| Asparagus | 79 | 86 |
| Tomatoes | 61 | 51 |
| Corn, snack | 60 | 60 |
| Potatoes | 60 | 60 |
| Garlic | 30 | 30 |
| Celery | 29 | 15 |
| Chili peppers | 28 | 28 |
| Carrots | 27 | 27 |
| Peas, green | 21 | 20 |
| Sweet corn | 18 | 17 |
| Cabbage (for kraut) | 14 | 15 |
| Cauliflower | 13 | 14 |
| Broccoli | 10 | 11 |
| Beans, snap | 8 | 8 |
| Beans, green lima | 5 | 5 |
| Cucumbers (for pickles) | 3 | 4 |
| Popcorn | <u>1/</u> | <u>1/</u> |
| Sugarbeets | 72 | 73 |

1/ Less than .5 percent.

Methods of Financing Operations

The 34 associations used different methods of financing their operations in 1978 (table 5).

Table 5--Financing methods used by 34 bargaining associations, 1978

| Type of association | Associations using: | | | | | |
|-----------------------|---------------------|---------------------|----------------|---------------------|------------|---------------|
| | Checkoff | | Service charge | | Membership | |
| | Value per unit | Percentage of value | Value per unit | Percentage of value | Fee | |
| | | | | | | <u>Number</u> |
| Nuts | 1 | 0 | 0 | 0 | 0 | |
| Fruits | 0 | 3 | 5 | 1 | 2 | |
| Vegetables | 3 | 10 | 0 | 1 | 4 | |
| Fruits and vegetables | 3 | 1 | 0 | 0 | 0 | |
| Potatoes | 3 | 2 | 0 | 0 | 0 | |
| Sugarbeets | 4 | 0 | 0 | 0 | 1 | |
| Total | 14 | 16 | 5 | 2 | 7 | |

The checkoff was the most popular method used by all except fruit associations. The service charge was the most popular method used by the fruit associations. Membership fee was usually a one-time payment.

The range in charges by the associations are indicated below:

| Method used | Range in charges | |
|----------------|---------------------|----------------------------|
| | <u>Dollars/tons</u> | <u>Percentage of value</u> |
| Checkoff | 0.06--10.00 | 0.002 to 3.0 |
| Service charge | 1.00--6.00 | 1.000 to 1.3 |
| Membership fee | .50--50.00 | Not applicable |

Trends in Associations Negotiating, Membership, and Value of Products Negotiated

Bargaining associations actually negotiating in the fruit and vegetable area increased from 16 to 29, or about 80 percent, from 1956 to 1964 (table 6). They increased from 29 to 34, or about 17 percent, from 1964 to 1971. The number was the same in 1978 although there were some exits and entries during this period.

Table 6--Number of associations negotiating, membership, and value of raw product, selected years, 1956-78

| Year | Cooperatives negotiating | Membership | Value of raw product negotiated |
|------|--------------------------|------------|---------------------------------|
| | --Number-- | | Million dollars |
| 1956 | 16 | 14,900 | 61 |
| 1964 | 29 | 16,400 | 120 |
| 1971 | 34 | 17,700 | 216 |
| 1978 | 34 | 27,348 | 1,346 |

Membership in bargaining associations increased steadily from about 15,000 in 1956 to 27,000 in 1978. The most dramatic increase in membership was 55 percent during 1971-78.

The value of raw products negotiated for by the associations increased from \$61 million in 1956 to \$1.3 billion in 1978. Value of the raw product negotiated increased about six times during 1971-78--the largest increase. It must be remembered that no adjustments for inflation have been made in these raw product value figures.

DAIRY BARGAINING

Bargaining by dairy cooperatives is generally associated with marketing raw whole milk. Dairy cooperatives are defined as bargaining types when they market more than half their members' production as raw whole milk. On this basis, there are about 270 direct farmer member dairy bargaining cooperatives. About 250 of these market their entire milk supply in raw whole form, but they vary widely in how they operate. One-third have no facilities and are primarily members of federations that perform most or all required marketing services. Possibly another third do operate milk receiving facilities with the raw milk sold to other cooperatives or through federations. Many of the remaining one-third are small organizations with their entire milk supply sold directly to one or two local buyers. Their bargaining efforts center on obtaining prevailing prices for their entire milk supply.

The more influential bargaining cooperatives are the remaining 20 large full-service organizations that provide milk supplies tailored to buyers' needs and handle disposition of reserve supplies largely through co-op manufacturing plants. They are generally the major supplier in the fluid milk markets served. These full-service bargaining cooperatives market almost half of the Nation's milk supply.

The leaders of most large full-service cooperatives recognize the need for broad producer support in reaching objectives of fair and reasonable prices with market stability. To this end, many have joined together with other dairy cooperatives to establish 15 to 20 federations and agencies-in-common to perform milk pricing activities, pool returns, allocate milk supplies, and perform other activities to

improve marketing efficiency and strengthen producer returns. Member cooperatives bring together comprehensive information on milk marketing conditions permitting pricing decisions that can be reasonably implemented, often by member cooperatives. In either case, member cooperatives are concerned that prices to their buyers reflect reasonable alignment and be in the longrun interest of their farmer members.

Let us look more specifically at farmer bargaining in the dairy industry. First and foremost, bargaining efforts by farmers led directly to the classified pricing system which today is the fundamental framework of milk marketing. Both producer and plant leaders recognized that milk supplies for bottling plants should be priced higher than for manufacturing plants because of the additional costs in producing grade A quality milk, additional transportation costs to city plants, and additional costs in marketing supplies not needed for fluid use to manufacturing outlets.

Since milk is a highly perishable product, both producers and buyers continue to be greatly interested in market stability--a continuing market with uniform prices at a reasonable level to producers and a continuing supply for handlers at competitive prices. To this end, producers and handlers developed pricing and pooling plans whereby handlers paid uniform prices into a pool for each class of use in disposition of the milk, and producers received uniform blend prices from the pool.

These pioneering efforts eventually led to State and Federal milk marketing orders that made the pricing and pooling plan applicable to all handlers and producers marketing milk in a specified area. Today, about two-thirds of all milk is marketed in 47 Federal order milk markets that establish the minimum prices paid by handlers for the various class uses and other marketing and pooling provisions.

Milk prices are further stabilized by the Government's price-support program that in effect establishes a minimum price for milk through purchases of butter, powder, and cheese at specified prices. Thus, the dairy price-support program establishes a price floor for the Federal milk order program.

Today, dairy farmers can pursue several alternatives to improve their bargaining efforts. They can work to obtain a higher support price. Following the milk shortages in 1973 and 1974, Congress raised the minimum price support level in 1977 from 75 percent of parity to 80 percent for a specified period recently extended through 1981.

Many people outside the dairy industry dismiss dairy bargaining efforts by cooperatives as having little importance, asserting that the price support program and milk orders do all the work to achieve the farmers' marketing goals. What must be borne in mind is that cooperatives request the orders and have the primary burden of developing evidence on which the Secretary of Agriculture bases decisions on recommended provisions of the orders, and that two-thirds of all producers in a market must vote for the order.

Historically, dairy coepratives have also borne major responsibility for obtaining needed adjustments in Federal milk orders. Changes in both the dairy industry and in overall economic conditions have increased the need for constant monitoring of order provisions.

To be assured of an adequate supply of high quality milk, handlers buying directly from producers and small bargaining associations must perform a number of supply-related marketing services, and incur costs in performing them. These include supply procurement, producer assistance in quality production, milk assembly route development and assistance in operations, disposition of reserve milk supplies, determination of tests and weights of individual producers; milk, and producer payroll and record activities.

The dairy industry has generally recognized gains in marketing efficiency; hence, costs would be reduced if cooperatives performed the supply-related services for their total milk supply. However, decisions on what services will be provided by cooperatives and now associations' costs will be recovered are left to negotiation between cooperatives and the buying handler, since milk marketing orders are generally silent on this matter. The shift in services to cooperatives has led to over-order prices largely on class I milk and has become a major area of bargaining. It is also a major source of controversy in the dairy industry, as many people outside of the industry, and even a few within it, labor under the misconception that minimum milk order prices should be the milk price.

In determining over-order prices, cooperatives often seek amounts needed to reflect market conditions, including cost of services. Included in price considerations is the matter of price alignment with other milk supplies. Negotiations often follow the pattern of discussions between representatives of the cooperative and individual handlers to assess views on milk production, supply needs, and acceptable price levels. However, with many handlers, it is virtually impossible to reach agreement on a uniformly acceptable price. Hence, in the end it is up to the large full-service cooperatives or the federated group to announce a price believed to be acceptable to handlers and in the best interest of producers, the dairy industry, and consumers.

We hope we have provided you with useful information on the scope and status of bargaining associations in the United States. The results presented are preliminary. We will have further information on procedures and practices followed by bargaining associations prior to and during negotiations, and some reactions to the National Agricultural Bargaining Bill of 1979.

COOPERATIVE AND PROPRIETARY PROCESSOR
RESPONSES TO FARMER BARGAINING

Compton Chase-Landale*
Michigan-State University

INTRODUCTION

This report examines interrelations among bargaining associations, cooperative processors, and proprietary processors in fruits and vegetables. The study first identifies interrelations among these participants in farmer bargaining. It then analyzes participant responses to these interrelations. The analysis was organized within the context of such performance issues as the coordination of economic information and incentives, distributional consequences, and structural changes in the bargaining situation. These findings were then used to suggest design considerations for both policymakers and bargaining participants.

Management in 57 different organizations covering 8 States was interviewed, including 14 bargaining associations, 25 cooperative processors, and 18 proprietary processors in California, Washington, Oregon, Idaho, Michigan, New York, Pennsylvania, and Virginia. A total of 118 individuals contributed interviews including participants in bargaining and knowledgeable observers.

*James D. Schaffer of Michigan State University also contributed to this report, which is based on research under Michigan Experiment Station Project 117 and N.C. Regional Project 117.

I would like to summarize some of the study's findings and suggest ideas for consideration. The findings will be reported according to what I call areas of inquiry. These areas correspond to the principal interrelations among participants: (1) bargaining association with proprietary processor, (2) bargaining association with cooperative processor, and (3) proprietary interests with cooperative interests. At the end I list some policy issues which, based on my research, I feel are worthy of consideration by growers and representatives of grower interests.

BARGAINING ASSOCIATION-PROPRIETARY PROCESSOR INTERRELATIONS AND RESPONSES

The principal proposition in this area of inquiry was that the bargaining association and the proprietary processors would respond to uncertain market outcomes by taking advantage of opportunities to influence these outcomes. That is, faced with uncertainty as to the terms of trade warranted by market conditions, these participants would try to influence outcomes in their interest. They would do so by providing information to one another to establish a case for appropriate terms of trade, namely price level, for raw products. The processors would try to persuade the bargaining association what market conditions prevailed and the association would do the same. The result of such attempts at persuasion would be to produce an aggregation of market information from the association and processing sector. An aggregation of market information offers a bargaining process the potential to produce terms of trade that have superior information and more closely reflect demand and supply conditions for raw products. In general, the total sample of bargaining association and proprietary processor responses to one another conformed to this proposition; they did provide information to one another about market conditions in attempts to build their case for appropriate terms of trade.

However, by dividing the findings according to geographic location, it is possible to identify differences in the extent of communication between bargaining associations and proprietary processors. Geographic locations with a longer history of bargaining activity, such as the west coast, showed better communication among the participants than did Michigan and Appalachia with their more limited histories. If the historical experience is a valid explanation of such differences, then bargaining environments can be expected to go through an evolution process in moving from poor to good communication between the association and proprietary processors.

The data from this area of inquiry also revealed that bargaining associations were aware of and sensitive to competitive economic pressures. In general, the total sample of associations indicated a recognition of the competitive threat of substitutability of raw products both by alternative raw products and by competing geographic areas. Such sensitivity, it may be argued, dilutes the complaint that bargaining offers associations the opportunity to dictate terms of trade with impunity. The competitive threat of raw product substitutability suggests two issues worthy of consideration by growers. Both have been brought to your attention before: (1) growers might consider responding to the competitive pressures they feel from substitute raw product inputs by developing joint bargaining strategies with these substitutes, and (2) growers might respond to competition from alternative production areas by ensuring that the associations' grower membership conforms to the boundaries of the relevant market area for raw product procurement. The close alliance between the pear associations in California and the Northwest exemplify such a response.

Related to the competitive threat of substitute opportunities for proprietary processor procurement on association demands in bargaining is the varying ability of proprietary processors to avail themselves of such alternatives. For example, not all processors can procure raw products from a large geographic area at the same cost. The single-State processor faces different opportunities than a the multiple-State and/or conglomerate processor. Consequently, the treatment of processors of the

association, even if uniform, may increase the inequality among processing organizations. For example, a bargained price of \$X per ton imposes different costs on the processor with plants located in one production area than it does on the processor with plants in multiple production areas. Thus, uniform terms of trade can be expected to afford some proprietary processor organizations competitive advantages over others. Accordingly, growers might consider the case for differential terms of trade as they bargain with proprietary processors having variable alternatives.

In summary, the inquiry in this area has revealed a flow of market information between the bargaining association and proprietary processor sectors. The west coast, especially California, revealed a superior degree of communication among the sectors, suggesting a maturational process in bargaining environments. Some specific varieties of economic pressures were also noted with attention of growers being drawn to (1) the competitive threat of substitution in raw product procurement, and (2) the paradox of uniform terms of trade leading to unequal treatment of proprietary processors.

BARGAINING ASSOCIATION-COOPERATIVE PROCESSOR INTERRELATIONS AND RESPONSES

Guiding the study's inquiry into interrelations between the bargaining association and cooperative processors was a two-part proposition. First, it was proposed that interest groups within the cooperative processor organization share interdependencies with the terms of trade decisions produced by bargaining associations. Second, it was proposed that these interest groups respond to these interdependencies. Such responses might be ones that are internal to the organization; for example, interest groups would decide to use bargained terms of trade as bases for their own decisions. Or, the responses might be directed outside of the cooperative such as efforts to influence the terms of trade determined by the bargaining association.

Focusing on cooperative management as one interest group in the cooperative processing sector, the study found management generally to be sensitive to bargained terms of trade such as price because they represented a performance challenge. However, within the national sample there was variable willingness of cooperative management to accept bargained terms of trade as the performance reference point. Cooperative management in California was the most accommodating, with that in the Northwest mixed in its willingness, and that in Michigan being the least willing to accept bargained terms of trade as a reference for evaluating their own performance. Experience with bargaining may be an important explanation for this variation. However, established bargaining activity prior to cooperative processing, as in California, may help explain the more widespread managerial accommodation to bargaining there. The choice of accounting system, as will be discussed later, also has an effect on managerial behavior in cooperatives.

The importance of such sensitivity on the part of cooperative processor management is that it reflects a redistribution of risk within the organization; the external production of performance standards alters freedom in managing and serves to redistribute risk of performance from membership to management. However, management may respond to protect its freedom, that is, to relieve itself of performance pressure. These responses were found to be externally or internally directed. Externally directed responses, which were especially apparent in the sample from California and Michigan, were those where cooperative management responded by communicating concerns about performance standards to the bargaining association. Such communication was of two varieties: (1) direct communication from cooperative management to association management, and (2) indirect communication among managements through dual grower members belonging simultaneously to the cooperative and the association. The result of such communication was to produce a flow of information and influence from the cooperative processing sector to the bargaining association sector. This flow can enhance the market information from which bargained terms of trade are generated.

Where such flow of information is less apparent, as in the Northwest and Appalachian samples, poorer market information is produced.

Cooperative management in the national sample also had access, it was revealed, to internally directed responses; that is, they had access to decisions taken within the cooperative organization which could be used to shift performance risk back to cooperative membership. Widespread access to supply controls, use of internal reserves, and selective attention to some commodities in multiple commodity organizations offered management the means to partially reduce performance pressures. One result of such responses can be to reduce cooperative management's accountability to cooperative membership. It might be argued, however, that such ability to shift performance risk is less easily exercised where bargaining is active as a source of performance references for the cooperative processor organization than where bargaining is nonexistent.

Growers in cooperatives should be concerned with the sources of relief from performance pressure that management may utilize. It is, of course, not true that any or all such sources of relief are undesirable to growers in any given cooperative. The question to address, rather, is whether such sources serve the interests of growers or cooperative management.

Other cooperative processor interest groups, that is, by commodity, were also believed to share and respond to interdependencies with the terms of trade produced by bargaining associations. These interdependencies are a function of member sensitivity to the impact of bargaining on returns to the cooperative, on returns from the pool for single pool cooperatives, and on member or commodity representation within the cooperative organization.

In recognition of interdependencies, commodity interest groups in the cooperative respond by exercising dual representation within the association and cooperative simultaneously. Dual membership was widespread throughout the national sample and especially prevalent in California and Michigan. Commodity interest groups also responded by prodding cooperative management to be supportive of their bargaining association and to control the price of other commodity bargaining associations. This latter behavior was a common characteristic of the California single-pool cooperative organizations. The single-pool accounting system creates different interdependencies among the commodities and with bargaining than are found with multiple pool accounting systems.

In general, duality of membership and pressure on cooperative management to act as an agent relative to bargaining associations contribute to the flow of information among the sectors. This communication can mean cooperative support for and commitment to bargained terms of trade. That is to say, with the bargaining association providing a vehicle for cooperative member representation in the cooperative, cooperative management is pressured to abide by bargained terms of trade as a performance reference.

Several points as a function of the accounting system used by multiple-commodity cooperative processors warrant mention here. For multiple-commodity cooperatives, bargained reference points can provide a clear basis for intercommodity competition. Such a basis is especially desirable for cooperatives using single-pool accounting where some allocative decision rule is imperative. Moreover, the inducement to embrace such a basis and hence for communication between the cooperative and association sectors is stronger for single-pool than multiple-pool accounting organizations. It might be noted that in multiple-commodity cooperative processing, not all commodities are necessarily represented by a bargaining association. Accordingly, there may be distributional consequences among commodity groups in the cooperative as cooperative management responds to a diminution of freedom in managing

some commodities by exercising more freedom in managing others. This possibility, suggested by some of the study's findings, would argue for grower support of bargaining in currently nonbargained commodities.

A primary issue to raise in summarizing cooperative interest group behavior relative to bargaining association activity is to ask what the impact of this behavior is on raw product pricing by the association. The direction of price pressure from cooperative commodity interest groups suggested by the data is upward. This is explainable by recognizing a difference in incentives facing the cash versus cooperative-grower groups, especially for those cooperative growers belonging to a single-pool organization. A difference in incentives suggests a confounding of economic signals flowing from the bargaining association. This has import for determining terms of trade which accurately reflect demand and supply conditions. An upward price pressure over the long run may cause a reallocation of production and processing market shares to the cooperative processing sector. Such pressure would also be more severe for single-State proprietary processors and their cash-grower suppliers than for multiple-State processors.

Competing against these impacts, however, are other disciplining forces. The bargaining association has its own sources of information independent of the cooperative processing sector. Moreover, in single-pool cooperatives with multiple commodity groups, at least, upward pricing pressure from one commodity group is disciplined by other commodities competing for the guarantees afforded by single-pool accounting. Such intercommodity competitive discipline does not occur in multiple-pool nor, obviously, in single commodity cooperative processing organizations.

Related to the impact of cooperative interest group responses is the role of grower processors. The study revealed that many of these growers also share dual membership with the bargaining association of their interest. Given a difference in grower processor incentives, say in matching scale economies of producing and processing annuals or in combining profit centers, it may be in their interest to influence a reallocation of production and processing market shares, for example. Thus, where variable incentives exist between cash growers and grower processors, the interests they voice within the bargaining association can conflict.

In summary, there is a flow of information between the bargaining association and the cooperative processing and grower processor sectors. Such flows can serve to integrate and commit the cooperative processing sector to bargained terms of trade. However, these flows may also reflect variable incentives, thus confounding the economic signals on which the bargaining process depends. Confounded signals may thwart the determination of terms of trade which accurately reflect demand and supply conditions. The issue for growers is to recognize the potential for conflicting interests and to suggest rules for controlling the integration of the vertically integrated grower sector in bargaining situations.

PROPRIETARY INTERESTS WITH COOPERATIVE INTERESTS

The study also explored various reasons for and varieties of structural change in the processing sector in farmer bargaining environments. Specifically, the study looked at simple proprietary exit, the transition of ownership from proprietary to cooperative, and some select organizational linkage between proprietary and cooperative interests. It was hypothesized that competitive pressures and proprietary recognition of resource availability were forces influencing structural change. Both elements were found to have explanatory validity.

The study felt that the constraints imposed by bargaining for terms of trade for raw products could explain simple exit responses by proprietary processors. Looking at the proprietary processor respondents generally, bargaining was noted as one

variable influencing exit responses. However, when segmenting the findings by geographic location, the responsibility for exit attributed to bargaining is less clear. In the California sample, proprietary respondents were unclear about the role of bargaining in inducing proprietary processor exit. In Michigan, proprietary respondents argued generally that bargaining was at least a partial explanation. Rather than bargaining by itself, competition from the cooperatively organized processing sector was noted throughout the national sample, especially in California and Michigan, as an important explanation for proprietary processor exit. The argument generally advanced was the ability of cooperative processors to value raw product inputs at lower costs by virtue of their freedom from bargained cash market transactions.

Some statistical tests were performed comparing rates of processor exit in States with bargaining to States without. The findings did not indicate that bargaining made a difference in the rate of decline in numbers of processing establishments.

It can be argued that competitive pressures in bargaining situations, including competition from the cooperative processing sector, contribute to the forces inviting proprietary processor exit. However, these pressures should be less important in places like California where, as a function of heavy dual membership and single-pool accounting, cooperative management is pressured to value its raw product inputs at the same bargained price levels as proprietary processors. Notwithstanding this pressure, under severe conditions the cooperative organization still has the ability to shift costs and risk to grower resources. This potentially may continue the real competitive threat from the cooperative sector. It should be noted that a tendency of processors to shift risk to growers was one of the general motivations for organizing bargaining activity.

Developing the theme of cooperative processor competition further, it was hypothesized that the grower resources behind this competition play some role in explaining an increasing market share of processing under cooperative processor control. Specifically, it was hypothesized that this trend reflected a desire by proprietary interests to gain access to grower resources. The study's sample of proprietary processors revealed widespread recognition of and desire to utilize such resources. Where such motives lead to a transition in ownership of processing facilities, certain costs and risks are thereby shifted to the grower sector.

In the vein of the above, certain linkage arrangements between proprietary and grower interests were also explored. The underlying argument being evaluated was that such linkages were a result of proprietary management efforts to relieve itself of market pressures by gaining access to new resources. Upon examination, linkage arrangements such as participation plans and especially joint ventures between proprietary and cooperatives organizations showed proprietary interests seeking control of new resources. The results of such linkages are numerous and worthy of consideration by participants in such hybrid arrangements. Certain re-distributions can be brought about by virtue of proprietary-grower linkages. This is because (1) performance risks can be spread onto the growers, (2) the goal functions of the proprietary and cooperative parties to the linkage may be in conflict, and (3) grower resources are channeled to proprietary usage and perhaps control. The net consequence of such re-distribution may be to offer competitive advantages that constitute entry barriers to other processors. Raising entry barriers invites concentration of markets.

