P U B L I C H E A R I N G

before

SENATE COMMITTEE ON AGRICULTURE,
CONSERVATION AND NATURAL RESOURCES

on

SENATE BILL NO. 608 - Deductions of certain fees from payments due members of co-operative agricultural marketing associations.

Held:
April 17, 1970
Assembly Chamber
State House
Trenton, New Jersey

Member of Committee present:

Senator Fairleigh S. Dickinson,
Chairman

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I N D E X

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I N D E X

SENATOR FAIRLEIGH S. DICKINSON (Chairman): Ladies and Gentlemen, if we could come to order. I am Senator Fairleigh Dickinson, the Chairman of the relevant Senate Committee on Agriculture.

The purpose of this public hearing is to establish the record on a subject which has been debated here since seven years ago, I believe, and to ascertain the position of various interests involved. Now, I was very happy to put this legislation in with respect to farm cooperatives and what is basically a check-off. Obviously, being neither a farmer nor in the food processing business, I have no personal interest in this legislation other than a desire to benefit the community as a whole and insofar as our Committee might make that possible.

With your permission, I would like to read into the record, and I will read it, although in most cases I merely ask that statements be put in the record, a letter from the Honorable Phillip Alampi, who, as you all know, is Secretary of Agriculture in New Jersey, because it states the opinion of the Department of Agriculture very effectively.

This was addressed to Mr. Carl Moore, Research Associate in the Division of Legislative Services, Division of Legislative Information and Research.

Dear Mr. Moore:

Thank you for your letter concerning the public hearing on Senate Bill 608 scheduled by Senator Fairleigh S. Dickinson for 10 a.m. on April 17, 1970.

Because of other conflicting appointments on that date, I will not be able to attend.

However, I would like to indicate that legislation similar to this bill has been proposed since 1963. It is our understanding from farm groups that some strongly favor it while others do not have a particularly keen interest in this type of legislation. Further, we are told by a number of food processors, who would be affected by this bill, that they are opposed to it.

Accordingly, as an agency of State government serving all the segments of the food industry, we have in the past and continue now to maintain a neutral position on this type of legislation.

Now I have extra copies of the bill, should anybody wish them, and I will, of course, honor any requests where there are conflicts or shortness of time or anything like that, should anybody wish to appear out of order. Otherwise, we will take this pretty much as people have indicated their interest and registered their desire to put testimony before the Committee.

The first person who has indicated such a desire is Mr. Richard A. Herald, Eastern Regional Manager of Agriculture of the H. J. Heinz Company. Is Mr. Herald here? [Not present]

The next one in order is Mr. J. Ogden Perry, Jr., President, New Jersey Canners Association. [Not present]

The third is Mr. A. B. Winters of the Campbell Soup Company. Is Mr. Winters present?

Mr. Winters, would you be kind enough to identify yourself for the record, and I will just turn the proceedings over to you on that.

A. B. W I N T E R S:

My name is A. B. Winters and I am Vice President of Agricultural Operations for Campbell Soup Company in Camden, New Jersey. I appreciate this opportunity to appear before the Committee and to present the reasons behind our opposition to S. 608, Compulsory Check-Off of Moneys Owed to Agricultural Marketing Associations.

We believe that S. 608, a bill which has been before the Legislature for the past eight or nine years, should not be enacted because of substantial deficiencies in the bill itself.

Since marketing association dues are based on a percentage of the price obtained by a grower for his crop, a processor's volume and sources of purchases for any given year would be made known. These dues, as well as any other obligations owing to the association, would have to be checked-off under this bill. Presently, we treat this information as confidential.

This is a special-interest legislation in that it requires a third party (the food processor) to operate as a collection agency for dues, assessments, fines, etc. levied by a cooperative association against its membership. Failure of members to pay dues to an association is a matter for settlement between the two parties involved, whether that association be a cooperative, lodge, club or any other business organization.

The food processor will further be forced to bear the burden of significant administrative costs. Although the bill allows us to retain

five percent of the amount checked-off to cover our administrative costs, this figure does not bear any true relationship to the actual cost involved.

This proposal further does not clearly establish priorities of claims against us and in the event the grower, an independent contractor, has made various agreements, we would be required at our peril to determine priorities or pay court costs, interest, and counsel fees to the cooperative association.

Turning to agriculture in New Jersey, this legislation puts at stake our long standing vital interest in direct contracts with producers in New Jersey. I would like briefly to outline our contracting method for tomatoes:

(a) Prior to the planting season we approach producers and discuss the possibility of a contract. In actual practice many producers approach us first. About 95% of the producers we do business with repeat with us.

(b) We then discuss the number of acres the producer would like to plant.

(c) We propose a price which we think will enable the good producers to make a good profit. In any given area we propose the same price to all producers. If the price is not thought by the producer to return a satisfactory profit, we know about it promptly and do not obtain a contract. The producer can grow many other things besides the crop we want him to grow, or he can grow for other processors.

(d) When the acreage and other terms are agreed upon, the contract is signed. The varieties to be grown are specified. In this regard, processors seek those tomatoes which have special attributes suitable for their specific

finished products. We also offer seedlings to the producer at estimated cost. Country-wide over 99% of Campbell's contracts are with family farms.

(e) For the acreage on which the crop is to be grown, a complete soil analysis is made and a recommendation for any needed soil treatment or other cultural practice is provided to the grower. Our crop serviceman visits the grower periodically and offers counsel on spraying, cultivating, side-dressing, irrigating, harvesting and other appropriate aspects of crop culture. When the crop is harvested it is delivered to us at Camden where we pay at weekly intervals for the deliveries.

This contract system has proved itself. Our experience has taught us that contracting directly with the producers of tomatoes in New Jersey is the most satisfactory method for the producer, the processor, and the consumer. Oversupply is largely eliminated, price speculation is eliminated, and crop service work has an ideal atmosphere to take hold. Also of real importance is the stability which this system affords both producers and processors. The incentive for high quality also is maximized. Under this crop contracting system, there is a tremendous incentive for improving the yield and quality of the crop. There also is great incentive for agricultural research work and the results of this work have a maximum opportunity to take hold. There is a close working relationship between our crop servicemen, our