Certain aspects of coordination and market structure are also affected by the participation plans and joint ventures examined above. First, the distribution of risk appears separated from the distribution of control. This may invite distortions in economic incentives; that is, the proprietary interest may not bear the full cost of inefficient behavior. Second, the delayed raw product input valuation as a

standard operating procedure characterizing these participation plans and joint ventures removed market information from cash transactions. In light of bargaining activity, such removal reduces the available information on which bargained terms of trade are based. Insofar as this occurs, bargaining as a mechanism for determining value that accurately reflects market conditions of demand and supply is hindered. Structurally, the removal of market information from bargaining increases the risks to the residual proprietary processing and cash grower markets. In the long run, increased risk will invite further attempts to shed risk.

In this last area of inquiry, the study explored explanations for structural changes in farmer bargaining situations. It was found that although bargaining activity may be perceived as a pressure inviting proprietary processor exit, competition from the cooperative processing sector was more prominent as an explanation. Of course, the two are interrelated. Moreover, the study identified proprietary recognition of and interest in gaining access to grower resources as indicated by transition of ownership and linkage arrangements. Certain performance impacts are produced by such proprietary processor responses.

Policymakers and participants in farmer bargaining are encouraged to consider the case for relieving the competitive pressure sustained by proprietary processors by virtue of coexisting cooperative processors in farmer bargaining situations. They are also invited to consider whether and how to integrate cooperative organizations in bargaining activity. This latter issue involves considering the design of rules for modifying cooperative sector behavior and addressing proprietary utilization of grower resources in farmer bargaining environments. In order to be more explicit as to policy recommendations, let me list several design considerations.

Policy Considerations

(1) In designing and implementing farmer bargaining rules, growers should be aware of an evolutionary process as participants learn to accommodate one another. Where bargaining is imposed on an existing cooperative processing structure, the role of this sector is of central interest and must be directly addressed.

(2) Growers should ask whether uniform terms of trade bargained with proprietary processors by bargaining associations leads to differential treatment by virtue of the unequal resources and organizational characteristics of a variable proprietary processing population. Differential by bargaining associations treatment may paradoxically reduce inequality among proprietary processors. Specifically, growers might consider distinguishing treatment of single-State proprietary processing operations from that accorded multiple-State operations. Similarly, treatment of proprietary processors vertically integrated into forward markets, such as brands, might be differentiated from that directed toward proprietary processors without such forward integration.

(3) Growers need to directly address the flow of information from the vertically integrated grower processing sector to the bargaining process and the content of economic signals communicated. Accordingly, there are several considerations I would suggest.

(a) Growers need to ask whether support from the cooperative processing sector for bargained terms of trade is desirable to the bargaining association, to the proprietary processing sector, and to cooperative processor membership. If so, duality of cooperative processor membership might be encouraged as a means of eliciting such support. However, given the variable incentives facing cash versus cooperative growers, it might be worthwhile to consider limiting duality to growers not holding positions of influence in either the association or the cooperative processor organizations.

(b) The organizational characteristics of cooperative processors affect both the flow of information from this sector to the bargaining association and the commitment of this sector to bargained terms of trade. Hence, growers need to consider the case for modifying the organizational characteristics of cooperatives. The principal organizational characteristics to study are single versus multiple-pool accounting, single versus multiple-commodity organizations, and treatment of bargained versus nonbargained commodities in cooperatives.

(c) It can be argued that the interests of grower processors may conflict with those of cash growers. Accordingly, growers need to consider whether or not to control influence from the grower processor sector. If influence is to be minimized, dual membership should be discouraged.

(4) Growers need to be aware of proprietary interest in the available resources, of the grower sector. To control utilization of such resources the following are worth consideration:

(a) Where cooperative processors have identifiable competitive advantages, such as in deferred payment schedules, consideration should be given to the case for offering these advantages to proprietary processors as well as their dealings with bargaining associations. Equivalently, growers might consider constraining cooperative processor management from exercising sources of competitive advantages. To promote such restraints on cooperative competitive advantages, growers might consider using the bargaining association to broadcast comparative performance information about cooperatives.

(b) Given that linkages between proprietary and cooperative interests may exploit grower resources and restrain the availability of economic information for bargaining, growers may want to consider constraining their existence. Accordingly, growers may want to keep the determination of terms of trade in participation plans and joint ventures. Moreover, insofar as these linkages fail to accord the grower members control of the cooperatively organized element, such linkages may offer bases for legal challenges. In summary, growers need to carefully consider the economic desirability and legal legitimacy of participation plans and joint ventures.

BARGAINING EXPERIENCES AND VIEWPOINTS

DAIRY

Tom Camerlo
Mountain Empire Dairymen's Association

As a dairy farmer from Florence, Colo. I will comment on a regional milk cooperative made up of other cooperatives which we have in the Rocky Mountain area, and my feeling on the drawbacks and merits of this type of cooperative.

At the outset, I want to state that I support the practice of farmers bargaining for the price they receive for their commodities. The most important tool I have as a dairy farmer in the bargaining process is my cooperative and the federation of cooperatives of which my cooperative is a member. Marketing milk and other commodities through a cooperative is sound, and frankly, it is the best and most direct means available to the producer to maintain some control over the price received for production.

You all know this is not a revolutionary concept. In fact, the struggle by farmers to obtain some degree of equal, and note I said "equal," not "superior," standing in the market with those who buy their production has been a long and sometimes bitterly contested struggle.

In my opinion, the worst enemy farmers have is themselves. Throughout the history of agriculture in this country, we see time and time again that it has not been possible for farmers to forego their local or personal interest for the benefit of group action. This is partly explained by the fact that farmers are farmers because they are independent people, and that is good. The actions of a few, however, can be harmful to many. I believe that we should work together for the benefit of all. I do not refer just to similar commodity groups working together. I feel we have to put all commodities into a coalition to make our voices heard.

I heard an interesting fact the other evening at a meeting in Salt Lake City, Utah, which brought home to me the need for farm groups to work together. The speaker stated, "...that today, dairy farmers are one of every 1,000 people in this country." One in a thousand! I figure that farmers as a group are approximately 1 of every 30. With this type of numbers, we have to look for ways to amplify our voices.

I serve dairy farmers in the Rocky Mountain area as president of a regional federation of cooperatives known as Western Dairymen Cooperative, Inc. or WDCI. I know WDCI helps me and all Rocky Mountain area dairy farmers to amplify our voices in the marketplace. Let me give you a little history to help you understand how this regional cooperative serves its members.

Milk marketing probably presents the most complex problem confronting American agriculture. We are dealing with a highly perishable bulk commodity produced every day of the year in every State in the Nation. The seasonal pattern of production, the constant level of consumer demand, and advanced technologies that have increased the mobility of milk and broadened the concept of the market have merely added to this problem.

Dairy farmers have always sought to sell their milk for fluid use or to package milk to return more dollars to their operations. Since fluid milk has historically returned a higher price, and because Rocky Mountain area dairy farmers were no different from other dairy farmers, they began to struggle with one another to see who would service the desirable fluid markets. It was a situation where "feast or famine" existed as commercial dairy plants purchased their fluid needs from one group and then another group of dairy farmers.

You know dairy farmers actually need their markets before they need their cows. Most learned long ago the frustration and disaster that awaits if they approach the market as individuals. These farmers learned the devastation of the notice that the commercial dairy plant no longer needed their milk in the spring, or that their milk would continue to be accepted only if they were willing to accept a drastically reduced price.

It is not possible to build a sound economic farm structure on such a foundation. As a solution to these problems, and to better compete in the marketplace, dairy farmers banded together into cooperatives to market their milk. This does not mean that we dairy farmers collectively are not concerned with assisting other producers in their efforts to gain a standing in the market. Quite the contrary! Since we fully understand and value this marketing capability, we are more anxious to share and advance it wherever possible.

The farmers who "have" must work with the "have nots"--or we all will be "have nots."

In the Rocky Mountain area, dairy farmers were competing for fluid markets. They banded together into groups, these groups formed into cooperatives, and cooperatives merged to better serve membership. The seven cooperatives that today make up WDCI were the result of the joining together of 27 dairy cooperatives.

Thus, the first trend in the struggle for the Rocky Mountain area fluid markets was for dairy farmers to form cooperatives and for cooperatives to merge. Even with this joining together, dairy cooperatives were still making mistakes regarding milk marketing.

Cooperatives located in Utah and South Dakota were hauling their milk several hundred miles to the Denver market. At the same time, cooperatives in the Denver area were hauling their milk to Utah and South Dakota because there were no manufacturing facilities in eastern Colorado and some commercial dairies were purchasing milk for fluid needs from cooperatives outside of Colorado. The situation became so absurd that trucking firms would haul one cooperative's milk to Denver for fluid consumption, pick up another cooperative's milk in Denver, and haul it back to Ogden, Utah, where it was processed into hard cheese. Dairy farmers soon realized the only persons benefiting were the trucking firms, and they began to investigate how to save needless freight costs and at the same time share the higher returns associated with the fluid market.

Thus, WDCI was formed in 1972 to eliminate needless freight costs and allow dairy farmers to share the higher returns from the fluid markets in an orderly manner. WDCI provided the vehicle through which member cooperatives could market their milk under

the provisions of the Capper-Volstead Act. A considerable amount of legislation has been written by the Congress granting farmers the right to organize for the purpose of marketing their production and protecting their rights to join together. The first of these actions, Section 6 of the Clayton Antitrust Act, was approved in 1914, granting farmers the right to join associations for "legitimate" purposes, but failing to spell out what those purposes might be.

In 1922, we saw passage of the Capper-Volstead Act, the Magna Carta of cooperative marketing. This legislation clarified the right of farmers to jointly market their products. It remains the single most important legislative act through which farmers can address their marketing needs.

Within the framework of WDCI, member cooperatives could put all their milk in one can, sell the entire can, subtract administrative and freight costs from the sales value, and return the remaining value to member cooperatives, based on fixed percentages determined by milk values.

WDCI's current membership is made up of Mountain Empire Dairymen's Association, Western Colorado Milk Producers Association, Western General Dairies, Inc., Black Hills Milk Producers, Lake Mead Cooperative Association, Fort Collins Milk Producers Association, and Dairymen's Creamery Association. These cooperatives represent 2,150 dairy farmers producing 180 million pounds of milk a month in 10 Rocky Mountain States, over 90 percent of the grade A raw milk marketed in these major marketing areas.

What specifically does WDCI do? It currently performs three functions. First WDCI pools the values of members' milk. During 1979, 2.1 billion pounds of milk valued at \$254 million were pooled and these values redistributed. With their milk in one pool, Rocky Mountain area dairy farmers do not care whether their milk is sold in Rapid City, Billings, Denver, Cheyenne Salt Lake City, Boise, Las Vegas, Los Angeles, or Portland, because they all share in the total return from the sale. If fluid sales are lost by a large or a small member cooperative, the other members take up the slack until that cooperative is able to gain back the sales. The WDCI pool allows dairy farmers to share markets without having to haul milk.

The second function WDCI performs is the intermarket movement of member cooperatives' milk, handled by a fleet of 6,000 gallon tankers. These tankers move milk from the closest available source to deficit markets in the fall and winter months. When milk production exceeds demand for fluid consumption in the spring and summer months, milk is transported to modern manufacturing plants. These plants convert milk into storable products such as cheese, butter, and skim powder.

Third, WDCI owns a cheddar cheese plant in Richmond, Utah, where surplus milk is converted into 40-pound blocks of cheddar cheese and whey powder to avoid costly "dumping," either physically or through the market, during periods of high production. Members sign marketing and pooling agreements, but the only marketing functions performed by that organization are those mentioned. All other marketing functions are performed by the member cooperatives.

The capital necessary for transportation equipment, for the manufacturing plant, and for other areas is provided to WDCI by member cooperatives in the form of a capital retain based on 2 cents per hundred-weight of milk marketed.

WDCI is administered by a 13-man board of directors composed of executive officers from member cooperatives. This board is the policymaking body. There is also a management team including the general manager of each member cooperative. The chief administrative officer in WDCI is the coordinator, and he works closely with the board and management team. Policy recommendations are formulated by the management

team, acted on by the board, and, if passed, implemented by the coordinator. The administrative, transportation, and manufacturing divisions are also administered by the coordinator.

Like all organizations, WDCI does experience problems. Sometimes the interests of an individual cooperative are directly opposed to that of WDCI. An example of this is found in the operation of manufacturing plants, where milk is needed to make a manufacturing plant profitable. A member owning such a plant may not be willing to remove milk from the plant for fluid markets, especially if that member has a small percentage of the WDCI pool. In this case, the federation pays a reserve supply fee to the plant for milk removed from fluid markets. But as you can see, the interests conflict. It is not a conflict which cannot be resolved, but it can be difficult.

All farmer cooperatives face problems in Washington. Since we are only one in a thousand, we will continue to experience problems in this area. Currently before Congress is a National Agricultural Bargaining Act, designed to overcome problems of processor discrimination against members of bargaining associations. There is presently no requirement that bargaining take place or that a processor must deal with a producer association.

Securing recognition in the marketplace that enables one to have a voice in determining the price for his product is essential for the farmer. It is this that makes him a marketer. Without it, he is simply a producer and price taker. Those who question the use of cooperative marketing associations or the right of farmers to bargain for price and other marketing conditions fail to see that agriculture is really the only business in America that comes into the market and says, "What will you give me?" Everyone else says, "This is my price."

There are some questions raised by the terms of the National Agricultural Bargaining Act which must be considered. If we are to add to present legislative authority, the additions must be solid gains. They must not present new problems or expand on existing ones.

One thing said about the National Agricultural Bargaining Act is that it would add little if anything to the ability of dairy farmers to conduct their marketing efforts. The reason behind this observation? For the most part, farmers through their cooperative marketing associations have been able to achieve recognition in the market place. They are able to bargain for price and terms of sale for their product.

The first problem in the proposed legislation bears on the Capper-Volstead Act itself. In defining "association," the legislation is based on the Capper-Volstead Act and other related laws. In defining "producer," it borrows language from the Capper-Volstead Act, "...a person engaged in the production of agricultural products as a farmer, planter, rancher, poultryman, dairyman, fruit, vegetable, or nut grower...." It goes further, however to include "...a grower or farmer furnishing labor, production management, or facilities for the growing or raising of agricultural products."

It is in this latter area that the concern arises. In the National Broiler Marketing Association case, broiler integrators claimed they were entitled to status as farmers under Capper-Volstead because they did provide at least a part of the production management. The circuit court denied this claim and the action of that court was upheld by the Supreme Court even though the high court did not actually decide who, in fact, was a farmer.

My concern is that an argument could be made that this legislation, as presented, represents a later view by the Congress of what a farmer actually is and therefore should have merit with the courts in a case similar to National Broiler. This would

allow integrated processors use of the cooperative structure and would, without question, bring about a new look at Capper-Volstead by Congress. Beyond that, it would seriously damage the ability of farmers to effectively market through cooperatives.

The second basic problem I see is an expansion of an already familiar problem. As mentioned earlier, one problem we faced in developing sound agricultural marketing programs is the unwillingness of farmers to forego their local or individual interests for the benefits of group action.

With the possibility of multiple bargaining association accreditations in a market, we are talking about creating and legitimizing splinter groups which can actually weaken farmer efforts.

Marketing, as you all know, is not easy or simple. It takes work and it costs money. In WDCI, we are able to do a job because the members of the cooperative are dedicated to the task and are willing to commit their personal effort and capital to the job. But this would seem to offer a short cut. Without the investment of time and money, without the commitment to meet the needs of the market, a group could gain an immediate degree of recognition in the marketplace simply by being accredited by the Secretary of Agriculture. Such splinter groups could form for a variety of reasons. Unhappiness with existing cooperative policy or management, dissatisfaction with the costs entailed in cooperative membership, or other reasons might be the cause. The result would be the same -- a splintering and weakening of the effort of all farmers in the marketplace.

I know that some have suggested that the Secretary would or should adopt rather stringent standards for gaining recognition as a bargaining association. But being realistic, one should recognize that pressures to grant this will be there with as few requirements as possible.

I applaud the effort to strengthen the ability of farmers to negotiate for the prices they receive for their produce and other terms of sale of their products. As I said before, this is an absolute essential. In this, as in most things, there are really few shortcuts. Even the enactment and implementation of the National Agricultural Bargaining Act will not provide a complete answer since the legislation simply requires that bargaining take place--not that an agreement be reached.

I honestly believe that in order to achieve success, farmers must accept the fact that they must move into the marketplace themselves. They must accept the responsibility of providing market services that don't directly benefit the producer, but indirectly maintain the basic stability of the market on which the producer depends. They must be able to do all of those things we normally cover under the general heading of marketing.

Those are of the problems WDCI dairy farmers face. In closing, I would like to summarize some of the successes we think we have achieved.

How successful have we been? If growth is a measure of success, then WDCI has been successful. The number of cooperative members has increased from 5 to 7, and the volume of milk marketed has increased by 77 percent from 110 million pounds in January 1972 to 195 million pounds in January 1979.

If longevity is a measure of success, then WDCI is successful, since we have withstood 8 years of boardroom fights and politics. (In the West, we call that policymaking.)

If saving money on freight costs is a measure of success, then WDCI is successful because today milk moves within the WDCI system only when needed, and then is moved from the closest available source. When needless double hauling of milk between Denver and other areas was eliminated, Rocky Mountain area farmers saved approximately a half million dollars per year.

If processing milk was not needed for fluid markets in plants owned by WDCI for its cooperative members rather than "dumping" the milk on the market for what it will bring is a measure of success, then WDCI is successful, because within the system there are five modern manufacturing plants to convert milk into cheese, butter, and powder.

If being able to supply customers with an adequate source of quality milk upon demand is a measure of success, then WDCI is successful, since they move milk from reserve supply areas in Utah and Idaho during periods of high demand to the metropolitan areas.

If being able to put a large volume of milk together in one common pool and share the returns in an orderly manner is a measure of success, then WDCI has been successful, since the pool allows all dairy farmers to share in sales gained anywhere within the system.

If having the advantages associated with large cooperatives marketing milk under the provision of the Capper-Volstead Act and maintaining the identity of member cooperatives are measures of success, then WDCI is successful. It is not as easy for a federation to work together as it is for a cooperative which can speak with one voice. It's slower; it takes time. But it can work!

I feel that the American economy will not suffer from cooperatives being too strong, as many in Washington would have us believe. I believe the American economy will suffer because cooperatives are not strong enough.

EROILERS

Walter Shockley, Jr.
Peninsula Poultry Growers Association

The broiler type chicken started on the Delmarva Peninsula about 50 years ago, the first house with 500 capacity. Today there are farms that have over 100,000 birds. The industry grew from 0 to 10 million birds per week in this period of time.

There were times when you could hardly give a finished broiler away, but there have also been times when \$1 profit per bird was possible. At times, chicks have been put in houses the same day the older birds were moved out, and at other times there have been layouts as long as 7 weeks.

In earlier days, there were over 100 small companies to grow with. Today there are only 10 in our area. In all the United States there are only 60 companies that produce the majority of the poultry, 20 of which produce 60 percent of the total. So you can see that 20 companies basically control the U.S. dressed-poultry market. Five of these companies have paid fines imposed by the USDA for price fixing the last 2 years.

In 1969 the grower was paid approximately 2 cents per pound liveweight for labor, electricity, and housing to produce the bird. Today, with double digit inflation, we are receiving 2-3/4 cents per pound. The electric bills have risen six times, labor costs have doubled, and the cost to build new houses increased three times in 10 years.

There have been attempts to prevent today's problems. In 1968, the Farm Bureau sent William Jasper to Delmarva to organize the growers. He was met with all kinds of problems. The integrators wanted no part and sent their representatives out to talk against any meetings. It was made very clear that this sort of thing would not be tolerated. An element of fear was instilled in the growers that remains today. Those who did join with Bill Jasper were intimidated by extra layout time, inferior baby chicks, not moving the finished birds at the proper time--thus a poor performance and a smaller pay check. Broiler processors convinced the majority of the growers including myself that his type of organization was not needed. Some reasoning was that the importance of our part always would put us first to get a fair return. This did not happen.

The processors then went on a very heavy advertising campaign to get more houses, new customers, and convince the old growers to build new ones to have more income. Rather than give us a pay raise, we were programmed to the idea of more income through volume. Our pay increases only averaged about 2 percent per year.

In 1978, profits were huge but contracts still were not increased. If we complained we got the same old story, next time for sure you will get a raise. None came. Then in 1979 prices of broilers were down, grain and inflation were up, and again no increase in pay to the growers. Income was cut further by long layouts between flocks. Things were steadily getting worse, and as individuals our complaints were disregarded. Something had to be done. I called a friend of mine to discuss the situation.

Things began to happen. We set up a meeting and invited other growers. The interest was great and we were excited. At our next meeting, we decided that each person would bring another and our attendance would double each time.

On August 10, 1979, Peninsula Poultry Growers Association (PPGA) first met together. We advertised through the total media, and they gave us good coverage, both on TV and in the Daily Times. The processors met our accusations with denial or "no comment."

Were there repercussions?

In less than 1 month, six of the eight board members had either been cut off altogether or had at least 20 percent of their capacity cut off.

All kinds of excuses were given for the integrators' actions, but we knew they were only excuses. We contacted a lawyer, but we were told there was no way to prove discrimination.

We held our meetings in homes and the county extension office. We planned to rent a larger meeting place, but canceled this idea after contacting our members and being told they would not attend for fear they would lose their contracts if company personnel were present. Our registration was done mostly by phone and mail. There was much interest and many told us they wanted to join, but were afraid. The dues were set at 50 cents per thousand capacity annually per one flock basis. The board served without pay. The money taken in was used for advertising, printing the newsletter, and postage.

Several members of the board received calls requesting information from people refusing to identify themselves. They posed such questions as what our organization stood for, how many members we had, and exactly what we intended to do. There was no doubt in our minds that most of these calls were from integrator personnel, considering the fact that growers who had joined were asked these same questions by company personnel. Under the circumstances, we decided that the number of members must be kept secret until our growth was at least 50 percent of the present growers.

The owner of one of the broiler processing companies rating in the top five of the Nation came in to discuss our organization at length. Naturally, he was not enthused with the idea, but said it had to happen sooner or later, and that he would much rather talk to five or six representatives than to each individual grower. He said he doubted we could control the majority or get the growers to mutually agree on our need and demands. He foresaw that a raise in contracts would eliminate some of the smaller processors and thereby make the growers' position more vulnerable than ever.

PPGA is using a Ralph Nader-type approach. We hope to keep the processors unsure of our strength. Intermittently we release different facts concerning the industry to the news media about different processors. Another example of our efforts is that one of the largest processors was going to expand in a completely new area 250 miles away. We mailed letters to the chairman of the board of directors of the area banks, Farmers Home Administration (FHA) offices, Chamber of Commerce, the County Council, local planning boards and the P.C.A. and Federal Land Bank Association. The letter described our situation as it really was in contrast to what was being presented. We invited them as leaders of their community to come to our area and see for themselves. Their response was there must be a lot of problems for us to go to these lengths to warn them. They were glad to see an organized effort to help the family farm. We also met with our Congressman and house of delegates member to air our problems. The bi-State leader of FHA met with us. We gave him figures to prove new housing was a very poor investment. We had a professor of economics from the University of Maryland do a study on the growers' portion of the industry which was presented as proof that new housing was unprofitable. All of these were released to the news media as they occurred.

What future our organization has depends on the leaders of PPGA. How much can they stand, and how much of a financial squeeze can they take? Growers say many eyes are upon PPGA. We are right in this endeavor and everyone in the poultry business knows it. The balance of power is now in the favor of large corporations, but we must put forth all the effort we can to win back respectability.

Why did I go to the trouble of telling you this story? Because I believe agriculture in the United States today is in grave danger of being taken over by big corporations. I believe the poultry business is just an example. Many of our Congressmen and top leaders believe this is the direction agriculture should take.

The grower furnishes all the land, buildings, electricity, and labor. The integrator furnishes only the seed and feed. Today's grower has as much and maybe more money involved than the integrator at any given time. The integrator uses the grower's facilities when he sees fit, giving the grower only a one-flock contract and no security that there will be a second.

I am asking all of you present today, as respected leaders of your chosen profession, to go back home with this thought in mind. Whatever steps you have to take, do not let the community you represent be taken over by large corporations as in the poultry industry. You, as leaders looking into the future of agriculture, do the things you must to prevent the takeover of the lives and income of your farm families. Look at our mistakes and don't let them happen to you.

PPGA has an almost impossible job to do. But we are going to fight for growers' rights. We must realize a profit or we have no future.

TOMATOES

Richard Ricker
LIBGRO, Inc.

I would like to take you back and tell you about our organization and how it started. The idea of a grower association at the Libby plant at Leipsic, Ohio, first surfaced almost 2 years ago. I was made aware of it at this time in a conversation with Paul Slade and felt it would be feasible. The Ohio Farmers Union and Ohio Farm Bureau realized that tomato growers for Libby had much to gain by cooperating to achieve common goals. With this in mind, they entered into a joint agreement to help growers increase bargaining power.

A steering committee of growers was formed with an equal number of Farmers Union and Farm Bureau members to work on preliminary planning. This committee went to work, but at times it appeared that nothing would come of the venture. The excellent leadership of both Paul Slade and his Farm Bureau staff and Virgil Thompson and his Ohio Farmers Union staff held the group together and led them through the rocky places.

LIBGRO was incorporated as a cooperative, articles and bylaws provided for control by its grower members, and a marketing agreement was set up between members and LIBGRO. The board of directors is authorized to contract for management service. A member of LIBGRO must be a member of Farm Bureau or Farmers Union and grow tomatoes for Libby.

The responsibilities of the Farmers Union and Farm Bureau in forming the association are as follows:

- A. Ohio Agricultural Marketing Association (OAMA)--Ohio Farm Bureau Federation (OFBF) responsibilities--
 1. Tomato staff person to lend expertise in negotiations and organization.
 2. Three OFBF staff people to help with membership signup.
 3. OAMA to furnish vegetable newsletter, tomato information sheets, and other pertinent information and publications to Tomato Growers Association (TGA).
 4. OAMA to coordinate with a representative of TGA who will attend national TGA meetings.
 5. OAMA to organize a meeting of State tomato growers to set common bargaining goals.
 6. OAMA to help develop bylaws and membership agreement for TGA (OFBF legal counsel to check and approve these).

B. OFU responsibilities--

1. Provide staffing to help in organization and membership drive (staff persons preferably).
2. Provide meeting rooms and desk space for TGA.
3. Provide secretarial help for mailing meeting notices to TGA.
4. Provide bookkeeping and accounting services for TGA.
5. Provide telephone contact for any grading, harvesting, or labor problems that develop during the season.
6. Provide membership agreement forms, bylaws, and sales brochures.
7. Aid OFBF in preparing new media releases on the proposed joint venture and publish articles promoting the same.

Several growers and staff personnel were very successful with contracts to sign growers. When we had 60-65 percent of the growers signed, we informed the processors and found out they were already in the field with a contract \$6 per ton higher. Another processor was finished contracting \$6 per ton less. We approved the price and dealt with Libby on some other parts of the contract. Since we gained membership this past summer and recently signed several more contracts, we are in a very good position at the present.

The grower board recently approved a contract for management service with the Ohio Agriculture Bargaining Association. I think it is unusual for two farm organizations to come together in a joint venture to help tomato growers organize a bargaining group, since there is no financial gain for either party involved.

The rest of my time will be spent on bargaining experiences and viewpoints, although I consider our experiences very limited. We have become aware, however, of some situations that do affect us and other tomato growers.

Several things need to happen in Ohio for LIBGRO or any other group to be effective in tomato bargaining. We need bargaining groups around every processor, and these units need to act together through one management organization such as OAMA. Without a management organization, we will all have different goals, and after a few meetings the processors will check notes, decide which proposal is best for them, and go with that. Local bargaining units can function very well with local situations, but pricing will have to be a united effort. Bargaining for price will be a very tedious job, so every grower board needs to do its homework. It would be very easy to price ourselves out of business. In Ohio I feel bargaining legislation is only a crutch. We definitely need amendments to the present legislation. The timing might be about right during this year.

We need to inform the public on what makes food the price it is today. What are the processing, transportation, packaging, and raw product costs. I imagine most consumers would be surprised to find out the can or bottle is worth more than the raw product. Often when the cost of living is announced, food is mentioned as one of the contributors to the high cost of living. Usually raw products have increased very little. One dollar per ton added to the price of tomatoes in many situations would only amount to a 1-cent increase per case, not per can.

The tomato industry is presently troubled with low prices, and as we look at this, some of the blame has to rest with growers. We have made great progress in the industry. Yield per acre, both raw and finished products, has increased. More mechanization requires less hand labor. This is great and sounds good, but it doesn't ensure a profitable crop. The processors have also progressed very rapidly, which brings us to the situation we are in today. Large inventories only have one outcome, lower prices. There is California paste coming into Ohio at prices below the cost of production. This tells me that somebody is in trouble and trying to get out. He will possibly move the inventory but go out of business in the process.

Growers need to become very involved with the processor to keep inventories under control. The time when growers and processors should analyze the market and get production in line with demand is now. The 1980 crop year will be a very difficult year for everyone. Only if we are prepared to make some acreage and tonnage reduction can we prevent catastrophe.

PEARS

Joe W. Mapes
California Canning Pear Association

What is meant by the term "sliding scale?" Is it effective? And will it work for all bargaining associations in their price bargaining negotiations with prospective buyers?

The sliding scale concept of price bargaining is nothing more than an economic system of relating the price of the commodity to the actual volume produced. If the volume is up, the unit price will be less, and of course, if the volume is down, the unit price increases. This arrangement should provide protection for both the buyer and the seller. This is only true, however, if an equitable and realistic base price can be agreed upon.

Before I go any further, I should point out to you that 1979 was our first season using the sliding scale concept of price bargaining. Therefore, I can relate to you only what we learned during a single season.

The California Canning Pear Association has used the sliding scale method of pricing since 1975. I must admit we in the pear association watched with a certain amount of envy the resolution of the price long before harvest time each season. This is in contrast to our advancing well into the harvest season before the price is resolved, particularly in years of large crops.

A number of our board members and others suggested earlier pricing many times through the years, but canners were always reluctant to deviate from the tradition of setting the price after a substantial amount of Bartletts moved off to fresh markets. The only times we were able to resolve the price early was when there was a short crop of Bartletts on the Pacific coast, which has seldom been the case during the past 26 years the association has been in existence.

Most, although not all canners, were reluctant to discuss sliding scale pricing with us in the beginning because of the complexities of the Bartlett pear industry on the Pacific coast. They were quick to point out that not only are Bartletts raised in

California, but Oregon and Washington also produce substantial tonnages. They also emphasized the fact Bartletts have multiple uses, such as the fresh market, drying, juice and concentrates, for fermentation as well as for processing by the canners. Cling peaches, in contrast, are all produced and used by the canners in California.

However, we were encouraged this past winter when exploratory discussions indicated that a major proprietary canner as well as the processing cooperatives, was interested in working out a sliding scale pricing arrangement. Because of the multiple facets associated with the Bartlett industry, we had four alternatives to consider as a basis for setting up the sliding scale:

1. Entire Pacific Coast commercial crop
2. Entire California commercial crop
3. Bartletts canned on the Pacific Coast
4. Bartletts canned in California only

We used the total California commercial crop, which includes fruit going to dry yards, and for fermentation, simply because the majority of the proprietary canners insisted on it. We hope next year to eliminate fruit for drying and fermentation uses from our formula. We have a State marketing order in California for Bartletts for canning and a Federal marketing order for pears going to fresh market. As a result, fruit falling into these two categories is inspected, certified, and assigned certificates. Pears going to dry yards and winery are weighed but not certified as to grade or size, and it is cumbersome accounting for fruit in these last two categories. Therefore, we will not include this tonnage this coming year.

We then did our homework and developed a set of figures showing a 5-year average production of Bartletts commercially used in California, including pears for fermentation and drying. We adjusted our average production figure upwards several percentile because of high-density plantings coming into full bearing. We also established increments at the rate of \$3 per 10,000 tons, and finally refined this to 3 cents per 100 tons. This was done to get away from any large adjustment, should the tonnage fall just below or above any 10000-ton break. We also established a ceiling and a floor, whereby no further adjustment would be made either above or below. We established a maximum figure at 365,000 tons and a minimum of 285,000 tons with the base figure at 325,000 tons. This gave us a total range of 80,000 tons or 40,000 tons on either side of our base figure. Pricewise, this provided us with a total range of \$24, or \$12 up or down from our base.

The final step was to establish the base price which, of course, was no easy task. Here you're really back to square one, where you must use your skills and the price bargaining expertise developed over the years. However, we felt the canners were more willing to negotiate a somewhat higher base price, knowing there was a potentially large crop of pears, but also knowing they were protected by the sliding scale should the crop be underestimated.

Is the sliding scale concept of price bargaining effective? Yes. It was effective for the California Canning Pear Association for the 1979 season. We feel two essential things were accomplished. One, we were able to bring about early pricing, which eliminated the grower's waiting until late in the harvest season before knowing what he was going to get for his fruit. Although a final adjustment is not made until all the tonnage figures are finalized at the end of the harvest season, the grower at least knows at what level the base price has been established. Secondly, we were able to get away from the influence the fresh market has on the industry. Any of you who have ever sold commodities to the fresh market know how volatile this market can be.

As I indicated we have only 1 year with the sliding scale under our belts. We are pleased with the progress we made this past year and hope we can continue to progress in the future. Maybe this is unattainable and can't be achieved. But at least by using the sliding scale, we now have one more tool, and we're going to give it a try.

Would the sliding scale concept of pricing work for all bargaining associations? We are not prepared to answer this because of the multiple variables involved with the many commodities represented by the various bargaining associations. All we can say is that it is one more tool each organization can look at and then decide whether or not this concept will fit its needs.

FARM PRICE DATA: AVAILABILITY AND ADEQUACY FOR BARGAINING

THE USDA PRICE SUPPORTING FUNCTION

John W. Kirkbride
Economics, Statistics, and Cooperatives Service

Agricultural prices have experienced rather dramatic conceptual and interest changes during recent years. Just a few years ago, prices were generally considered as simmering slowly on the back burner. The general attitude was, "Who gives a damn about agricultural prices?"

The sharply increased foreign grain sales starting in 1972-73 suddenly shifted prices to the front burner. Grain prices in particular experienced significant price swings. The burdensome supplies of government-owned grain began to diminish, and for some commodities completely disappeared. Foreign demand had a welcome upsurge. Production input costs, particularly energy, started a steep escalation. Government produced new terms known as "target prices," "deficiency payments," and "farm grain reserves." The American Agricultural Movement was born and assumed as part of its major diet the word "parity." These activities all surfaced in the surprisingly short period of about 5 years. Each focused various degrees of attention on agricultural prices. During that period, we have come to recognize that a lot of interests "give a damn about prices."

Historically, agricultural prices were largely associated with the prices received index, prices paid index, parity index, parity ratio, and parity prices. Legislation defines several of these terms as well as the base period to which they relate. There is frequent criticism that the definition and base periods are archaic and no longer meaningful. I will not debate those issues, but will attempt to present changes that have taken place in recent years designed to improve the coverage and reliability of prices. It is assumed that this audience is primarily concerned with prices received by producers.

DESCRIPTION OF PRICES RECEIVED

The series was originally instituted in 1866 with the collection of prices for 10 crops as of December 1; January 1 "farm values" of six species of livestock were collected beginning in 1867. Price data were initially collected to provide a basis for measuring the economic well-being of farmers, both in terms of the per-unit value of crops and livestock and for valuing total production of crops and livestock inventory.

From the modest beginning with annual data in 1866 and 1867, monthly collection of price data for a limited number of commodities began in 1908. Commodity coverage was expanded from time to time until in recent years, coverage included 60 major products.

The basic concept involved in this series is that of a price which when multiplied by the total quantity of the commodity sold would yield the total amount received by all farmers for that commodity. That is, prices received by farmers are estimated to reflect sales of all classes and grades of the commodity being sold. Estimates related generally to average prices farmers received for their products at the point of first sale.

The primary reason for this definition of price is that one of the chief uses of the price data is to evaluate marketing of commodities, and thus to develop estimates of income to agriculture, which is a part of the National Income Accounts. Estimates of production of agricultural commodities relate to the broadly defined commodity and do not differentiate for market grades and classes. It has never been feasible to make estimates of production or sales on such a refined basis.

The current need for these price data exceeds many times over the original need, reflecting the ever-increasing complexity and interdependence within the agribusiness sector of the economy. There is an increasing demand for more detailed price data, in terms of both geographic detail--data by price-reporting districts within States--and commodity detail--varietal prices, for example.

In the area of public decisionmaking, the macrostatistics of gross farm income, net farm income, and gross national product (all having as one component the data on prices received by farmers), are among the major indicators of the progress of the national economy. Prices received for major farm commodities are also used in computing the index of prices received by farmers, an important indicator of the economic well-being of farmers. They are also required in the computation of parity prices which have played an important part in the administration of price support and marketing agreement programs.

SOURCES OF DATA

The universe of prices received by farmers is conceptually the total transactions in which the ownership of farm products is transferred from the farmer to the first buyer in the marketing process. In actuality, scientific sampling from this universe is very difficult, not only because of the numerous channels through which farmers sell their products, but more importantly by reason of the changes over the years in the structure of agricultural production.

Collecting valid and meaningful price data, once a relatively simple operation, has become a very complex procedure, and some lagging of this process behind the dynamic changes in marketing is inevitable.

In practice it has been necessary to make compromises. Developing a complete sampling frame of all the interests that participate in the marketing of farm products would be a tremendous task, one that would far exceed all the resources that have ever been available for this work. For most commodities, certain major types of marketing channels are more or less clearly recognizable and account for most or at least much of the total marketings. It has been to these channels that efforts at data collection have been primarily directed.

Prices received by farmers for products they sell are collected from various primary sources, mostly from voluntary reporters.

Prior to the past 2 years, most of the data on prices received were collected by means of a mailed questionnaire. To some extent this was supplemented by enumerative checks of various types. The application of probability sampling and personal enumeration methods to price data was limited by cost considerations.

Beginning in fiscal year 1976, funds became available to initiate probability surveys for a limited number of commodities. The decision was to start with major grains and cotton. Pressures to start with these commodities came from the development of target prices and deficiency payments. Legislation stated that the deficiency payment would be represented by the difference between the target price and the average price received by farmers during the first 5 months of the marketing year. At that time, prices received were tied to the mid-month price. Weights which used to arrive at a 5-month weighted price were tied to historic marketing patterns, generally the average of the 3 previous years.

Neither of those procedures seemed appropriate nor adequate to provide a reliable 5-month average price. Recognition by Congress of this need in the form of added funding permitted the department to undertake modernization and improvement of the prices received series.

MODERNIZATION OF THE PRICE SERIES

The initial effort to modernize the price series was to conduct a national survey to determine the marketing channels used and the relative importance of the various channels. The survey was conducted in 1977. Results of the survey are available from the Department. It was also decided to expand the period to which the prices related and to obtain current monthly marketing weights. This was approached by obtaining total marketings during the preceding month and the total value of such marketings. It was recognized that this procedure would place added burden on the respondent, since it would require more effort to report a full month's activity plus the traditional mid-month estimates of "average of typical" prices per unit. However, the results of the market channel survey permit the development of more scientific samples which can be used to provide reliable results based on a relatively small number of respondents. The program is now in place for grains and cotton. It turned out to be a timely change in view of the deficiency payments that were authorized in recent years. For example, deficiency payments for the 1978 crop amounted to \$616 million for wheat, \$88 million for corn, \$180 million for sorghum, \$79 million for barley, and \$42 million for rice--or a total of slightly more than \$1 billion. The importance of having reliable price levels is vividly illustrated by the deficiency payment for corn. Each penny of the deficiency payment translates into nearly \$30 million.

In addition to the change in coverage produced by the modernization, the method of collection has also shifted away from the mail survey to an enumeration type survey, either by telephone or personal visit. We believe this provides a better opportunity to communicate with the respondent relative to the information to be reported.

As funds have been increased each year by the Congress to modernize price statistics, the commodity coverage has been expanded and now covers most crops as well as livestock in about 25 States.

One of the serious problems encountered in developing monthly price estimates is associated with the payment practices used by farmer cooperatives. The practice of initial partial payments followed by final payment at the end of the year can and does have an impact on the monthly estimates. This is of particular concern during the early months of the marketing year, that period upon which deficiency payments are based. Rice is an excellent example of concern since about half of the crop is marketed through cooperatives.

• Price Concept Changing

Another area of concern is associated with the changing marketing practices of producers. An increasing number are performing some service prior to the point of delivery or point of first sale. Potatoes illustrate this change. Producers are now

performing numerous marketing services prior to sale, such as grading, washing, and packaging. The value of the first point of sale is a cost to the grower which is not reflected under the current concept of price.

We are now working with the National Potato Council in developing a two-price system. One price will continue the current concept of value at point of first sale. The other price will reflect the net value to the producer. This will reflect the producer costs associated with the services they perform during the marketing process. Pilot work was started in five major potato States this past October. We will monitor the procedure for this marketing year, and if it proves reliable will expand to all potato producing States for the next crop year. One of the major factors of success will be the willingness of producers to provide the needed information.

We are also trying to develop a similar procedure for apples. Our exploratory work has been done in New York to develop an on-tree price. Results to date are not encouraging, as producers have shown little interest in cooperating in such a procedure. However, these initial efforts do point the direction for future price procedures. We are optimistic that our statistical skills combined with producer interests will result in a cooperative effort that will provide meaningful and reliable price information.

VIEWPOINT OF MICHIGAN AGRICULTURAL COOPERATIVE MARKETING ASSOCIATION

Harry A. Foster

Let me comment and discuss the areas of concern we have in data collection, reporting, and so forth. In our marketing association, we rely heavily upon market and crop data that is produced not only by the Government or U.S. Department of Agriculture, but other industry sources. Good information is certainly at the heart of decisionmaking. Frequently we have critics of our association say, "We don't need a marketing association. All we have to do is get on the mailing list and we'll know everything that is going on." Well, we do use those same sources of reference, but we do think it is very important to interpret what they are saying as it relates to the exact circumstances that exist. And we do know that those circumstances change almost day to day, and from year to year. Interpreting crop and market information is, I think, an important function for us.

We've held a number of meetings with the local USDA representatives to express and discuss our concerns. One of the examples I might cite was in the red tart cherry industry a number of years ago. Since Michigan produces about two-thirds or three-quarters of the national crop, we thought that it was imperative that we not have several reports during the course of the season. There is a June crop forecast report, a followup in July, another one in August, and then a wrapup in September. It became very clear that those extra reports were really not going to accomplish anything, so we went to the Department and asked them if it were possible to institute just one good crop forecast report, namely the objective yield survey. We basically said that the report had to be timely and accurate, or we didn't need it.

With that kind of a format, we were able to put into position the objective yield survey. It's a rather complex, involved, and I should also say, I suppose, an expensive process to go out and count buds and go back and count cherries from a large sample of trees throughout the State, and come up with the forecast. I would have to say at this point that the last 3 or 4 years, the forecast has been within 1 or 2 percent of what was harvested. We believe that the investment of time and effort for

the program has been quite worthwhile. Certainly, in my opinion, the extra update surveys that would have come in on that crop would not change the market picture unless the change was drastic. And that has not been the case. I feel that for a number of our crops like grapes, maybe apples, pears, and plums (I'm speaking for Michigan; people on the west coast might feel differently) that after the first report comes out in July or August, that almost anything said after that really doesn't mean anything.

Once that first report hits, the market decisions start rolling and that pretty well ties down what is going to happen until the crop is in. I've discussed this with our crop reporting people, that we really don't benefit very much from the time and effort of multiple reports. Some farmers "trash-can" those reports and surveys that come to them. While we encourage them to fill them out and respond, it does in their mind represent a bit of, I guess I'll call it red tape harrassment. It really isn't. We know how valuable good information is, but a lot of farmers--rank and file--disagree with us.

Another area that we are extremely concerned about in the cherry industry is the Cold Storage Report. Almost everyone in the processing or freezing business watches that every month. We try to calculate what disappearance has taken place each month. Has the product been moving out of warehouses into consumption? Occasionally when the market is very sensitive, riding a very thin line over whether it's going to collapse or maintain itself, we'll see a report adjusted for the prior month 2 or 3 million pounds. In the asparagus deal last year, we ended up with a report that was really a bit out of position because of the way the harvest was progressing and just how things were adding up. There wasn't anything we could do about it. Once it went into print, it was etched in cement and everyone said, "There it is." So I think that adjustments of cold storage reports, at least in our experience, need to be watched carefully. Obviously, if they were to report it downward, why we'd say "hurrah." But when they readjust the report upward by 2, 3, or 5 million pounds in a sensitive situation, it creates a real market and price problem.

One other concern that we have is the sources that are used. When we deal with growers, we have to streamline and simplify these surveys to get good cooperation from the people filling them out. We've also had experience with processors and their fieldmen who have a good feel for what the crop looks like. Many times their influence on reports weighs as heavily as the grower's survey.

I'm in favor of the type of reports that would approach objective yield surveys. And I think we need to deal more with actualities rather than hearsay. We know that in sensitive situations, prices are quite psychological. The whole market is riding on a thread of "is it" or "isn't it?" I think we should avoid anything that would cause the market to collapse, because once the product has moved from the farmgate, the farmer has little recourse to what might happen later on, unless he's a member of a cooperative. And while there are more and more cooperatives, we still need to be very concerned about what is going on in the cash market for not only real dollar and revenue concerns, but for legal implications that seem to spin off from that trend.

Another area of concern is the coordination of data. There are the market news people, the Crop Reporting Service, and in the case of cherries, the Federal Marketing Order--all three functioning under the auspices of the U.S. Department of Agriculture. We've held some recent meetings to try to coordinate or get them to coordinate their releases. For example, in the cherry industry we have Market News giving us a week-to-week report of how many cherries have been delivered for processing. At the end of the season we have three different groups (Market News, Crop Reporting, and the Federal Market Order Cherry Administrative Board) within the Department or under their auspices giving us a final report, and there have been occasions in the last couple of years where they didn't match up. They've got to reconcile that in such a way that

the reports from a grower and a marketer's standpoint give us a basis or credibility to say, "this is it." I think that is very, very important.

We've also seen a great increase in the amount of co-op activity. In Michigan, we're dealing with a grape industry with about half of the crop going into a cooperative. The reports Mr. Kirkbride indicated are very important. The cooperatives start out with advance payments, with followups over the course of the next year or so. In the case of cherries, right now we're also looking at about half of the crop being in the hands of either growers, processors, or cooperatives. Price needs to be carefully monitored and updated as payments are made to the growers.

We think there is an area where USDA probably walks a very thin line in terms of reporting, and the timeliness and extent of its research is crucial. When pricing is going on at the beginning of a season (and in most cases with which I am familiar the pricing does begin the beginning of the harvest season) and continues to develop during the course of harvest, we really want the reports. Sometimes reports haven't been well researched. When reports do come out that say the price is thus and so when in fact it has already moved above that, we have a price time lag problem. We think basically that all sources of Government or other data must be timely and accurate, or really, we don't need them.

Just one last thing I might add is that I think that it would be very helpful if somewhere, either annually or incorporated into a publication of a report, that some definitions were set forth. I know a lot of things are footnoted, but we need to know, commodity by commodity, how the computation has been put together because we talk about farmgate, "on the tree," and a lot of other things. I think those things need to be set forth so we can clearly understand what those reports are really saying and can better interpret them so they are more valuable and meaningful to the grower, the specific commodity people, and to the food industry in general.

VIEWPOINT OF RAISIN BARGAINING ASSOCIATION, INC.

Kalem H. Barserian
RAISIN BARGAINING ASSOCIATION, INC.

I have had the honor of being involved in the farm bargaining scene for the last 10 years, and I must say that little progress has taken place.

Bargaining for a fair and reasonable price seems easy in theory, but it is actually difficult to convince your fellow grower to join the bargaining association, and even more difficult to get the processors to negotiate in good faith. The topic, farm price data availability and adequacy for bargaining, probably means different things to different commodity groups. In the raisin business it has a wide range of meanings.

The California raisin industry represents approximately 4,200 growers who obtain a major part of their income producing raisins from grapes grown on farms averaging 35 acres. The value of an acre of developed Thompson Seedless vineyard is approximately \$14,000. Raisins are produced in a very limited area in the State of California. The Raisin Bargaining Association (RBA) was begun in 1967 and has a membership of 2,000 raisin growers producing 42 percent of the approximately 300,000 tons of production from 150,000 acres. We have 16 independent processors who are signers to our contract of sale, with a couple of well-known companies like Del Monte and Tenneco West. Since raisin production is limited to a very small area, the entire raisin industry is

seriously affected by any adverse weather conditions which affect the production and drying of grapes into raisins. In addition to the simple effects of weather on grape and raisin production, production is further affected since the grapes utilized by growers in making raisins can be marketed as fresh grapes for table use or sold to the winery for crushing and utilization in winemaking.

The raisin industry has long given vocal and financial support for Government and Industry Research. To me farm price data means collecting reliable information so management can recommend to the bargaining unit's board of directors a fair and reasonable level of price or prices for that crop season. For the bargaining unit to create a total atmosphere of credibility is not an easy task, but with perseverance and knowledge of all marketing levels it can be accomplished. Processors should never be placed in a position of educating you on the market place. You should be on an equal base with them. A natural thing happens when you are not prepared: the processor will influence the leadership of the bargaining unit on how bad things are, because that's what you are going to hear if you are not prepared from one end of the spectrum to the other.

So what is that spectrum in the raisin business, and could it apply to other commodities? In the raisin industry, it starts with forecasting the California grape crop--some 630,000 acres, 240,000 of which are for raisins. This is done by the California Crop and Livestock Reporting Service. They publish monthly and special crop forecasts during the growing season and end-of-season estimates of acreage, yield, and production. In their literature they state that they serve as an unbiased agency in making production forecasts which are necessary in the pricing and efficient marketing of agricultural crops. They also state that for the most part, the information is obtained through mailed inquiries from growers. We have a lot of input in that grower report. Representing 2,000 growers, we are able to act as one and perform that function working with the California Reporting Service.

I have found the information over the years to be reliable and credible. Working with employees of USDA has been first class. One year we disagreed on the grape estimate and further study was done. The estimate was revised downward before the harvest took place. USDA has attended industry board meetings and listened to our problems. Many changes have been made for a better grape crop estimate and they have truly done an excellent job. For the most part, their information has created the springboard for developing the raisin production figures.

Let me emphasize that they do not estimate the raisin crop, only the grape crop. The raisin crop estimate was done by an aerial survey conducted by the Crop Reporting Service 12 years ago, but the grape industry was paying about \$65,000 for the survey and the results were questionable.

What they would do as the raisins were laying on the trays in the field is fly over them at periodic days during the harvest season and photograph the number of trays to the acre. Then they would try to calculate that to the total acres and divide by some ground surveys to the weight of the tray and it just never came out right. A system was adopted whereby the two large farm cooperatives survey their memberships along with the independent processors' survey. The three major groups, RBA, Sun Maid Growers, and the 16 independent processors, each submit a crop estimate or before October 5 to our Federal Marketing Order Board. Each group's estimate is weighted by one-third to obtain an industry estimate. This method has proven very successful with less than a 5-percent margin of error in the last 12 years we have used it.

Crop estimating only gives our bargaining position one input. From there we have developed a system of charting the crop from the time it is delivered to the processor until it is taken off the shelf by the consumer. This type of data has given the RBA

the same level of knowledge as the processors we must deal with. Because of the diversity of the raisin industry, the processors will call the office for information just to check against their own information. I will mention a few types of data we get from different sources. Each month our Federal Marketing Order Board reports the industry's shipments into all markets by variety, type, and size of package. Through a number of sources, we receive price quotations for raisins by specified countries. One source comes from the California dried fruit and nut report; another is a publication out of London, England called The London Ledger. This report quotes prices for raisins from all producing countries. Different trade publications add another dimension to developing our agriculture prices.

The one report I use more than any other is a statistical breakdown of raisin sales charted by Market Research Corporation of America (MRCA) based in Chicago. This monthly report breaks down the sales component, total pound sales, dollar sales, number of households buying, ounces per buyer, percentage of U.S. households, pound price, and percentage on the deal. This report also breaks down the sales component trends for carton, bag, and snack pack items for the month. This reporting service has been used since 1970 and has truly been a valuable tool in the raisin industry.

All production and marketing information is compiled and sent out in a communique to all RBA growers and processors on a monthly basis. This slows down a lot of rumors about what is happening with the movement of the raisin crop. RBA management does weekly and monthly interviews on the local news farm programs. This, I believe, helps to reach non-RBA members who are not receiving the proper information. RBA has two field workers who spend their work day soliciting new growers for the association.

In summary, the RBA has developed a number of price procedures over its 13 years of existence. Each and every procedure adds to the credibility of the management and board of directors of the association when dealing with our friendly adversaries, the processors.

VIEWPOINT OF THE MICHIGAN BLUEBERRY GROWERS ASSOCIATION

John Shelford
Michigan Blueberry Growers Association

The Michigan Blueberry Growers Association (MBGA) is a marketing cooperative. We take title to our members' production and sell it for them; therefore, we are not truly a bargaining association by most definitions. Nevertheless, the data bases necessary for establishing our price objectives are similar.

MBGA's primary use of price data is to determine the historical relationship of price, supply, and consumption. Second, price data are necessary for several contractual arrangements. An example of this would be marketing agreements of more than a year, based upon specified equations using price data from previous time periods--base periods.

WHAT IS USDA PROVIDING TODAY?

The U.S. Department of Agriculture's (USDA) Market News Service has reported the field price and tonnage of blueberries delivered weekly to processors in each major producing area in our Nation during harvest. It is believed the tonnage reports have been very accurate and have proved valuable in the industry. The price reporting has not been as valuable for reasons discussed by Mr. Kirkbride earlier. We see wide

variances in the prices reported in these USDA reports. I think in 1979 we saw "field prices" all the way from 28 cents to as high as 55 or 56 cents, and from our industry contacts we knew that these were not reliable price reports for two reasons: cooperative advances versus final cash payout, and added services provided by the farmer prior to sale. The prices reported are not for products with similar characteristics. We do, of course, use other reports provided throughout the year, the primary one being the Government's Cold Storage Report.

THREE MBGA REQUIREMENTS

Three needs we see for price establishment include:

(1) Reliable, objective production estimates--Production estimates are the least reliable information used in pricing. Inaccuracies in these estimates are more responsible for inappropriate pricing of blueberries than any other factor in our pricing formulas. We review our pricing formulas in hind sight. Then, when we see sales lag or progress too rapidly in the season, it's usually because of a price error based on an inappropriate production estimate. We've been off in our estimates as high as 50 percent in the years I've been in the industry, and we just can't make reliable pricing estimates with those variances in yield estimates.

(2) Reliable timely reports of the price for frozen blueberries -- Why do we need this frozen price? First, it is the basis upon which most institutional and manufacturer buyers purchase blueberries. The field price as we traditionally perceive it is not that valuable to them. Thus, it more accurately reflects the market after the harvest season. The margins necessary to cover costs between the field and the finished frozen price have a tremendous range. In 1979, packers were willing to finish the product for as little as 3 cents per pound, or as much as 18 cents per pound. Second, we need a frozen price because grade standards are uniform, based on USDA frozen-grade standards. Third, many growers become packers, and their first sale is as a frozen product, since there is no sales value established for fresh field product. The packed "raw product" in a local freezer sells either in season or throughout the following market year. This use of the frozen price data is a departure from our more traditional thinking of field price. At MBGA, we found it to be a valuable tool in pricing evaluations.

(3) Reasonable margin between field value and frozen price--How, then, do we get the field price objectives we need? We sell a great deal of our product raw and we want assurance that both prices bear a good relationship in the season. What we've done is try to determine the margin required to pick and freeze the product. This margin is primarily a calculated value rather than one established in the marketplace. It must cover the costs and reasonable profits of an efficient packing/freezing operation.

Once the appropriate margin is determined, it is subtracted from the frozen price objective resulting in a field price objective. (This margin may cause great discussion among the different packers, because if it is too high, we merely insist the packer does not know how to count the cost. If too low, the operation must be inefficient.)

SUMMARY

Obviously, in the interest of time, these comments have tremendously oversimplified the pricing mechanism. But, in summary, we would look to USDA for assistance with objective yield estimates and monitoring and compilation of frozen prices on a monthly basis throughout the year. We have watched the objective yield studies of the cherry growers, and they have been extremely accurate. We are very interested in pursuing that kind of yield accuracy in our blueberry industry.

VIEWS ON LONG-TERM CONTRACTUAL ARRANGEMENTS

INNOVATIVE METHODS OF BARGAINING

Jack Hayes
California Tomato Growers Association

I think the all-time record for bargaining innovation has to be held by California Canning Peach Association when the organization convinced growers to burn their trees to get a better price. Tomato growers haven't yet resorted to burning their fields, but we are thinking of setting fire to a few tomato harvesters. In California, we can easily grow and harvest 10 million tons of tomatoes, process 8 million, and market 6 million. Since we continually overproduce, we have problems.

California Tomato Growers Association is a relative newcomer to the bargaining arena compared with California's fruit bargaining association, since we have engaged in formal bargaining only since 1974. However, I am proud of what we accomplished over the past 5 years. During the 5 years before we undertook bargaining, the average return to growers was \$28.08 per ton, and in only 1 year was the price higher than \$30. In the 5 years since bargaining, the average price has been \$54.18 per ton and in only 1 year has the price fallen below \$50.

Tomatoes are by far the largest of California's processing crops. This past year, 6.4 million tons of tomatoes went through the canneries. Because the association represents about 70 percent of the tomato growers in the State, canners have little choice but to deal with us for this most important of their processing commodities. We did not go into bargaining until we had sufficient members signed into a bargaining agreement to be effective in dealing with canners. Under the association's agreement, the member cannot sign a contract with any canner until the canner has come to an agreement with the association.

The prices achieved by the association made processing tomatoes one of the more desirable cash crops and lacking profit in alternative crops, established growers sought to expand their tomato acreage and new growers went into the business. Tomatoes are a high-risk, high-investment crop, and after growers have invested up to \$150,000 in a tomato harvester alone, they feel committed to staying in the business.

As expected, some canners have taken advantage of this situation. Knowing that a home for production is the number one priority of every grower, they have offered contracts that specify initial payment of a percentage of the association price and no-interest, deferred payment of the remainder. The association quit doing business with one canner who offered growers a contract specifying 85 percent of the association price with the other 15 percent to be paid on a profit-sharing basis. Needless to say, according to the way he keeps books, there has been no profit on tomatoes by this canner.

In 1978, the California tomato industry was badly in need of some measure of stability in contracting for the crop. The association worked with canners on a term contract that would specify methods of achieving price and contract terms tailored to the specific needs on an annual crop for a 3-year period beginning in 1979. This resulted in signing such a contract with H.J. Heinz Company, one of our major processors, but unfortunately our largest processor, Hunt Foods, decided to circumvent the effort.

This year, we began work early on a new agreement between the association and processors which would cover 3 years. In the proposed 1979 agreement, we had included a formula for pricing the crop each year. We abandoned this approach this year in favor of annual bargaining, with binding arbitration on a last and best offer basis. Because in early production, districts seed goes into the ground in January and February depending on the weather, the agreement on price was to be reached by January 1. If this did not come about, arbitration procedures would be triggered on that date, with settlement called for by February 1.

The proposal called for a sliding-scale basis of payment in relation to net number 1 tons purchased by canners. Procedures included a confidential certified report furnished to an accounting firm, listing each grower and the total number of net number 1 tons and acres contracted for the current crop year. The accounting firm was then to provide canners and the association a report of the total contracted tons in the State on July 1. This figure became the base tonnage to be used in the sliding scale adjustment. Canners were then to report by November 15 on the actual total number of net number 1 tons purchased, with this figure reported to the industry by December 10. If purchased tons were less than the contracted tons, the price paid to growers increased by 1 cent per ton for each thousand tons in excess of 100,000, to a maximum of \$4 per ton. If the total purchased was greater than the total contracted, the price decreased by 1 cent per ton for each thousand tons in excess of 100,000 tons, to a maximum of \$4 per ton.

Within 2 weeks of delivery, canners would pay the grower the base price plus incentive and premium payments, less \$4 per ton, for all net number 1 tons. The balance would then be due by December 20 of that year. The 1980 proposal included incentive and premium payments for low levels of limited-use tomatoes, and a pilot program for high levels of soluble solids. We asked for premiums on some varieties and for deliveries following October 1, when weather risks reduce a grower's crop. Premiums for early deliveries were dropped. Most tomatoes are now delivered in bulk tanks of 25 tons to the load, so we also sought a \$2-per-ton premium for bin deliveries, when required by the processor.

We began preliminary talks on this contract last July and thought we were making progress on it. However, the State's processors again determined that they had overpacked the 1979 crop, and some of them, including Hunt Foods, decided their lack of profits should come out of the growers' pockets. Hunt presented the association with its own version of the contract, informed us that the terms were nonnegotiable, and that they would begin contacting both member and nonmember growers immediately to sign up their tonnage for 1980.

The Hunt contract, being offered on a term year, calls for what they term "index pricing," with everything coming from them. This includes a raw product price per ton ranging from \$60 maximum to \$47 minimum. According to Hunt, the \$47 represents the grower's cash costs to raise tomatoes, not considering depreciation or inflation. The factors in the index are processing costs, which they claim are as low as any in the industry, and the selling prices and movement of a weighted product mix of private label tomato products. The selling prices fed into the index are not those of Hunt Foods, whose products command a premium price, but of processors who pack for the private label market. Their accounting firm will verify that the data used to

determine the index number reflect industry conditions. The minimum price of \$47 will be paid at harvest, and further payments, if any, would be forthcoming by July 15 of the following year.

The association did not feel that it could accept such a pricing agreement on behalf of its members. However, we are anxious to protect the part of our agreement that deals with terms of delivery, which we have steadily improved each year. We signed the agreement protecting the delivery terms, and notified our members they were free to sign Hunt-Wesson contracts if they wished to grow tomatoes under the pricing terms being offered.

This action does not preclude our continuing to negotiate for price with other processors in the State. At this time, the results of the Hunt contract and the ability to set their requirements under the price being offered have not been determined. Much of the outcome will depend on how desperate growers are to produce tomatoes in 1980, what their alternatives may be, and their ability to obtain financing under these circumstances.

It is still very early in the year and there are many variables that bear on tomato production. The final chapter is not yet written on the bargaining innovations for 1980 processing tomatoes and probably won't be until summer.

MULTIYEAR OR TERM CONTRACTS

Jerry Heilig*
Washington Potato Growers Association

Generally Washington Potato Growers Association (WPGA) likes the concept of multiyear contracting. If properly done, it lends stability to marketing a given product. It provides an outlet for a grower's product for an extended period, so the grower can use long-range planning efficiently at a profitable level. He can arrange adequate financing for his operation. With proper long-term contracts, an agricultural producer could run his operation as an efficient businessman.

There has been limited use of multiyear or term contracts in the potato industry. Two processors in Idaho and Oregon termed them advanced year contracts lasting for 2 years. Some were negotiated with a bargaining association and some were not. Most negotiations took place during the winter months the first year the contract was settled, others later in the growing season, adding a second year to an already existing contract.

WPGA discussed the development of multiyear contracts for the past 3 years. Sometimes these were very limited, but last year we negotiated with one processor with advanced year contracts in both Idaho and Oregon.

The existing advanced year contracts are inadequate to meet the needs of the grower, since these contracts establish a method for price determination based on selected production costs. Only a portion of the total costs are used in this determination. One contract uses only fertilizer, energy, labor, and seed; the other adds chemicals to the list of costs. The cost increase or decrease is totaled and

* This paper was prepared for but not read at the conference.

then divided by average yield per acre. For example, a \$100-increase divided by 25 tons per acre equals \$4 per ton. This is then added to the base of the contract which is only a portion of the total price paid for the potatoes.

Additional price is earned through quality incentives. The base price applies only to useable potatoes--about 80 to 85 percent of the total. The net result guarantees the grower less money during the second year of contract. In fact, it may guarantee no profit or even a loss!

One unexpected factor appeared in Idaho in the spring of 1973. One processor reached agreement for an advanced year contract in 1977 to include 50 percent of the grower's acreage for 1 year and 50 percent for 2 years. Shortly after initial contracting, the processor signed an additional 25 percent to the advanced year contract, leaving only 25 percent of the 1978 season. When the negotiations began the following year, the company refused to bargain in good faith. They circumvented the association and contracted the remaining 25 percent with nonmember growers.

Potato Growers of Idaho (PGI) filed a complaint in U.S. District Court in Boise for violation of the Agricultural Fair Practices Act. Litigation proceeded through 1978. Settlement was reached and all suits dropped prior to 1979 bargaining. The company and PGI resumed normal relations and contract settlement was reached. Unless most processors contracting a majority of the acreage are involved in multiyear contracting, it is possible for one or two processors to take advantage of a very unique situation.

During negotiations on long-term contracts, we do not use the current type escalators in the industry. First, current year contracts must be considered fair and equitable. If you start with an abnormally low basis, you never achieve a fair price. Second, all costs must be included in the price determination index. After changes in actual costs have been determined, a percentage change should be calculated. This should be applied to the total product price. The profit margins would then relate to changes in the economy and keep up with the rate of inflation. Third, provisions in the contract should prevent deviation from the intended long-term nature of the contract.

Another way to tie advanced year contracting to a comprehensive set of input costs is to use the index numbers of prices paid by farmers. These figures, published monthly by USDA, include a family living-consumer price index. However, two drawbacks to using these figures are that they are national averages and may not apply to a specific area, and that not all index numbers apply to potato production.

Last year the processor was very anxious for us to accept the advanced year proposal. When we offered our proposal with the escalators, the processor suddenly changed his mind as to the importance of the concept. In fact, some contracts in Idaho and Oregon were settled, not on escalators, but with predetermined base prices that amount to 3- to 5-percent increases.

One processor offered these contracts with his 1-year contracts. A grower had no option, signing either a 1-year or a 2-year contract, or receiving no contract acreage at all. It appears these contracts are just as grossly unfair to the producer as the escalator contracts previously used.

WPGA will pursue multiyear contracts in the future, but it will not tolerate a situation that is not in the best interest of the grower just to provide a home for a product. It will encourage growers to produce to fit demand, and not to produce and then demand a market.

Bonus payments for such things as high percentage of 10 ounces, high dry matter, and good bruise-free are presently incorporated into all our contracts. This allows good growers to make money. The grower who cannot produce quality products will not survive.

It is a very difficult task we have before us, but if we all work hard together, we can achieve a great deal of success.

ONTARIO'S CONTRACT SECURITY PROGRAM

Tim Carroll
Ontario Vegetable Growers' Marketing Board

For the past 3 crop years in Ontario, processed vegetable producers have had the benefit of a system of term contracting referred to as contract security. Term contracts refer to the allocation of acreage and in no way relate to the annual price negotiations. As a matter of fact, we have gone to great lengths to avoid that.

At your conference 2 years ago, Mr. Hank Vander Pol, then chairman of the vegetable board, introduced the system to this group. At the risk of being somewhat repetitious, I would like to briefly profile the vegetable board and the Ontario industry to explain how contract security started, what it means to both producer and processor, and what we have learned after 3 years' experience with the program.

The vegetable board, originally established in 1943, represents approximately 3,000 processing vegetable producers of 12 different commodities. Annual sales to the processors are approximately \$70 million, over half of this represented by tomatoes. The other major or high-value crops include sweet corn, green peas, cucumbers, and snap beans for processing. The production area primarily follows a narrow strip of land along Lakes Ontario and Erie for about 450 miles. The highest concentration of production--70 percent--is in the southernmost counties of Essex and Kent, where present land values run from \$4,000 to \$7,000 an acre. Needless to say, competition is fierce. Ontario's production base has followed the general trend of North American agriculture as evidenced by the fact that 30 years ago there were over 12,000 producers with average yields at less than half of today's average yields.

The buying segment or processing industry is dominated by the large multinationals such as Heinz, Del Monte, Green Giant, Campbell Soup, and Libby. On the other hand, it is a source of pride in the industry that over 35 independent or entrepreneurial type processing operations have survived and are thriving in this fiercely competitive business. The companies have, of course, dropped growers, offered larger contracts, and concentrated production in the high-price areas of Essex and Kent counties. The profitability and stability offered by processing vegetable crops have given the companies access to the best growers with the best weather conditions and the best land in Ontario.

These advantages do not come cheap. Our growers have had the same struggle to remain efficient amidst cost price squeezes so characteristic of cash crop farming in the seventies.

The purpose of this preamble is to set the stage for the development of contract security. It is apparent that the processed vegetable producer had evolved into a specialist who needed to be committed to higher cash capital and land costs, higher

flows or borrowing requirements, and the most efficient means of production available. Management of this required planning. The weakness apparent in processed vegetables was that entry was restricted by the number of contracts, and at the completion of one harvest they were not assured of a contract for the following year. This led to a 1974 convention, with producers calling for some form of contract security.

This need for security or a reasonable planning horizon was most apparent in the tomato industry. Under marketing legislation in Ontario, achieving this security meant moving control of supply from processor to producer. The producer would own his contract, and entry into the industry could only be achieved through purchasing an existing contract. This proposal presented serious ramifications for the future of the industry, not to mention the massive lobbying needed to sell the idea to legislators, so a more imaginative solution was required.

Industry imagination was strained to the limit because of its diversity that involved dealing with 12 crops and their individual peculiarities, and a varied production base to interest both the multinational and the independent. In addition, the program had to avoid any direct cost to either the producer or the processor, avoid protecting the inefficient, and allow easy access for new producers. It had to allow for relocation of the processors' production base, for settling disputes and primarily, it had to provide the producer with a reasonable degree of security. Flexibility and accommodation became the bywords of the industry discussions; therefore, what started out as the simple concept of a 3-year term contract soon turned into a relatively complicated regulation.

For discussion purposes, I shall summarize the program's main features.

1. In each crop year, a processor offers producers term contracts covering 3 years. This provides for a rollover effect; that is, in 1979 the producer signs a contract covering 1979-81. In 1980, he signs a contract covering 1980 through 1982. Each new contract cancels the previous year's.
2. In any year of a term contract, the secured producer is assured of a pro rata share of the processor's contracted acreage in the base year.
3. The base year in the existing regulation is 1976; however, there is a provision for the base year to float, meaning it changes as the acreage contracted increases beyond that of the previous year. The year of the increase becomes the new base year.
4. New acreage (above the base) may be allocated by the processor in any manner chosen; however, once it is allocated, it becomes secured acreage.
5. When a processor wishes to terminate contracting with a producer, he lets the existing term contract expire and does not sign a new term contract.
6. When a processor wishes to terminate before the 3-year term contract expires, he must be prepared to present just cause for doing so. Just cause is essentially a matter of judgment. An appeal procedure is set out under Ontario marketing legislation to decide what constitutes just cause.
7. The program is optional for a producer and a processor through mutual agreement. To avoid any intimidation in this area, the board has a provision that these opting out programs are subject to the approval of the vegetable board.

In addition to the above, the regulation provisions cover exclusion of processor-operated acreage, relocation of a processor's production area(s), minimum acreages subject to security terms, settling of disputes, leave of absence within the term,

termination upon mutual agreement, and protection of secured producers before allocation to unsecured producers.

Generally, the contract security program has worked very well for most crops in Ontario. It was born amid a great outcry from some processors and the negotiations were most difficult, but the program is now much better understood and generally accepted by the industry. It has successfully balanced the need for grower security without materially affecting the processor's management prerogatives in obtaining his annual requirements by the most efficient means possible. It represents no cost to either the producer or processor and has not hindered easy exit or entry into the industry by producers.

The program has not been without its problems. The industry has generally been able to work through the problems or adapt as the need arose; however, there are some pitfalls I would like to share with you.

1. Communication on this or any new program is very important to its success. One problem we had was that the program senior management negotiated the program of the companies, but fieldmen had to handle the administration. This created all kinds of minor misunderstandings and confusion at the outset.

2. Producers and the board are concerned over the dilution effect of processors allocating new acreage on whatever basis they wish. If you do not receive new acreage and the base acreage increases, you start to lose relative position. The board sees no way of overcoming this problem without affecting the easy entry of new producers into the system.

3. The "just cause" issue can be difficult to effectively resolve. On the one hand, the regulation should not join a producer and processor if they cannot do business in a relatively amiable manner. On the other hand, a regulation is meaningless unless reasonable limits are put on what constitutes "just cause." The vegetable board in these matters returns to the basic spirit of the regulation to provide security without hindering efficiency in the industry. Efficiency becomes the key element in settling just cause disputes.

The contract security program is well accepted for most crops; however, at the board's recent convention, pea and sweet corn producers requested that these crops be exempted from the program. This request was further evidenced by the increasing number of these producers opting out of the program. The board followed through on the request of the producers and amended the regulation on January 8. The reasons behind the pea and sweet corn growers' decision are varied. Nevertheless, the need did not seem apparent, so the board took what it felt was the most reasonable course of action.

In conclusion, I would like to stress that contract security has never been associated with the annual price issue. As a matter of fact, strenuous efforts have been taken to avoid tying the two together. For example, an unsatisfactory price in a producer's opinion would serve as just cause for a producer pulling out of contract security within the term.

Contract security is generally a commitment between grower and processor to do business on a continuing basis provided it is mutually beneficial to both parties. It recognizes the interests of both grower and processor in keeping the industry competitive and growing.

THE NATIONAL FARMERS ORGANIZATION
PERSPECTIVE OF BARGAINING

Ed Graf
National Farmers Organization

I would like to give you my perspective on bargaining. We of the National Farmers Organization believe we are a true bargaining association because we do not take title to any product for the purpose of making a profit. I wonder what it would mean to you if I said that my daughter's father-in-law was sold out in 1955 and Edward R. Murrow covered this sale. Something had happened in agriculture that the farmer had no control over. He was a hog producer, and the price of hogs dropped so drastically that he found himself in the position that he could no longer pay his bills and he had no choice. He had to stop farming.

Twenty-five years later we find the same thing happening. Today we are talking about the drastic drop in the price of grain. An embargo has been placed on the grain going to Russia. The farmer has no way of controlling his own destiny financially.

Flying down here yesterday on Braniff Airlines, I picked up a magazine and I found something very interesting. Most of us remember and respect Will Rogers. In an article in this magazine, Rogers had said and I quote, "An economist can tell you what will happen under any conditions and his guess is liable to be just as good as anyone else's."

I suppose the economist could say something like that about the farmer. We guess at what's going to happen, we hope what will happen, but have very little control of it because we have no way of bargaining for prices. I grew up in Wisconsin. I really had two goals in life. One was to be a professional baseball player and the other was to operate a dairy farm. Things were going along pretty well and then World War II broke out. That ended one career, so I went into dairying after the war. The need for bargaining occurred to me after I had purchased that dairy farm and tried to do everything I could under the old system of marketing.

Things seemed to go along pretty well until about 1952. I had established myself in farming, I had started to expand and of course there was a need to expand, but I wondered where it would stop. Expansion didn't appear to be the total answer. It wasn't that American farmers at that time couldn't produce more efficiently than their fathers, because in 4 years after I purchased the farm I was producing four times my father's output. And he and I used to go to the bank about the same number of times, except he was putting money in and I was taking it out. There was a definite need for bargaining at that time.

In 1957, the University of Wisconsin in conjunction with the county agent sent me to Washington, D.C., to study the dairy herds of Beltsville, Md. I was asked to come back with pictures and information to talk with dairymen and to show them how they could produce 15,000 pounds of milk per cow. Remember, this was quite a few years ago. One statement made in talking with a herdsman at the Beltsville farms impressed me, and I will never forget it. I was looking at the hay being fed to the cattle and I said, "That looks good enough to be a salad. Where did you get it?" His reply was, "I think it comes from Arizona." And I said, "Doesn't that get expensive?" And he said, "Yes, but money is no object on this farm." Oh, how I would like to run a farm where money was no object. And I think most of the people we represent here today feel the very same way.

My travel extends across the United States, primarily in the dairy areas. One of my biggest fears is what I hear from young farmers. When 10 or 12 of us of that age

got together years ago, we talked of expanding and getting bigger, of making it happen, and living our life on the farm. I don't hear that discussion among young farmers any more; their whole concept seems to scare me. They talk about the amount of money they can borrow. They often say, "As long as my credit is good we can make it. When we can't borrow enough anymore, we will walk away from it."

Bargaining for fair prices for agriculture cannot be done by simply talking. That's why those of you who may have been close to the National Farmers Organization in years past and saw some of the things that happened in our bargaining efforts have said that we certainly are controversial. I have heard four or five speakers say the major problem we have today is in communications. I agree. I can go back to the farmers we are trying to represent and say that I've just come from the National Bargaining conference where leaders from all different groups were trying to do something for agricultural producers. It will sound good. Then they are going to come up with a question, "What did you accomplish?" Well, I have learned a lot at this conference. I appreciate listening to speakers, and it has been interesting to hear some of the problems that other groups share with us. So the conference in itself is very worthwhile.

Today you are going to hear me use the term, "The New National Farmers Organization." I am going to deliberately try to stop saying the NFO. Producers associate the word or letters NFO with a group of farmers that made headlines. They perhaps had done something that some farmers don't agree with.

There are times when I or some of our representatives say to a producer, "I am with the National Farmers Organization." You can perhaps talk 2 or 3 minutes and all of a sudden they will say, "Oh, that's the NFO." Yes, we are trying to change our image. It wasn't until 2 or 3 years ago that the new National Farmers Organization and its concept of bargaining was recognized by the major buyers in this country. We moved production out of low-priced areas and made our bargaining power felt.

The gentleman from the dairy industry yesterday spoke of some of the things that happened when they moved their milk. He said it was moving in an undesirable way for the most efficiency, but it did have bargaining power. He spoke of operating a dairy plant at a loss in order to manufacture hard products. We do the same thing. We have had to do it. There were always those who criticized us very severely, but we weren't able to communicate with them and make them understand why we were doing this. It was really protecting a market and making our bargaining power felt.

When we started this organization I perhaps felt as other farmers do. The gentleman from the Department of Agriculture said that NFO figures were very necessary for surveys. Sometimes I think farmers don't believe the surveys on production are important. Yes, they really are important. We haven't been able to get all farmers to understand this because the feeling out there has been, and I think it is justified, that when figures come out of the Department of Agriculture showing an abundance of supply and using the term surplus, the producers see their prices drop. A problem which we have had as producers has many times been misunderstanding the needs of the processors. Proportionally there are probably as many processors going broke and out of business as there are farmers.

While I don't agree with bigness, I do disagree with someone else dictating prices to farmers. I believe that if you and I could sit down and figure some way to get a fair price back to farmers with the price based on cost of production and a fair margin of profit, we would all cooperate in every possible way. If you heard the president of the National Farmers Organization make that statement, this was his goal. I feel sure that all of us in this room would like to help. In other words, unite ourselves where possible, rather than find the faults I may find with your organization or you may find with ours. We recognize that there are limitations in

working together, but we also recognize there are many areas where we can work very closely and sit down and discuss ways of helping the producer. I believe that even if this is the only time that I ever speak to the National Bargaining Conference, someday we are going to agree that this could be the secret to fair prices, for us to work together in representing those producers and helping them. They are depending on us.

There are four points that we in the National Farmers Organization believe are very important in bargaining. One is to be organized nationwide. When I joined the organization in 1962, I wondered if we would ever be able to organize in California, in Maine, in Texas, or Minnesota and all the other agricultural producing States. But fortunately through the communication system we have and the ability to travel, I can now say we have been able to do that. We don't have production brought together to the extent we need, but we have covered the agricultural areas of the Nation and we are continuing to grow.

The question may be asked, "Why nationwide?" The National Farmers Organization tried several years ago in St. Joseph, Mo., to bargain for the hog producers. They tried to bargain with the production that they had brought together. The industry simply brought production in from other areas to make them look weak, and was quite successful. It was very evident that those producers from where the production was coming also needed to be organized. It was evident if the farmers really wanted to do something, they had to organize nationwide so that this production could not be moved from one area to another and break their bargaining power. We have found that low-priced areas tend to tear down high-priced areas. I can speak with authority on that because if ever there was an area in the dairy segment of our economy that was and supposedly is in surplus, it must be Wisconsin. But that isn't necessarily the case today, since the price of milk in Wisconsin is many times as high as it is in California. When we recognize that California has 20 million people and Wisconsin only 4-1/2 million, that California produces 11 billion pounds of milk and Wisconsin produces 22 billion, there must be something happening in bargaining. We in the National Farmers Organization believe that we have been able to do some of those things, to bring the price up in heavy producing areas. There isn't time to go into depth here and stay on schedule. But it does mean that if we let buyers take our production to kill a price somewhere else, that proves the need to organize nationwide.

Secondly, we believe that we have to organize on all commodities. While I was producing milk, I was always a member of a cooperative marketing system and made an attempt to solve our problem along with everybody else. But my thoughts at that time were simply in milk and that was wrong. We now know that we have to expand. If we had been successful in getting cost of production in milk and milk alone, surely other producers would shift to that commodity and we would soon have a surplus, leading to deeper trouble than we were in the beginning. We must organize in all commodities, bring prices in all commodities up, and keep them in relative balance. For example, I have seen the low prices on cull cows where the farmer thinks he can make a little more money by milking that old cull cow one more year. What do we end up with? Figures from the Department of Agriculture showing that we have a surplus of milk. Had that price of the dairy cow for meat been up where it should have been, the farmer would have sold that dairy cow.

Speaking of dairy, there are always things that give me a chuckle. One thing I could never understand in my home State of Wisconsin was when all the experts and the leaders of the dairy industry said, "Butter is your problem." State Senator Leverage had the record for filibustering in Wisconsin. He said we must keep oleo margarine out of our State, and keep a tax on it. About this same time, artificial insemination was becoming popular. What do you think we as farmers did? We bred all of our cows to produce more butterfat. One group said, you've got too much butter, that's your

problem, the other side said, breed your cattle to get more butterfat. It just didn't make sense.

We in the National Farmers Organization, however, do believe in bargaining, backing up our bargaining power, and making it felt. Many of us have said, "Yes, the teachers need more money, but they just can't strike, we said it wouldn't be morally right, our children must be educated." But you know, the teachers had to take their services away from someone to back up their bargaining demands and make their bargaining power felt. I feel sorry for the individual in the hospital who's ill and cannot get attention, but the nurses found that no one listened until they made their bargaining power felt. They simply said we will not work. Labor went through a terrific struggle. I believe farmers are going to have to go through a struggle. You may not like it. I may not either. But we may have a tough struggle in the future if we want what we are all saying here today--fair prices to farmers.

One of the first questions that come to mind is how to control production. Well there are various ways. If you watch the hog market, you should have recognized that the processors don't work on numbers of head of animals, they work on tonnage of meat. With incentive programs to cut down on tonnage, you can give the processor the volume he wants and he can market lower weight animals and control production. Our organization is set up to provide that. In milk, we can't dump all of our fluid milk supply on someone and expect them to get a fair price. If they can't sell it, how can they expect the processor to buy and sell more than they need and get a fair return? There is a lot to be discussed on how you would do all these things, and time is limited right now. But briefly, an incentive to sell bred heifers when a buildup in numbers came could help solve the problem.

We often see television shows showing starving people. The next day we see prices to farmers dropping because they say there is a surplus. It isn't a surplus problem, it's a distribution problem. It is a big job to move production to these people, but there are ways to get out of the normal marketing channels by taking what is sometimes called surplus, moving it into channels that get it to people and protect your own markets. The only thing I say is that as of today there aren't enough dedicated people to get this job done. Will we be successful in the future? That depends upon our ability to convince the farmer to organize. I know where the problem is. Not enough production has been brought together into a block to successfully bargain across the Nation to get cost of production.

One statement that really irritates me, I don't care who says it, is that you can't organize farmers. That is really keeping the farmer unorganized. And this great independence that we talk about and what a wonderful life we have on the farm--let me ask you, how independent was Dale Petersen when they sold him out because of low hog prices? How independent is the young farmer today who says, well when I can't borrow any more money to put a crop in, I am going to walk away from it. What kind of independence are we really talking about? Oh, I had great independence when I milked cows. I could get up any time of the day I wanted to milk the cows. Nobody said I had to be out there at 4 or 5 a.m. If I wanted to go out at 7 a.m. it was perfectly alright with everybody. That's great independence isn't it? For many years as a dairy farmer, I wasn't even independent enough to take a vacation when I needed it because of low prices. I don't believe there is ever going to be a greater need for bargaining power than we are seeing right now. I understand what happened in the integrated poultry business. There was a mention up here today that we don't have a lot for the integrated poultry people. Yes, it may be too late. One gentleman speaking from this platform said that the buyers are trying to find out how strong an organization they have. The man who wants to cooperate to help himself may get a poor batch of baby chicks. Am I right in what I heard?

Yes, we experience those things because we are the youngest of all the major farm organizations. For the first time the National Farmers Organization is in a position to price agricultural products for farmers. We must change the system under which we are operating today and it's going to take a lot of people working together to change it. Many times I have talked to farmers in the Midwest and asked them if they have ever flown on Allegheny Airlines. Most of them haven't. Their magazine, called, Flightime, has an article called "The commodities game, you can play and win, the fastest game in town." Yes, we have had some experience with that in the National Farmers Organization. I always thought the fastest games were in Las Vegas or Reno. Evidently not. The fastest games in this town as this article is written is being played with our farm products and it has a picture of all the people that we are representing. Their picture is right here on this page in the form of a cottonball, a shock of corn, a spear of wheat, a head of a cow, a milk can, and a chicken. I tell the farmers if you don't think you are represented in this article, read the rest of it. Especially read the top statement. It says, "Playing the commodities game is noisy, difficult and sometimes risky, but it's all part of keeping food going to market and the prices down." I ask, keep the prices down to whom? The trucker, the organized trucker, the chain stores, organized labor? Of course not. The prices are kept down to the producer.

The four points I've been talking about are that you must be nationwide, you must organize in all commodities, you must be able to move that commodity, and then demand fair price and back up your demands when and wherever necessary. Demand fair prices by true bargaining. The National Farmers Organization can do a lot for farmers under the structure that we have built.

There are over 300 collection points for meat animals. Fifty, called reloads, move milk. It is a great thing to go direct to get the top market of the day. But remember, we must bargain to raise the general price levels of farm commodities and sometimes production has to be moved out of an area. We have grain accumulation points across the United States, but even with the work done in the National Farmers Organization, we are short of production.

The acceptance of the organization, the knowhow of the organization, and the structure that we call the collection, dispatch, and delivery system is completed. We know that bargaining can be effective when farmers put enough production together so that the buyers cannot fulfill total needs from outside sources. You can bargain for cost of production, a fair margin of profit, and write contracts to establish those prices and create stability in agriculture.

NATIONAL FARM BARGAINING LEGISLATION OUTLOOK

VIEWPOINT OF THE AMERICAN FARM BUREAU FEDERATION

Kirk Miller

I was pleased that Paul Slade asked Tim Carroll how Canada obtained its bargaining authority. It is some relief to me to know that the problems that we have incurred during the past couple of years in obtaining passage of the National Agricultural Bargaining Act are probably not unique to the United States.

First of all, for those who are not familiar with the National Agricultural Bargaining Act, commonly referred to as HR 3535, let me briefly tell you what it does. The bill provides for accreditation of associations, and defines and requires good faith bargaining. It expands unfair practices now contained in S-109, the Agricultural Fair Practices Act, and provides the Secretary of Agriculture with authority for enforcement. Within the past year, a number of activities have occurred relative to this bill. In January, we had a kickoff meeting of the proponents in Washington. At that time, with the help of Reuben Johnson of the National Farmers Union, we divided the approximately 30 participants into teams to visit all members of the House and Senate Ag Committee to drop off copies of the bill, and to request their help as cosponsors for introductory purposes of the bill. We also asked them at that time to support our request for hearings.

Well, some time in April, Representative Leon Panetta of California did introduce the bill with approximately 20 cosponsors and in May, Senator Walter Huddleston of Kentucky introduced the bill in the Senate for us. In July, 2 days of hearings were held. There were approximately 9 proponent groups that testified in support of the bill, and approximately 15 opponent groups that testified in opposition. Following those 2 days of hearings, we held meetings with our main sponsor, Representative Panetta in August, at which time he indicated that there was a good prospect that we would have field hearings on the bill this past fall. As most of you know, those hearings did not occur. We've been told there are still prospects for those hearings in March. They will probably be held in conjunction with some other bill or legislation that the House Agricultural Domestic Marketing Subcommittee has jurisdiction over. A likely prospect would be the Food Stamp Hearing. One agenda which has been suggested to us is perhaps going to San Francisco for a Friday hearing on food stamps, and then going to Fresno or Stockton on Saturday for hearings on the marketing and bargaining bill. This is all tentative at this time but is the type of format we possibly will be confronted with.

As you know, the subcommittee chairman is a gentleman by the name of Richmond from New York City. He has no familiarity with agriculture whatsoever, other than what he's picked up in the past several years serving on the House Agricultural Committee. We've had trouble trying to deal with this. The ranking minority member on this subcommittee is Steve Symms of Idaho, one of the more conservative members of

Congress, who equates this type of legislation with labor legislation. So far, we haven't been able to get enough grassroots support to convince him that this differs from labor legislation. We're talking about dealing with management, and it is different in some respects than typical labor legislation. But I was caught up yesterday by one comment Mr. Camerilo made, relative to developing the market before we need the cows. I think that is a situation the four of us find ourselves in, that before we can move this bill we need an indication of more grassroots support than what we've seen so far. I think that those of us on the platform also feel like Thomas Jefferson who once said, "I like the dreams of the future better than the history of the past." And those of you gathered in this room here today will probably play key roles in the future of the National Agricultural Bargaining Act.

VIEWPOINT OF THE NATIONAL FARMERS UNION

Robert G. Lewis

The lack of positive interest in the National Agricultural Bargaining Act among a large part of the Nation's agricultural community is the key thing that needs to be overcome. A lot of grain producers, cattle producers, milk producers, and cotton producers don't see what's in it for them. While they are not opposed to the legislation, they are not convincing Congress that they really are watching it with a great deal of anticipation, and that makes the opposition very effective.

I think the primary opposition is from the processors, of course, which is as expected. I am sure the objections of the National Farmers Organization have been very important.

The way the legislative process works is that it isn't a matter of sizing up who has the most numbers on each side, but a matter of the quality or intensity of the feeling of people who are for or against a particular item of legislation. With the exception of California and perhaps Michigan and a few other places around the country, certainly throughout most of the Farmers Union operating territory, people are for the idea, but are much more anxious about a number of other things that are going on.

Another very important part of the scene is the peculiar role of the media. The media right now, because inflation is so much on everybody's mind, has almost a phobia about food prices. The concentration on the food price question is grossly oversimplified. Any subject gets only a few seconds of time on the network TV news, and it's not very profound. Nobody would think of getting into an analysis of what is in the longrun interest to consumers, of maintaining the family farming system and things of that kind. So everybody who gets on radio, television, and even in the newspaper gives some oversimplified calculation of an increase in the price of tomatoes, how much it is going to add to the cost-of-living index, and so on. We do not get a good, valid economic judgment presented to the public about the importance of these things.

Therefore, I think among other things that we need to come back to the first problem again, the lack of positive interest on the part of many farmers.

I think maybe what we're going to need to do is start some bargaining, getting farmers interested in bargaining for themselves. The Farmers Union and other farm organizations are giving a good deal of attention to the possibility of organizing

farmers in a number of commodity groups to concentrate on positive horizontal organization to improve the price they get for their raw products. You heard the story from LIBGRO in Ohio. I think that's one very significant thing, a small cloud no larger than a man's hand but which may have very great significance for a future in which the Farmers Union and the Farm Bureau may be working together for unified associations of farmers.

We're interested in the possibility of including the Grange and the National Farmers Organization in such associations for a number of commodities. I think that if we can start some action and get some of these other producers interested in making the bargaining process meaningful to them, we can improve the environment for getting our legislation passed.

VIEWPOINT OF THE NATIONAL COUNCIL OF FARMER COOPERATIVES

Robert N. Hampton

My colleagues on the panel and I have worked together very harmoniously on behalf of the bargaining bill, which the National Council views as one more avenue of cooperative effort which farmers should have available to exercise as they choose.

Kirk Miller spelled out some of the complexities involved in moving the bill along and Bob Lewis and Bob Frederick have explained why we're faced with some legislative foot dragging. Any legislator is somewhat constrained when faced with these three conditions: 1) vociferous opposition from handler groups in hearing testimony and in extensive lobbying; (2) as Bob Lewis said, "Lack of positive interest in a large part of the nation's agricultural community" -- such as farmers who don't see the need for or value of this bargaining bill, those who are lukewarm or give it low priority, and those who actually oppose it, and (3) lack of a sufficient number of strong cases showing abuses which make this bill necessary, undoubtedly due in considerable measure to individual farmers' fears of the consequences if they testify fully and candidly.

On the positive side, we are working in Washington -- and urge you to do likewise -- to get field hearing dates which will give the best opportunity for the grassroots story of abuses and needs to be told. That's the first big step: to give our legislative friends strong justification in helping to move the bargaining bill further along the legislative trail.

But that's only a beginning -- it will take a broad as well as intensive grassroots political action effort to get this bill seriously considered, even after the field hearings will have developed much more convincing evidence of need for the bill. We in the Washington phase of this battle stand ready and are working with you in all feasible ways to pave the way for serious and fair consideration of a good faith bargaining bill which can deal effectively with the problems discussed at this conference.

VIEWPOINT OF THE NATIONAL GRANGE

Robert M. Frederick

I don't have too much to add although I certainly associate myself with the foregoing remarks. I want to reemphasize that I feel a little bit like a minister talking to a congregation--that the sinners are not in this audience. The people we have to hear it from are friends of yours back home and other bargaining associations that have not been very active. Right now, this bill has two chances: slim and none. I don't think I can put it any more clearly than that. I just don't think it has a chance of passing this session or even the next session of Congress, unless we do a tremendous amount of grassroots work. We don't have Senator Aiken anymore. He was impervious to criticism and if he believed something was a solid idea, he went with it. We don't have that now. I think the reason is because the cosponsors of this bill have not been contacted by supporters of the legislation. We welcome a chance to sit down with the National Farmers Organization and renew the possibility of getting their support. But even with five national organizations, we won't get it unless we get that grassroots support that Congress hears from its constituents.

Well, USDA has held ten hearings around the country on the structure of agriculture. Of the people I know who have testified or have read much testimony, none mentioned national bargaining as a tool to aid the structure of agriculture. I don't know if any other organizations mentioned it or not, but we've fallen down. Perhaps we've been guilty as national organizations of doing a poor job of selling it to our constituents. Quite frankly, at our annual meeting in November, I heard more negative viewpoints about the National Agricultural Bargaining Act than I did positive.

Now we have a job to do with the chairman of that Agriculture Committee. He comes from a good, strong Grange State, Washington. Right now, if he is not "anti," he is almost anti regarding the National Agricultural Bargaining Act. I think it behooves us in Washington, D.C. to sit down with him to find out why there are parts of it he feels are unconstitutional. Let's discuss with him why he wants to limit the scope. I was one who felt that the scope of the coverage of the Act should have been limited before it was introduced, but the steering committee felt otherwise. We went with it to cover all agriculture. But even the removal of that and reducing the scope to fruits and vegetables won't remove the chairman's objections. So I think we've got a job to do to sell the chairman of that House Agriculture Committee. Without his support, at least without his being neutral, the bill has no chance whatsoever.

DEVELOPING "GRASS ROOTS" SUPPORT FOR LEGISLATION

Harry Kubo
Nisei Farmers League

I don't happen to be a very pessimistic person. I kind of look forward to each day. I get up each morning thinking, "Gee, maybe I can do something." I look forward to each new year, hoping that something can be accomplished. I say this because we live in the greatest Nation in the world, proven in survey by a Swiss bank. The United Bank of Switzerland conducted a year-long survey to find out where in the world is the most ideal place to live. And they conducted this survey at great lengths. The result indicates that you are living there, the United States of America is the greatest Nation in the world. And I think what we must do as we start the new decade of the eighties is reaffirm our faith in these United States.

California is a rather unique State--unique in the sense that probably we have more things emanating from that State than any other in the Union. That State contains about 20 million people or so, closer to 22 million now, of which 50 percent are 29 years of age or younger. Because of some of their philosophies, we who are in agriculture in California find it rather difficult. We also have an administrative order that is making farming difficult. It takes not only intestinal fortitude on our part, but that much more effort to survive in the agricultural industry in California. Despite these obstacles that have been laid before us, those people who are a part of the agricultural community in California are, I think, some of the finest people in the world. If they weren't, they wouldn't be able to survive in that State.

I would like to relate a few things that come to mind, and share with you my thoughts. Agriculture is often its own worst enemy. The reason for this is that regardless of whether it's water, pesticide use, land use, or farm labor laws, we can never develop a consensus. Because we are divided, we ultimately do not get the help we seek. I think that certainly the one priority needed to get legislation that will be beneficial to all is agreement. We have to throw away idiosyncrasies, since no issue's resolution, whether it be water, pesticide, or land use, will satisfy everybody. I think it is a situation where we must give, we must compromise. And without that, we can forget about getting legislation, about getting a lot of the things that you were talking about this morning. And unless consensus is established, there will never be that possibility.

One main area of concern is public relations. Agriculture has always been an industry that cares for itself. For instance, I think it's changed tremendously in the last 10 years. But prior to that, a fruit farmer in Parlier, Calif., wasn't concerned about what happened in the Imperial Valley. A grower in Chico couldn't be worried about what happened to growers in other parts of the State. But because of our communication system, our transportation, our media, the concerns of all throughout the Nation do affect us. I think it's high time we realized this. So the public relation aspect I think is very important. Agriculture has not spent the time, or the money, in that particular area to benefit its own industry.

I had an opportunity to go back to Cornell University in Ithaca, New York, to speak about 4 years ago. I was speaking before this group of about 2,000 on a subject matter that was not very popular on that campus at that time, "Do not boycott Gallo wines, lettuce, and grapes." And as I was speaking before this group on why it was wrong of them to boycott these food stuffs, one young student got up and said, "Mr. Kubo, we don't need you damned farmers back here. And the reason why I am telling you that is that we can buy all the fruits and vegetables and dairy products we need right here in the supermarket, so why do we need you farmers?" At first, I thought to myself, "You dumb _____, don't you know anything"? But later, I laughed and thought, "You dummy. Maybe that woman was right. Have we told her anything about agriculture? Does she know that you have to pick raisins off the vine, lay them on the trays and dry them, and the process that we go through? About milk--have we told her about milk? Or wheat, that there is only so much wheat in a loaf of bread?"

Really, we haven't told the story of agriculture. And why haven't we? Are we ashamed of it? You know, the environmentalists jumped all over us for violating or polluting the air and everything else, and yet I think agriculture is the only industry that has done so much to preserve the environment. Now, I don't know about the other States. I have traveled over about 29 States, but in California, can you imagine what the Imperial Valley would look like without agriculture? Can you imagine what the Palo Verde Valley would look like without agriculture? The Coachella Valley? Or up in Mariposa, on the West Side, with which I am very familiar? There would be nothing but sage brush and jack rabbits. If agriculture sat back, environmentalist groups, a very small group--the Sierra Club--would push us all over the place. They are only strong enough to fill the Melones Dam a quarter full. That strong, and yet

agriculture, the giant, the number one industry in the State of California, sits back and gets pushed around. This is where your agreement comes in. We need strength and we do have strength we haven't used.

In reference to the young lady who made that arrogant remark to me, I think she was right. It's our fault that she doesn't know about agriculture. For instance, Ford Motors is going to raise the price of its cars. They even advertise it on the radio--Mr. and Mrs. America--cars are going to go up \$100. So what do Mr. and Mrs. America do? They put their order in fast, before it costs more. We accept that raise. But we who are in agriculture don't even publicize the fact that we are a part of the society that feeds not only this country, but a big part of the world, and I think it is important that we do so.

One of the things that makes me wonder at times is the tremendous amount of energy agriculture could possibly generate but doesn't. I think most of the energy generated by agriculture is generated in the coffee shops of the United States of America.

For instance, in Parlier at about 7 to 7:30 a.m. every farmer pick-up is in town. And I don't care what they have to do, they will go into town and share with other growers the price of raisins and peaches, what kind of Government do we have in Sacramento. All these things are being discussed with great intensity. The only problem here is, it never leaves that coffee shop. That's where it stays, and the next morning it starts all over again.

I wish I could harness that energy and some of the infinite wisdom that comes out of it and use it for lobbying for legislation. That's what we need. There are more people congregated in those coffee shops than at meetings. That is why I am elaborating on this, simply because people ask, "Why aren't certain things being done for us?" Well, it's your own fault.

I belong to a school board, and there are a number of members of the school district who would complain to me about the poor quality of education. They get on the phone and say, "What the hell is wrong with our school?" Well, there's nothing wrong with our school. The people who want quality education should attend these board meetings that are held in public, so people can come. If they wish to, they can get on the agenda and participate in that particular meeting. But I doubt if in a course of a year, unless something drastic happens to them, anybody attends these meetings.

My argument is, anybody can gripe. Why don't you contribute? If you want to get things changed, contribute. I've always said that to complain takes no brains at all. I can complain about anything in this world, but I don't think I should complain unless I have a better program than what is in effect at the time.

Public relations, I think, is a very formal thing that has to come about in order to get fair treatment, and be able to put across why agriculture is a necessary part of our total society.

The other thing is that we must get involved in the political arena. Politics is very important. I had a debate with a gentlemen from the American Ag Movement in Salt Lake City, and as I related to him on that particular day, "I understand your problem, but have you ever until this moment contributed anything yourself to the political scene?" And he said, "No, I have not." That has been the problem of us growers in California.

Lee Ruth is here, and the delegation from Fresno. I think they understand the one thing that possibly turns the events leading to what we are today--that is, our involvement against a proposition in California back in 1976. This was proposition

14, an initiative that was qualified by the United Farm Workers of America, an initiative that ultimately became proposition 14 on the ballot. If passed, it would have become imbedded in the constitution of California and would have allowed access into private property for the purpose of organizing or whatever else. Agriculture for the first time got behind a movement to defeat proposition 14, the Farm Bureau, the Ag Council, the Chamber, and my association. In this campaign, we were organized.

I recollect, and I'm sure Mr. Ruth does, at the very beginning when we first started this campaign against proposition 14, most of agriculture said, "Harry, we haven't got a chance. How are you going to beat Cesar Chavez--a man with a lot of charisma, a man people would turn their heads just to get a peek at. News reporters will drop everything they've got, or television cameras will focus only on Cesar." Legislators said, "Harry, you haven't got a chance. Give them what they want. You're not going to beat them."

Well, I won't go into the long history of why we tried to defeat this particular proposition, but California agriculture was quite active in this particular area. And they were adamantly strong in trying to retain this one unalienable right--the right or the freedom of property. When we first started, there were doubts, but as time went by, one came aboard, then two, and then, many, many came aboard. I remember one night I was down there at a fund raiser in southern California, and these fellows said, "Harry, we don't want to put money into something that is going to go down to defeat. I said, "You know, you people say you don't want to put up \$100, or \$50, \$200. You don't want to put up this kind of money for something that is as important to me and to you as freedom of property? There is no next time when you lose the freedom of property. It is an unalienable right that everybody else has--why don't we deserve it in agriculture?"

So, we went about doing this, and the entire agricultural community in the State of California got behind this, and it snowballed to the point that we raised \$1,809,000. Never before in the history of this State have we received that kind of response from agriculture. Not only that, what about the participation?

I met an old man, who must have been close to 90, a Japanese man who spoke very little English. I met him at Encinitas, California, a flower-growing community. He came up to me one night as I was speaking before this group, and said, "Harry, what can we do to help? What can I do to help?" It gave me impetus, it gave me confidence, that we're going to win this.

Another elderly lady in Stockton said, "Harry, I don't know how to compose a letter, but if you can compose a letter, I would like to send it to all my friends in the city to fight against proposition 14." I sent her a copy of a letter I composed, and she personally sent out 5,000 of these letters. That's the kind of effort that is needed to do things. These are not people who are complainers, they're doers, and this is what it takes.

What it all culminated in was about 2 or 3 weeks prior to the election, we were going to have mass rallies, one in southern California, one in northern California. I would roughly guess that there were 4,000 to 5,000 people at the one in southern California. It's really hard to get people out, to sacrifice a weekend to fight against this proposition 14.

But the biggest asset we had going for us was the women. There is an organization called the California Women for Agriculture, a wonderful group, about 8,000 strong, and this group got behind the rally. They decided we're going to have both of these, one in Devonshire Downs in San Fernando and the other one in the Bay area, at Concord. So, the women went to work. When, you've got 8,000 out there, it's an avalanche, and

there's no way you can stop them. But the biggest part of this was getting together, the fellowship it created.

After the rally was over, we went out and walked the precincts. To see 4,500 growers walking the precincts is a sight to behold. And as they walked the precincts, they found out a few things. They found the city people were no different than the rural people. That the problems they had with their children in regard to education, and to teenage problems were identical to the ones they had at home. As they went from house to house, the urban people, the housewives and the men folk finally realized that the growers weren't a bunch of ogres out to take advantage of the farmworkers, or to poison people with pesticide use. And so when all the votes were counted in November, the final tally showed that a measure that was supposed to go past the voters resoundedly and without any question was defeated. I think in the history of this State of California nothing like that has ever happened to the people in our agricultural industry.

That's agriculture for you. Now, you people attending this conference, here in New Orleans, maybe you get hepped up about certain things while you are here, but once you get home you get back into your same routine. This is the reason why nothing happens. You've got to have continuity in what you do. I feel very strongly that organization can be a possibility for these reasons.

My league, the Nisei Farmers League, started out because of abuses by the United Farm Workers. We aim to stand united, and because of this I think things can really happen for us. I get involved in this sort of thing primarily because I think it's a legacy my father handed down to me that is very important. My father left me no material things. But he left me something much more valuable, the ability to cope with the problems, to withstand adversity.

I remember one day back in 1940, my father had just taken care of a crop. It was May 31, 1940. The crop was just coming in--pears, plums, peaches, cherries. A big nail storm came through our area and wiped out the whole crop. Now if it was some of us young growers, we would have said, "Oh, to hell with it. Why farm?" But he said, "Well, we've got to go to work." Well, we worked that much harder. I've never forgotten that. It's a legacy that I think must be carried on. I have looked back on the life that they led. They had far less than what we have today.

We are part of a light that gives direction and hope to people not only of this country, but of the whole world. And we contribute to keeping that light glowing. It is my hope that we who are in agriculture can contribute to keep that light glowing, because the whole world depends on us.

THE ROLE OF ARBITRATION IN AGRICULTURAL BARGAINING

Ronald W. Haughton
Federal Labor Relations Authority

WHAT DOES ARBITRATION HAVE TO DO WITH THE PRICE OF APPLES?

It is significant that representatives of the Nation's agricultural associations are sponsoring a National Bargaining Conference. It is significant also that you have invited someone with my background, as a professional labor mediator and labor arbitrator, to address the conference. It is in this role, and not my position as

chairman of the Federal Labor Relations Authority, that I speak. That is, I speak only from my own experience and as an individual.

I would like to think that your inviting me to speak indicates some recognition within the agricultural community of the value of utilizing neutral third parties to assist in resolving price differences between growers and processors.

I have been personally involved in the Michigan experience, serving as an arbitrator--chairman of a tripartite committee appointed to resolve impasses--in the apple industry on the crucial, bottom-line issue of prices. From that experience, I gained new insights into the value of collective bargaining outside the traditional framework of industrial labor relations.

First, the dynamics of the relations between growers and processors can be compared, to some extent, to those between labor and management in the nonagricultural sectors of the economy. Second, the principles and procedures that work for labor and management in conventional labor relations systems have had some success in Michigan agriculture. But the very first thing I learned from my arbitration in the apple industry was that cars aren't the only thing Michigan produces. It ranks in the top three among all States in 10 crops, and ranks third in overall production. In Michigan, apples are a \$63 million a year industry.

Michigan's principal growing region for apples runs along the southwest part of the Lower Peninsula. The moderating effect of Lake Michigan makes it one of the most important apple-producing States, ranking first in the production of Jonathan and Northern Spy apples. In 1978, a banner year for most fruits, Michigan growers harvested 800 million pounds of apples--the biggest yield since the turn of the century. This amounted to a whopping 40-percent increase over the previous year.

During the past 4 years, the number of apple trees (3.1 million) and apple acreage (51,700) both have remained relatively constant in Michigan. However, the price of apples has fluctuated from just over a nickel a pound in 1975 to almost 9 cents in 1976 (a low production year) and just under 8 cents in 1977 and 1978. While I have not seen the figures broken out for 1973, the fresh market price of apples has varied from about 8 cents a pound in 1975, to 12 cents in 1976, and 11 cents in 1977. The processing price fluctuated from less than 3 cents a pound in 1975, to about 6 cents in 1976, 1977, and 1978. The new "star" in the processing apple industry is juice; the price has gone from about 2 cents in 1975 to around a nickel in 1977 and 1978--with year-end prices as high as 8-1/2 cents.

The price of apples and some other major crops in Michigan is influenced by more than just the weather. It is set under a system that is the closest first cousin I know to labor-management relations in the conventional sense. The system is governed by a unique agricultural bargaining law.

As a result of marketing changes in the early sixties, a large number of Michigan growers formed and joined voluntary marketing and bargaining cooperatives. However, they soon found that this form of self-help by itself was not enough to cope with the new needs and problems of the times.

In "good" years, when the demand outstripped available supply, the associations were able to establish favorable terms of sale. But in other years, terms were less favorable and many growers in Michigan resorted to picketing and boycotting of processing plants--traditional trade union tactics. The problem was aggravated by "free rider" nonmembers who entered into "sweetheart deals" with the processors to undercut the grower associations. These, too, are concepts commonly associated with industrial labor relations.

By the late sixties, the grower association in Michigan apparently felt that the real problem was the "take it or leave it" marketing situation produced by a buyer refusal to bargain in good faith (a legal term of art in labor-management relations) and the lack of effective mediation and arbitration machinery. Put another way, the dynamics of the relationship between growers and processors in Michigan during the sixties were somewhat like those between industrial management and labor in the thirties which resulted in the Wagner Act and other labor relations statutes and systems since then. Whichever was the strongest, because of market conditions, won out.

Responsive to the pressures as they have developed in Michigan agriculture, the State legislature in December 1972 passed the Agricultural Marketing and Bargaining Act. It was signed by the governor the following month, and took effect in March 1973.

The act was modeled closely on industrial relations laws governing collective bargaining between organized labor and commercial employers. Some of those laws have been on the books for many years, including the National Labor Relations Act with its 45-year history, demonstrating that they can work in the nonagricultural sector of the economy.

I submit that experience under the Michigan Act demonstrates that many of the same principles and procedures can work in agriculture as well. These principles and procedures are included in a number of provisions in the act, whose antecedents lie in industrial labor laws and together add up to a total labor relations-oriented approach to dealing between grower associations and processors in Michigan.

The act's requirement of "last best offer" criteria which arbitrators must consider in establishing the price processors must pay reads remarkably like a similar requirement in Michigan labor law regarding last-best-offer binding arbitration of wage disputes. The comparable provision in the Agricultural Marketing and Bargaining Act requires that the tripartite arbitration committee base its decision on the following factors--

"(A) Prices or projected prices for the agricultural commodity paid by competing handlers (processors) in the market area or competing market areas.

"(B) Amount of the commodity produced or projections of production in the production area or competing marketing areas.

"(C) Relationship between the quantity produced and the quantity handled by the handler.

"(D) The producers' (growers') cost of production including the cost which would be involved in paying farm labor a fair wage rate.

"(E) The average consumer prices for goods and services, commonly known as the cost of living.

"(F) The impact of the award on the competitive position of the handler in the marketing area of competing areas.

"(G) The impact of the award on the competitive position of the agricultural commodity in relationship to competing commodities.

"(H) A fair return on the investment.

"(I) Kind, quality, or grade of the commodity involved.

"(J) Stipulation of the parties.

"(K) Such other factors which are normally or traditionally taken into consideration in determining prices, quality, quantity, and the costs of other services involved."

Completing the analogy I have drawn to labor relations...

-- The act provides a process for determining bargaining units of growers.

-- The act prohibits certain unfair practices by both parties, grower associations and processors.

-- The act imposes a mutual duty to bargain in good faith.

-- The act provides for mediation of unresolved issues and tripartite, binding arbitration of those issues which remain.

The procedure for determining bargaining units and certifying bargaining agents is very similar to the procedure in many labor relations systems. The association must file a petition and show that it represents at least 10 percent of the producers of the commodity. In industrial labor relations, this is called a "showing of interest," and is likewise commonly pegged at 10 percent.

Another association can contest the petition if it, too, musters a 10-percent show--an exact parallel to the "intervention" of rival unions in representation proceedings under most industrial labor laws.

The criteria for establishing appropriate bargaining units are similar, including "community of interest" among those represented in the unit, and the provision that the unit be defined in such a way that it will promote "effective dealings" between the parties. Under the act, the commodity is the community of interest. The act also includes a presumption in favor of "the largest bargaining unit," whereas most labor laws do not express a reference. To date, seven bargaining units have been approved under the act, and five marketing and bargaining associations have been accredited to exclusively represent five of those units. Together, they represent 960 growers.

All of the producers in these units, whether members of the association or not, are required to deal exclusively through the accredited association. This "doctrine of exclusivity" is a first principle of industrial labor relations in this country. It is an adjunct of the duty to bargain which under the Michigan Act is enforced by the Agricultural Marketing and Bargaining Board. The board, whose orders are enforceable as well as reviewable in the courts, also enforces the unfair practices provisions of the act.

The first time I read the unfair practices section of the act, it gave me a feeling of deja vu--that I had seen it all before. That is because those provisions were cut from the same cloth as the unfair labor practices provisions in industrial labor laws. For example, under the Michigan Act;

--It is an unfair practice for a processor to coerce a grower in the exercise of the right to join or refrain from joining an association.

--It is an unfair practice for a processor to discriminate against a grower on account of membership in an association.

--It is an unfair practice for a processor to suborn any violation of the act.

--It is an unfair practice for an association to enter into a contract which discriminates against a grower it represents in the unit, whether or not the grower is a member. (In industrial labor relations, this would be a breach of "the duty of fair representation.")

--It is an unfair practice for an association to coerce a processor to breach a membership agreement or marketing contract with another association or with a grower.

--It is an unfair practice for an association to suborn any violation of the act.

Substitute the word "employer" for processor, "labor organization" for association, and "employee" for grower, and these provisions would read much like the unfair labor practices provisions in most industrial labor laws.

In addition, and most important, it is an unfair practice under the Michigan Act for either a processor or an accredited association to refuse to bargain with the other. This provision puts teeth into the duty to bargain I adverted to earlier. This obligation to bargain in good faith has been legally applicable in Michigan to the establishment of prices for processing asparagus (6 years), red tart cherries for processing (1 year), kraut cabbage (5 years), and processing apples (5 years).

As I have illustrated by the price fluctuations in the apple industry, negotiated contracts have resulted in higher prices and also lower prices, thus demonstrating the recognition of competition and the effect of supply and demand factors. At the same time, greatly improved grade standards have resulted from this bargaining in good faith.

Under the act, most settlements have been the result of good faith bargaining, although some have involved mediation services and even arbitration. Out of 107 scheduled arbitrations, only 16 awards have been rendered, while 91 disputes have been settled without an arbitration award.

Settlement by the parties themselves, as distinguished from a settlement imposed by an arbitrator or other third-party authority, is the true litmus test of success in any bargaining system. I submit that the Michigan Act is passing this test. The availability of professional mediation services from the board has been of great help. This is not to say the Michigan experience has been, or is today, without problems. It has been and continues to be plagued with a number of problems, some of them quite serious.

The earliest, and one of the most formidable, involved the initial legislation itself. Originally, the act carried a September 1, 1976, expiration date--a common feature of experimental legislation in the State. The challenge was to demonstrate sufficient benefit to growers and the State's entire agricultural industry to warrant the legislature's removal of this "sunset provision." This was accomplished by an overwhelming majority in both houses of the legislature.

The act also has been under challenge in the courts. In one case, which is still pending, the Michigan Canners and Freezers Association and others have challenged the constitutionality of the act. (As I recall, I was an expert witness in this case.) The State Supreme Court remanded the case to a circuit court for an evidentiary hearing, and the circuit court judge was quoted in the press as saying, "It will be

months and possibly years before the final decision comes down from the Supreme Court." (In fact, the hearing at which I testified was held in September 1977 and to this date--almost 2-1/2 years later--the judge has not sent his findings of fact back to the Supreme Court.) Until then, the act will continue to operate--but under a constitutional cloud--for apples and most of the other perishable fruits and vegetables. However, the act will not continue to operate fully, in the foreseeable future, with respect to the pricing of red tart cherries and potatoes for frozen products. The application of the act to these commodities was stayed by an Appeals Court injunction in 1975 which negated bargaining in good faith and possible arbitration.

One of the most serious problems, however, does not involve court action (or inaction). It is quite like the problem industrial unions face in relation to multinational corporations. Only in this case, they are called "multi-state processors."

This problem is perceived as particularly severe by growers in Michigan's apple industry. Michigan is the only apple State with agricultural bargaining legislation. The growers deal with a number of processors who also have plants in Eastern States where there are no strong grower bargaining associations or even any agricultural bargaining legislation. In those States, growers must "take it or leave it" if the supply is plentiful. The processors are in a similar fix if the supply is short and the consumer demand high. What the growers must "take" are the terms set by the processors. The most dramatic recent example of how this can affect growers occurred in New York in 1975, when apple growers there received prices that were lower than the cost of harvesting. This apparently spurred a strong association membership drive, and in 1977 and 1978, prices were relatively similar to Michigan's.

Following Michigan's lead, activity is afoot in a number of States to enact or strengthen agricultural bargaining legislation. For example--

- California and Ohio have adopted good faith bargaining legislation, and California growers are seeking to amend theirs to pattern it more closely on the Michigan model.
- Growers in Maine and Minnesota are seeking to add compulsory arbitration.
- New York, Pennsylvania, Idaho, and Washington are working on draft legislation similar to Michigan's.

While good faith bargaining legislation is an important first step, it is not the whole solution to pricing problems in these and other States. What is required is effective bargaining, and in agriculture that means arbitration as a last step method of resolving impasses. I submit that the Michigan experience has demonstrated the viability of this proposition.

Tripartite arbitration--hedged in Michigan by the pricing criteria I have mentioned and by an arbitration committee featuring full grower and processor participation with a neutral arbitrator who is required to be "knowledgeable in the marketing of the agricultural commodity" in dispute--is suited to the needs of growers and processors alike. This is particularly true in the case of perishable crops where prices must be settled quickly and in season. In my case, I had to be formally "cleared" by representatives of both parties before I could even be included on the list of those available for appointment by the parties themselves.

The procedure has prevented Michigan growers from losing their markets, as did the growers of Green Giant peas and sweet corn in 1976 and 1977 in Minnesota where the agricultural bargaining law did not provide for compulsory arbitration. It is worth

noting that processors have not been driven out of Michigan by the operation of its act, but have made some quantity adjustments in the face of low grower prices in some other States. Grower prices established under the Michigan Act have fluctuated, laying to rest early apprehension that compulsory arbitration would continually push raw product prices upward.

Establishing prices based on true supply and demand factors isn't a self-executing process. It comes from hard-nosed bargaining. As the Michigan experience shows, tripartite impasse resolution of otherwise unresolved disputes can make bargaining work.

In agriculture, good faith bargaining with compulsory arbitration of impasses which cannot otherwise be resolved by joint agreement is a viable alternative. The major obstacle that remains, even in States which are actively pursuing initial or strengthened systems of agricultural bargaining, is the multi-state processing operation. Growers at least perceive a need to rationalize price determinations across State lines, so that they and the processors in one State are not victimized by strong bargaining positions in other States.

My experience in Michigan and in labor and commercial arbitration leads me to the conclusion that there is a need for consideration of national legislation. Legislation was introduced in both houses of the 95th Congress, and has been reintroduced in the current Congress. It would require bargaining in good faith nationwide, and includes an arbitration feature. The legislation has a number of sponsors in the House, and apparent grower support.

While I am not opposed to a Federal system, that approach simply has not garnered sufficient support in the Congress at this stage. Nor is it realistic, in my view, to expect that each State will on its own initiative enact the kind of effective bargaining legislation that will assure a fair shake for growers and processors in all States. What we could seek, and may very well seek in the foreseeable future, is national legislation setting forth the minimum standards which all States could adopt in their agricultural bargaining systems to bring the desired degree of uniformity between production areas. With minimum standards in place, each State could craft its own system to meet local problems and local needs which may be peculiar to growers and processors operating there. There should be maximum reliance upon voluntarism.

As a forum for grower and marketing associations from the Nation's major agricultural States, the national committee can play a major role in stimulating discussion and consideration of the kind of national bargaining legislation I have mentioned. It takes maximum involvement for any new concept or procedure to gain any degree of real acceptance.

UNDUE PRICE ENHANCEMENT

VIEWPOINT OF THE U.S. DEPARTMENT OF AGRICULTURE

Alden C. Manchester
Economics, Statistics, and Cooperatives Service, USDA

INTRODUCTION

We will be discussing a number of issues relating to the enforcement of Section 2 of the Capper-Volstead Act--the undue price enhancement provision. Topics to be covered include:

- . A brief history of USDA activities under Section 2 in recent years
- . The scope of the Section 1 exemption
- . The scope of Section 2
- . The jurisdiction of USDA and the other antitrust agencies
- . The standard for determining undue price enhancement

SOME HISTORY

The U.S. Department of Agriculture has not brought a charge of undue price enhancement since the Capper-Volstead Act was passed in 1922, although a number of cases have been investigated. Seven cases of possible undue price enhancement have been subject to inquiry by the U.S. Department of Agriculture since 1969. There is no knowledge of earlier cases, although it is possible that there were others.

Six of the seven cases involved milk and all of these related to over-order payments. The seventh case concerned potatoes for processing in Idaho.

Three of the inquiries--in 1969, 1972, and 1973--resulted from complaints by milk buyers. In one case, the buyer was joined by a minority cooperative. The fourth case originated with the Judiciary Committee of the House of Representatives in 1973. A 1974 inquiry was originated within the Department. The final milk case originated from a petition filed by the National Consumers Congress suggesting that the Secretary should have reason to believe that the price of milk was unduly enhanced in any Federal order market where over-order charges were 50 cents or more per hundredweight in any month during 1975. The Capper-Volstead Committee, which was then charged with enforcement of Section 2, reported its conclusions that there was no undue price enhancement in December 1976. This is the only case in which a written report was made public, although testimony was presented before the House Judiciary Committee in 1973.

In the potato case, the major Idaho potato processor complained that the cooperative bargaining association had unduly enhanced prices in 1974 by refusing to sign a contract at a lower price. The increase in price from 1973 to 1974 was cited as evidence of undue price enhancement. A review of supply and demand conditions led to the conclusion that prices had not been unduly enhanced.

In each case, the inquiry took the form of a careful review of supply and demand conditions in the market affected, including comparisons with other markets. The task was to search for prices which were out of line with supply and demand conditions and would have been evidence of possible undue price enhancement.

Why were there no cases before 1969? One possible explanation is that cooperatives did not have enough market power to significantly affect prices until the sixties, so no one complained. The milk cases were all based on the size of over-order payments which provide a handy indicator that is sometimes taken as a measure of undue price enhancement, as in the National Consumers Congress petition.

Cooperative over-order payments came into existence in the mid-fifties. In the early sixties, they were found in about one-third of Federal order markets, rising to 65 percent in 1970. This increase in over-order payments coincided with the growth of federations and larger regional cooperatives in the sixties and early seventies. It also coincided with a drastic change in the functions performed by dairy cooperatives and in the services provided. Thus, the emergence of over-order payments was a precursor of complaints of undue price enhancement for milk.

During 1971, administration concern about inflation led to price and wage controls. Many agricultural and other programs were reexamined to see if they were inflationary.

There were charges that the U.S. Department of Agriculture was biased in favor of cooperatives and would never find undue price enhancement, although in the view of those making the charges, it was rampant. There were calls for amendment of the Act, transferring enforcement responsibility for Section 2 to the Justice Department or the Federal Trade Commission.

In this climate, the department established the Capper-Volstead Committee consisting of the general counsel as chairman, the assistant secretary for marketing and consumer affairs, and the director of agricultural economics. This group was charged with responsibility for the enforcement of Section 2 of the Capper-Volstead Act. They received complaints, arranged for informal investigation of the charges, and recommended action to the Secretary.

In 1978, the present administration transferred responsibility for monitoring and investigation of possible violations of Section 2 to the director of economics, policy analysis and budget. A Capper-Volstead Study Committee was set up to look into ways in which a more active monitoring effort could be carried out.

On July 6, 1979, the department published in the Federal Register proposed rules of practice dealing with violations of Section 2. A report of the Capper-Volstead Study Committee was made available at the same time. In accordance with normal practice, 60 days were provided for comments from interested parties.

Thirty-nine comments were received from:

18 cooperatives

4 cooperative organizations

- 2 banks for cooperatives
- 2 cooperative lawyers
- 5 farm organizations
- 1 joint statement from two California Congressmen
- 3 U.S. Department of Agriculture personnel
- 1 university professor
- 3 proprietary firms or organizations

Various points of view were expressed, but there was no consensus among cooperatives or within the other groups.

The comments by cooperatives and other on the proposed rules of practice and the Study Committee report raise two major questions relating to the organizational location of the monitoring office. A number raised the question of a conflict of interest between the promotional function regarding cooperatives and the monitoring function. They pointed out that both functions would report to the director of economics, policy analysis and budget. This problem could be dealt with by having the monitoring office report elsewhere in the department. A second point is more difficult to deal with. They pointed out that as long as the office has only one function--that of monitoring cooperative behavior for undue price enhancement--that office will be under increasing pressure to demonstrate that it is on the job by bringing a case. If no good cases arise, as may well occur, they will feel the pressure to bring a poor case. This problem could only be dealt with by creating an organization with multiple regulatory responsibilities. Such an organization would feel less need to bring an undue price enhancement case to demonstrate that it was doing its job.

About half of the commentators opposed monitoring for undue price enhancement. They recommended that reliance be placed on complaints, as in the past. There was no evidence of widespread undue price enhancement by cooperatives, the Department had fully demonstrated its capability to investigate any such charges (as in 1976), and a monitoring office with no other functions would feel the imperative to prosecute. They felt strongly that the creation of such an office with the sole responsibility to constantly monitor farmer cooperatives would lead to burdensome and costly reporting requirements.

The department is now considering these comments and will soon be making decisions regarding monitoring and investigation activities.

SECTION 1 OF THE CAPPER-VOLSTEAD ACT

Section 1 of the Act provides that agricultural marketing cooperatives are exempt from the antitrust laws. There is widespread but not universal agreement that the exemption conferred by Section 1 is limited and partial. There is a school of thought that the exemption is complete, but Supreme Court decisions have not agreed that this is so.

All agree that the formation and continued existence of an agricultural marketing cooperative (purchasing and service cooperatives are not included) is legal. There is much less agreement when it comes to the scope of the exemption as applied to the activities of such an agricultural marketing cooperative.

In order to qualify for the Section 1 exemption, an agricultural marketing cooperative must conform to specific requirements. All of the members must be farmers. This requirement was interpreted by the Supreme Court in the National Broiler Marketing Association (NBMA) case as excluding broiler integrators who did not own and operate production units. The question remains unsettled as to whether predominantly nonfarm corporations, say processors who own farms and produce agricultural products, are farmers within the meaning of Section 1. If the court's logic in the NBMA cases were applied, such nonfarm corporation producers would probably not be regarded as farmers. However, we cannot tell until such a case arises.

The other requirements of Section 1 deal with nonmember business (must be less than member business), mutual benefit, voting rights, and the limitation of dividends paid on capital stock to not more than 8 percent.

The question of what activities of agricultural marketing cooperatives fall within the Section 1 exemption is much less settled. The Supreme Court has held on several occasions that combinations or conspiracies in restraint of trade which involve noncooperative firms are not within the scope of the Section 1 exemption. In such a case, an agricultural marketing cooperative is liable under the antitrust laws like any other firm.

It is an unsettled question whether or not a bargaining cooperative falls within the Section 1 exemption. The matter has never been addressed by the Supreme Court, although the Ninth Circuit Court in the Treasure Valley Case held that bargaining was a marketing activity and within the scope of the exemption. The Federal Trade Commission staff disagreed with the court, arguing that a cooperative must perform all of the elements of the marketing function in order to qualify under Capper-Volstead, and might bring a case on this basis.

Activities of cooperatives in setting prices where noncooperative firms are not involved have generally been upheld by the lower courts and the Federal Trade Commission. This includes a case where the cooperative established a range of prices and sales were made by its individual members within that range, as well as an agreement between two separate cooperatives on selling prices.

The status of mergers among cooperatives is not altogether clear. While no such merger has ever been challenged, the antitrust agencies would like to apply the "completely voluntary membership" principle here as elsewhere and insist that members be allowed to withdraw at the time of merger.

Other activities of agricultural marketing cooperatives which have never been ruled on by the Supreme Court, although one or both of the antitrust agencies indicate a desire to challenge them, include:

- . Limits on production by cooperative members through quotas or other devices
- . Full supply contracts
- . Cooperative monopoly.

SECTION 2

The intent of the Capper-Volstead Act was clearly to make it possible for farmers to enhance prices through marketing cooperatives. Section 2 says that they cannot go too far and unduly enhance prices through monopolization or restraint of trade. In

other words, they cannot go too far in raising prices. The Act does not define undue price enhancement and there has never been a court case to shed light on the subject.

There are three elements of a Section 2 violation:

- . Monopolization or restraint of trade
- . Undue price enhancement
- . A cause-and-effect relationship between them.

Thus, a violation of the Capper-Volstead Act must involve undue price enhancement. But a cooperative could violate other antitrust laws where undue price enhancement was not involved.

JURISDICTION

The question of USDA jurisdiction in relation to that of the Department of Justice and the Federal Trade Commission is one which inspires many heated words. Some have argued that only the U.S. Department of Agriculture can act against a cooperative under the antitrust laws and others that the Federal Trade Commission has no jurisdiction. This point of view has received little encouragement in the courts. This is where the question of what cooperative activities are within the scope of the Section 1 exemption becomes important.

For activities which are outside the scope of the Section 1 exemption, Justice, FTC, or the U.S. Department of Agriculture can act. These are offenses against the antitrust laws not covered by the Section 1 exemption. They include, but are not limited to, combinations or conspiracies with noncooperative firms, predatory acts, coercive acts, and unfair trade practices. But the U.S. Department of Agriculture is the only agency which can consider undue price enhancement in such a case and it can only act when undue price enhancement is charged. Justice and FTC are limited to dealing with the monopolization or restraint of trade.

For acts by a cooperative which would be monopolization or restraint of trade if done by a noncooperative but which are within the scope of the Section 1 exemption and which lead to undue price enhancement, U.S. Department of Agriculture is the only agency which can act. Exclusive authority is given to the Secretary of Agriculture by Section 1 to deal with matters of undue price enhancement. It is likely but not settled that such activities by a cooperative which did not lead to undue price enhancement are completely within the scope of the Section 1 exemption and cannot be challenged.

THE STANDARD FOR UNDUE PRICE ENHANCEMENT

While Section 2 instructs the Secretary to take action against a cooperative which has unduly enhanced prices through monopolization or restraint of trade, it does not define undue price enhancement. Reasonable construction of the legislative intent of the Capper-Volstead Act, in the light of the language of the Act and the legislative history, is that Congress intended that the existence and operations of cooperative marketing associations could legally raise the prices received by the cooperatives above the levels that would otherwise exist. But there is, in fact, a legal limit above which prices become unduly enhanced. Since the highest price which might possibly be obtained is that of a single seller facing atomistic buyers, it would appear that a monopoly price would constitute undue price enhancement under Section 2 of the Capper-Volstead Act. This narrows the range of acceptable price enhancement to something more than the price which would exist without a cooperative and something less than that which could theoretically be obtained by a cooperative with 100 percent

of the market facing atomistic buyers. But this does not provide much in the way of guidelines for the department or for the cooperatives which must attempt to operate within the acceptable range of price enhancement.

Within these limits, there is nothing in the Act itself to provide more precise criteria for judging whether or not undue price enhancement exists. The statements of the proponents of the Act are replete with comments about building up the market power of farmers through cooperatives to offset the power of the buyers. This leads to the conclusion that the legislative intent was that farmers were to be permitted to receive prices at least as high as those resulting from market power equal to that of the aggregate of firms with whom they must deal. There is probably general agreement that prices at such a level would not constitute undue price enhancement.

The idea of equality of market power is anathema to many cooperatives and cooperative organizations. They maintain that the intent of the Capper-Volstead Act was to permit them to acquire some market power "of their own." If this position were adopted as a standard for judging undue price enhancement, a breakpoint would be somewhere above the prices which would result from equality of marketing power and below those which would result from a cooperative monopoly facing atomistic buyers. Use of this concept would narrow the range of possible undue price enhancement.

Whatever standard is adopted, or even if none is adopted, the conclusion that the acts of a cooperative do or do not constitute undue price enhancement must be made on a case-by-case basis. Undue price enhancement is, by definition, to be decided by application of the "rule of reason." The Department and ultimately the courts must decide whether prices have been unduly (unreasonably) enhanced by economic analysis of the facts in the individual case. This starts with a definition of the economic market in which the cooperative operates. It includes analysis of the structure and behavior of the firms on the buying and selling sides in that market. The market power of the cooperative and of competing sellers as well as the market power of buyers in that market must be appraised. Since the market power of buyers and sellers in the markets for agricultural products rest on different bases this involves much more than a comparison of market shares. Particularly, control over supply must be analyzed.

SUMMARY

Pressures have been building in recent years for the Department to do something about possible undue price enhancement. This led to a decision to take a more active stance and monitor the activities of agricultural marketing cooperatives for possible undue price enhancement. The means of doing it are still under discussion.

Questions of the form of the organization which meet the requirements of Section 1 of the Capper-Volstead Act are fairly well settled with the National Broiler Marketing Association case. Questions of what activities of such organizations are within the scope of Section 1 are less settled. Combinations or conspiracies in restraint of trade which involve noncooperative firms are not within the scope of the exemption. Activities which at least some in the antitrust agencies would like to challenge include bargaining, limits on production by cooperative members, full supply contracts, and cooperative monopoly.

The U.S. Department of Agriculture is the only agency which can act against undue price enhancement. But an undue price enhancement case must involve either monopolization or restraint of trade, and either Justice or the Federal Trade Commission can take action against monopolization or restraint of trade if the activities are not within the scope of the Section 1 exemption.

The language of the Act and its legislative history indicate that Congress intended to make it possible for marketing cooperatives to raise prices to some extent but that there is a limit beyond which prices are excessive. A cooperative monopolist facing many small buyers could achieve the highest price. Such a monopoly price would constitute undue price enhancement. It seems equally clear from the legislative history that Congress intended for marketing cooperatives to be able to at least match the power of their buyers. A price resulting from such equal market power would not constitute undue price enhancement. Prices between these two points would be analyzed on a case-by-case basis and a decision reached as to whether or not they were unduly enhanced.

VIEWPOINT OF McCUTCHEN, DOYLE, BROWN & ENERSEN LAW FIRM

Samuel D. Hinkle IV
McCutchen, Doyle, Brown & Enersen

I have been asked to discuss undue price enhancement. As all of you know, Section 2 of the Capper-Volstead Act authorizes the Secretary of Agriculture to take action to prevent prices from being unduly enhanced. The procedural and substantive guidelines which he is to use have been a topic of much discussion in recent months. I'm going to analyze some of the proposals we've seen so far from a bargaining cooperative's perspective. First, let me give you a little history.

Congress passed the Capper-Volstead Act in response to antitrust lawsuits against cooperatives which threatened their existence. Private persons who didn't like cooperatives disturbing traditional relationships in which the farmer was powerless were one source of these lawsuits. Misguided public officials were another. Section 1 of Capper-Volstead was intended to put a stop to such actions. In general terms, it permits farmers to "act together... in collectively processing, preparing for market handling and marketing" their products.

Section 2 of Capper-Volstead gives the Secretary of Agriculture the responsibility to see to it that the provisions of Section 1 are not abused. If an association permitted by Section 1 is found to monopolize or restrain trade to such an extent that the price of any "agricultural product" is unduly enhanced, the Secretary must issue an order directing the association to cease and desist. However, Section 2 tells us very little about the procedures which the Secretary is to use in determining if undue price enhancement has occurred. It gives us even less guidance as to what substantive rules to apply in identifying undue price enhancement.

The Department of Agriculture has now taken some steps to provide us with more information on these two subjects. First, it commissioned a report which was prepared by a Capper-Volstead study committee, entitled, "Undue Price Enhancement by Agricultural Cooperatives--Criteria, Monitoring, Enforcement." Keep those three topics in mind. I'll be discussing all of them.

The report is dated June 1979. In July, the Department published proposed rules in the Federal Register. They purport to be in response to and in conformance with the report. Comments on the proposed rules were invited. They had to be received by September 7, 1979. To date, the department has not finalized the rules. Accordingly, I will primarily be discussing the report and proposed rules with you.

First, as a lawyer, it strikes me as a good idea that the Department clarify the procedure for handling charges of undue price enhancement. It is also valuable for the Department to set forth some of the criteria to be used in determining an unduly enhanced price.

The Secretary can more responsibly fulfill his statutory obligation if rules and regulations exist which define what is being sought and how to go about looking for it. In addition, a cooperative can more effectively keep its activities within the requirements of the law with the help of regulations which explain what the Department, at least, thinks the law means. It's also important to know the procedures available should your cooperative be subject to investigation. All in all, the Department's effort was soundly motivated. Unfortunately, the results of the effort raise many problems.

I'm going to talk about the report first. Some of the most serious problems arise there. The report suggests creation of a separate unit within the Department to enforce Section 2. It then suggests that some cooperatives be subject to continuous monitoring by that unit for undue price enhancement. There is no need for a separate unit which has as its sole function the enforcement of Section 2. In the past, the Department has properly investigated and processed charges of undue price enhancement without creating yet another bureaucracy. I see no reason to believe it no longer has the ability to do so. Furthermore, once a separate unit is established, it will face tremendous pressures to prosecute cooperatives simply to justify its existence.

The report also recommends that some cooperatives be singled out for continuous "surveillance"--that's the word in the report, not my word--for possible undue price enhancement. The costs of continuous monitoring are easy to see: burdensome reporting requirements, increased recordkeeping, additional demands on management's time. The benefits are more difficult to imagine. The most efficient way of determining what cooperatives, if any, should be investigated is to rely on charges filed by third parties, which could include the Department of Justice and the Federal Trade Commission. Especially after procedures are in place for investigating such charges, we can safely rely on persons directly affected by cooperatives' activities to bring alleged undue price enhancement to the Department's attention.

An equally serious problem with a continuous monitoring unit is that such a unit would have absolutely no idea what cooperatives should be monitored. The report suggests that the cooperatives to be monitored should be selected on the basis of market share. Tests of whether a cooperative should be monitored include: (1) Does a cooperative or unified cooperative marketing group rank among top firms selling in the relevant market? (2) Buyer concentration is less than the degree of concentration for the largest sellers in the relevant market. (3) The largest cooperative or unified cooperative marketing group in the relevant market has a market share at least 10 percent larger than the largest single buyer.

There are obvious problems with that approach. Market share cannot be simplistically equated with market power or power over prices. As persons involved with bargaining cooperatives, you know that a large market share does little more than keep you from being ignored. You also know that it doesn't give you the clout that an ordinary corporation with the same share would have. There are many reasons for this, but one of them is so obvious that even the report admits it: Cooperatives almost never have the control over production which a large market share implies for an ordinary corporation. First, growers normally have the ability to increase total supply substantially. Typically, there is land available in the moderately short run to increase production of agricultural products which command a marginally better price.

Second, cooperatives generally have no control over total production by members, much less nonmember producers, including new entrants. In many bargaining cooperatives, the cooperative is obligated to represent its members without regard to the total production of the member and the member is obligated to deliver all output to or through the cooperative. Each member's total production is the member's personal decision. As a result, the cooperative's market share will often rise or fall as a result of price and is not a factor which the cooperative manipulates to affect price.

Third, the typical membership agreement does not tie the member to the cooperative for a long term. The member has periodic and frequent opportunities to leave the cooperative if it attempts to restrict supply in order to increase price. In the almost perfectly competitive market in which farmers must operate, they often will not hesitate to do so if it means an opportunity to increase returns.

In other words, the report suggests that relatively large cooperatives be subject to continuous monitoring simply because they're big. That is flatly contrary to Section 1 of Capper-Volstead, which permits cooperatives to form and to function without limit on their size. It is also contrary to the conclusion of the Supreme Court, which has at least intimated that a cooperative can have a monopoly. It is also contrary to economics, which indicate that cooperative size does not give the cooperative the power to control prices.

After purportedly identifying the kind of cooperative it believes should be monitored, the report identifies behavior which indicates a "need for further inquiry." Such behavior includes:

(1) Exercising long-term price or marketing strategy leadership and generally occupying the role of the dominant firm.

(2) Influencing entry of other firms into marketing.

(3) Exercising influence over production and harvesting patterns of its members or the entry of farmers into production.

(4) Allocating to reserve pools or engaging in surplus disposal not under a Federal or State marketing order.

(5) Allocating supply among alternative uses designed to produce increased net revenue as a result of differences in demand.

The categories mentioned are vague. They include perfectly legal behavior which Section 2 of Capper-Volstead was not intended to prohibit. The Capper-Volstead Act refers to monopolization and illegal restraints of trade. That is what the Department should be concerned with. Moreover, many of those acts, including the following, have already been defined:

. Coercive tactics to force nonmembers to join,

. Coercive tactics to deprive competitors of markets and drive them out of business,

. Conspiracy with nonproducers to fix prices.

Possibly the the most dangerous aspect of the report is its definition of undue price enhancement as a price in excess of the price which would result if the market power of the cooperative and the firms with which it must do business were equal.

The act and its legislative history do not support such a definition. No reason is given why a cooperative may not develop market power in excess of that of the firms with which it deals. In fact, in my view, the act permits a cooperative to achieve a monopoly. 1/

In addition, the definition is deceptively simple and unworkable. Measurement of "market power" is exceedingly complex and subject to the personal whims of the person doing the measuring. This is especially true in the complex markets in which cooperatives operate. As I've already discussed, cooperatives differ dramatically from ordinary corporations. Furthermore, the corporations with which a cooperative must deal range from national and multinational processors, to national and regional retail chains, to local proprietors. Faced with this complexity, it is tempting simply to equate market power with market share. In fact, the report has fallen into this error, as pointed out above.

Many factors have been suggested as indicators of market power and hence the potential for undue price enhancement. They include:

- . Extent of vertical integration
- . The effect of perishability of the agricultural product--a factor especially important to bargaining cooperatives
- . Extent of advertising and marketing under brand names or trade names
- . Availability of alternative markets
- . The effect of substitutability of products
- . Ability to control supply to pass along costs
- . Effects of negotiating skills
- . Quality of the product
- . Relationship of supply and demand
- . The members' commitment to the cooperative
- . The cooperative's market performance over time
- . Historical returns to members.

However, I believe that another set of factors indicating undue price enhancement is more important, more workable, and more consistent with the purpose of the Capper-Volstead Act. In my view, undue price enhancement is a price to the grower which results in a net return on investment which is substantially greater over time when measured by the same indicators than the returns earned by the industrial and manufacturing sectors, after making due allowance for the value of the farmer's time and the replacement cost of productive assets, including land. Surely the farmer is entitled to the same return as other business people. Until a farmer gets it, there cannot be undue price enhancement.

A measure of undue price enhancement which uses this standard focuses on the real issue: return to growers. The Capper-Volstead Act was enacted to permit

1/ But see Fairdale Farms, Inc. v. Yankee Milk, Inc., No. 75-140, D. Vt., 11/2/79.

cooperatives to work to increase that return. Only when that return has become too great has there been undue price enhancement. In addition, the Department is particularly suited to identifying and measuring costs of production, as well as returns over time. The department's true expertise can in this way be put to work.

The report also suggests that the Secretary has the authority to order "change in structure" if he finds there has been undue price enhancement. That phrase is vague, and probably intentionally so. To me, it raises a host of horrors, including breaking up cooperatives which the Secretary believes have unduly enhanced price. Such an approach is entirely unsupported by the Capper-Volstead Act; Section 2 refers only to cease and desist orders. It poses a threat which none of you should take lightly. You all are familiar with the years of effort needed to establish an effective bargaining cooperative. The Department has not been given the power to undo those efforts by proclamation, and such power should not be conceded to anyone.

The report also states that an important function of the monitoring office would be "liaison" with the Department of Justice and the FTC. It says that a major function would be to decide which agency should handle a specific case. The Capper-Volstead Act vests authority in the Secretary of Agriculture--and in no one else--to investigate and prosecute charges of undue price enhancement. Furthermore, the Congress clearly intended that result. It considered and rejected use of either the Department of Justice or the FTC to investigate cooperatives. It is unclear to what extent the report implies that any authority exists in the Department of Justice or the FTC with regard to undue price enhancement. However, any implication to that effect must be categorically rejected.

As you can see, the report purports to be an evaluation of substantive issues involved in the concept of undue price enhancement. On the other hand, the proposed regulations purport to be the procedures by which charges of undue price enhancement are handled. Unfortunately, they also present significant problems.

In the first place, the proposed regulations seem to suggest that an accused cooperative has the burden of proving its innocence at some stage of an investigation. Although the proposed regulations are unclear, any suggestion of that nature is completely unacceptable. As is true in proceedings before other administrative agencies, the burden of proof should be on the department to prove its case at every point in the proceedings. Such an interpretation is consistent with the language of Section 2 and required by basic notions of due process.

The regulations also seem to permit the Secretary to delegate certain important functions. In my view only the Secretary should make the final decision to initiate a formal complaint, and only the Secretary should make the final determination as to whether a cooperative has monopolized or restrained trade to such an extent that prices of agricultural products have been unduly enhanced. In Section 2 the Congress has instructed the Secretary to make the extremely important decisions required when charges of undue price enhancement are made. The Secretary ought not avoid the responsibility for decisions which could potentially affect thousands of family farmers and frustrate the congressional policy to encourage cooperatives.

The proposed regulations also fail to establish workable procedures during the investigation and hearing process. All charges of undue price enhancement should be in writing and signed by the charging party. A cooperative suspected of unduly enhancing prices should be apprised of the charges against it at the earliest opportunity so that it may participate in the precomplaint investigation process. In this way many charges may be resolved informally without the need for costly administrative proceedings. Next, the investigatory function should be separated from the enforcement function. In this way, those who present the evidence against

a cooperative can do so fairly, as responsible public servants, without fear that they must justify the validity of their previous investigation.

Discovery is an important part of any judicial proceeding of this nature. The proposed regulations fail to make adequate provision for discovery by a cooperative. Without discovery, the cooperative will not be able to adequately respond to the complaint against it or present evidence which demonstrates that it has not violated Section 2. Administrative proceedings should not be trial by surprise.

In addition, the proposed regulations do not provide for adequate protection of the confidential information which inevitably will be involved in an undue price enhancement investigation. Cooperatives should be assured that the information disclosed during such an investigation will remain confidential and cannot be obtained by persons who might use such information to the cooperative's competitive disadvantage.

In sum, I am disappointed by the report and proposed regulations. While I believe it is desirable for the department to formalize the procedures for investigating and prosecuting charges of undue price enhancement, the efforts to date have not adequately done so. In my view, the report and proposed regulations fail to discuss some exceedingly important issues and contain other implications which are extremely dangerous.

Let's look for a minute at the context in which the report and regulations were prepared. There is something about a cooperative which seems to elicit hostility from many charged with enforcing the antitrust laws and regulating the economy. Perhaps they listen too carefully to the views of those whose interests are adverse to those of the farmers whom cooperatives serve; perhaps they don't understand the valuable services which cooperatives perform. In any event, we have already seen that such hostility was one of the reasons that the Capper-Volstead Act was enacted.

Similar hostility was also evidenced in the report of the National Commission on the Review of Antitrust Laws and Procedure. I'm sure most of you are aware of that commission, which was created approximately 2 years ago to study the exemptions for farmers and their cooperatives, among other things. No member of the commission was experienced in the affairs or business problems which cooperatives face. Instead, many on the commission had a record of open hostility to cooperatives. Predictably, the commission was critical of cooperatives' exemptions and the U.S. Department of Agriculture's enforcement of Section 2. One of its recommendations was the separation of enforcement of Section 2 from the department's responsibility to promote cooperatives. It contained the veiled threat that such separation should be "either within or outside the department."

The report and regulations must be viewed as a response to this type of thinking. Interestingly, the group which prepared the report met with representatives of the Department of Justice and the FTC. In light of the obvious pressures which have been brought to bear, it is not remarkable that the report and proposed regulations contain the flaws which we have discussed.

I believe we must always keep in mind that the national policy to encourage agricultural cooperatives is the result of political decisions which are continually under attack. In response, agricultural cooperatives must make continual efforts to educate the public and our political leaders about the benefits of the cooperative movement. When we do so, that policy is reaffirmed.

On the other hand, when agriculture does not tell its story, we are put in the untenable position of responding to attacks instead of taking the initiative for

ourselves. As I see it, the report and proposed regulations are a result of the U.S. Department of Agriculture simply responding to the initiative of others.

In my opinion, we must continually take our case to the people or risk losing the political and legal support which makes it possible for cooperatives to serve the American farmer and public.

NATIONAL COMMITTEE OF COOPERATIVE AGRICULTURAL
BARGAINING AND MARKETING ASSOCIATIONS

Annual Meeting - January 10-11, 1980
New Orleans, Louisiana--Attendance List

AGRICULTURAL COUNCIL OF CALIFORNIA
P. O. Box 1712
Sacramento, California 95808
(916) 443-4387

Cal Adams
Lee Ruth

ALLIED GRAPE GROWERS
1495 West Shaw Avenue
Fresno, California 93711

Buddy T. Iwata
Robert C. McInturf

AMERICAN AGRI-WOMEN (MICHIGAN)
455 - 15 Mile Road
Kent City, Michigan 49330
(616) 837-9527

Evelyn J. Cooper

AMERICAN AGRICULTURAL MARKETING ASSOCIATION
225 Touhy Avenue
Park Ridge, Illinois 60068
(312) 399-5744

A. W. "Bill" Jasper

AMERICAN FARM BUREAU FEDERATION
425 - 13th Street, N.W.
Washington, D.C. 20004
(202) 638-6315

Kirk Miller

AMERICAN INSTITUTE OF COOPERATION
1800 Massachusetts Avenue, N.W., Suite 508
Washington, D.C. 20036
(202) 296-6325

David Simpson
Beryle Stanton

APRICOT PRODUCERS OF CALIFORNIA
1762 Holmes Street
Livermore, California 94550
(415) 447-7660

Gene Bays Bill Sloan
Ed Maring Julius Traina
Les Rose

CALIFORNIA CANNERS & GROWERS
P. O. Box 671
Yuba City, California 95991
(916) 743-8720

Bruno Filice
Loyd McCormick

CALIFORNIA CANNING PEACH ASSOCIATION
3703 Mt. Diablo Blvd., Suite 220
Lafayette, California 94549
(415) 234-9171

Ugo Cavaiani
John Casazza
Steve Grant
Joe Herboth
Dennis Icardi
Frank Van Konynenburg

CALIFORNIA CANNING PEAR ASSOCIATION
100 Bush Street, Room 514
San Francisco, California 94104
(415) 982-3076

Mort French
Joe Mapes

CALIFORNIA CITRUS MUTUAL
1020 East Mineral King
Visalia, California 93277

Adin A. Hester

CALIFORNIA FOOD PRODUCERS, INC.
717 K Street, Suite 306
Sacramento, California 95814

William J. Thomas, Jr.

CALIFORNIA TOMATO GROWERS ASSOCIATION
9036 Thornton Road
Stockton, California 95207
(209) 478-1761

Bert Bacchetti
Gloria Bacchetti
Jack Hayes
Bev Hayes
Robert Holt
Kay Holt

CENEX
P. O. Box 43089
St. Paul, Minnesota 55164
(612) 451-5151

Edward J. Melby

CHERRY GROWERS, INC.
Box 509
Traverse City, Michigan 49684

Mark D. Anderson
Duane Frens

DOWD ORCHARDS, INC.
60th Avenue
Hartford, Michigan 49057
(616) 621-4616

Art Dowd
Ruth Dowd

FEDERAL LABOR RELATIONS AUTHORITY
1900 E Street, N.W.
Washington, D.C. 20424
(202) 632-6878

Ronald W. Haughton

FLORIDA FARM BUREAU FEDERATION
P. O. Box 730
Gainesville, Florida 32602

Bobby R. Bennett

HANSON, BRIDGETT, MARCUS, MILNE & VLAHOS
Citizens Building, One Kearny Street
San Francisco, California 97108
(415) 781-5500

Gerald D. Marcus

HEDLUND, Agribusiness Consultant
1725 K Street, N.W., Suite 1210
Washington, D.C. 20006
(202) 223-9292

Floyd F. Hedlund

INTER-STATE MILK PRODUCERS COOPERATIVE
1225 Industrial Highway
Southampton, Pennsylvania 18966

Paul E. Hand

KIWI GROWERS OF CALIFORNIA
Route 1, Box 445
Chico, California 95926

Dorothy A. Church

LeHIGH VALLEY FARMERS COOPERATIVE
629 North Derr Drive
Lewisburg, Pennsylvania 17837
(717) 524-0377

John C. York

LIBGRO, INC.
Route 1
Fort Jennings, Ohio 45844

Richard Ricker

LINDSAY OLIVE GROWERS
P. O. Box 278
Lindsay, California 93247

Ray Scott

McCUTCHEIN, DOYLE, BROWN & ENERSEN
Three Embarcadero Center
San Francisco, California 94111

Sam Hinkle

MICHIGAN AGRICULTURAL COOPERATIVE MARKETING
ASSOCIATION, INC.

P. O. Box 30960
Lansing, Michigan 48909
(517) 323-7000

William Austin
Keith Burmeister
Tom Butler
Harry A. Foster
Tom Gregory
Glenn LaCross
Alan Madigo
Rob Peabody
John Pulcifer
Noel W. Stuckman
Boyd Tromater
Gene Valiquette
William S. Wilkinson
Jerry Willmeng

MICHIGAN AGRICULTURAL MARKETING
BARGAINING BOARD
P. O. Box 30017
Lansing, Michigan 48909

Thomas J. Moore

MICHIGAN ASSOCIATION OF FARMER COOPERATIVES
P. O. Box 30960
Lansing, Michigan 48909

Charles W. Buchholz

MICHIGAN BLUEBERRY GROWERS ASSOCIATION
P. O. Box B
Grand Junction, Michigan 49056

J. Peter Holbein
Neil P. Meinke
John E. Shelford

MICHIGAN STATE UNIVERSITY
Department of Agricultural Economics
East Lansing, Michigan 48824
(517) 355-1695

Compton Chase-Lansdale
James D. Shaffer

MOUNTAIN EMPIRE DAIRYMEN'S ASSOCIATION
115 S. Pikes Peak Avenue
Florence Colorado 81226

Tom Camerlo

NATIONAL COUNCIL OF FARMER COOPERATIVES
1800 Massachusetts Avenue., N.W., Suite 604
Washington, D.C. 20036
(202) 659-1525

Robert N. Hampton

NATIONAL FARMERS ORGANIZATION
720 Davis Avenue
Corning, Iowa 50841

Ed Graf
Walt Mackney
Shelley Robertson

NATIONAL FARMERS UNION
1200 Continental Building
1012 - 14th Street, N.W.
Washington, D.C. 20005

Robert C. Lewis

NATIONAL GRAPE CO-OPERATIVE ASSN., INC.
2 South Portage Street
Westfield, New York 14784

Herbert P. Barber

THE NATIONAL GRANGE
1616 H Street, N. W.
Washington, D.C. 20006
(202) 628-3507

Robert M. Frederick

NATIONWIDE INSURANCE COMPANY
One Nationwide Plaza
Columbus, Ohio 43216

Joseph W. Carlton
Harry P. Metz
G. Willard Oakley
Dwight W. Oberschlake
Leonard F. Schnell
Robert W. Summer
Robert E. Walker
Wendell Weller

NEW YORK FARM BUREAU MARKETING ASSOCIATION
17 E. Bank Street
Albion, New York 14411

Mark Brownell
Jay DeBadts
Ralph DeBadts
Francis Kirby
Janet Kirby
Roland Orbaker

NISEI FARMERS LEAGUE
5108 East Clinton Avenue, Suite 115
Fresno, California 93727

Harry Kubo
Mrs. Harry Kubo

NORBEST TURKEY GROWERS
Box 1529
Salt Lake City, Utah 94110

Owen Sumsion

OHIO AGRICULTURAL MARKETING ASSOCIATION
P. O. Box 479
Columbus, Ohio 43216

Ralph Gillmor
Paul Slade
Stan Sattler

ONTARIO VEGETABLE GROWERS MARKETING BOARD
502 Newhold Street
London, Ontario, Canada N6E 1K6

Tim Carroll
Tony Csinos

Harry Dougall
Ed Mailloux

PENINSULA POULTRY GROWERS ASSOCIATION
Rt. No. 6 - Box 581
Dagsboro Road
Salisbury, Maryland 21801

Walter Shockley

POTATO GROWERS OF IDAHO, INC.
P. O. Box 94
Blackfoot, Idaho 83221
(208) 785-1110

Jack Thomason

RAISIN BARGAINING ASSOCIATION
1111 Fulton Mall, Suite 212
Fresno, California 93721
(209) 233-8304

Kalem Barserian
Gwen Barserian
Ron Kister
Betty Kister
Harley Nakamura
Mrs. Harley Nakamura
Zabelle Pakchoian
John Pakchoian

UNIVERSITY OF FLORIDA
G107, McCarty Hall
University of Florida
Gainesville, Florida 32611
(904) 392-1881

Ralph A. Eastwood

UNIVERSITY OF VIRGINIA
School of Law
Charlottesville, Virginia 22901

John A. C. Hetherington

USDA - AMS (Agricultural Marketing Service)
Washington, D.C. 20250
(202) 447-6393

Charles E. Brader

USDA - ESCS (Economics, Statistics, and Cooperatives Service)
Washington, D.C. 20250
(202) 447-8370

Jack H. Armstrong
Gilbert W. Biggs
Martin A. Blum

John M. Connor
Louise B. Griffith
Gene Ingalsbe
John W. "Wally" Kirkbride
Alden Manchester
Randall E. Torgerson

WESTERN WASHINGTON FARM CROPS ASSOCIATION
1354 Old Highway 99, North
Mount Vernon, Washington 98273
(206) 424-7164

Pete Sword

WISCONSIN FARM BUREAU MARKETING ASSOCIATION CO-OP
7010 Mineral Point Road, Box 5550
Madison, Wisconsin 53006
(608) 833-8070

Donald Reimer
Al Rosenkranz
William Stoffel

ROSS WURM & ASSOCIATES
P. O. Box 3027
Modesto, California 95353
(209) 524-4396

Dorothy Mortensen
Ross Wurm



UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

POSTAGE AND FEES PAID
U.S. DEPARTMENT OF
AGRICULTURE
AGR 101
THIRD CLASS



24th National Conference of Bargaining and Marketing Cooperatives, January 10-11, 1980, New Orleans, Louisiana PROCEEDINGS



Economics, Statistics, and Cooperatives Service

The Economics, Statistics, and Cooperatives Service (ESCS) collects data and carries out research projects related to food and nutrition, cooperatives, natural resources, and rural development. The Economics unit of ESCS researches and analyzes production and marketing of major commodities; foreign agriculture and trade; economic use, conservation, and development of natural resources; rural population, employment, and housing trends, and economic adjustment problems; and performance of the agricultural industry. The ESCS Statistics unit collects data on crops, livestock, prices, and labor, and publishes official USDA State and national estimates through the Crop Reporting Board. The ESCS Cooperatives unit provides research and technical and educational assistance to help farmer cooperatives operate efficiently. Through its information program, ESCS provides objective and timely economic and statistical information for farmers, government policymakers, consumers, agribusiness firms, cooperatives, rural residents, and other interested citizens.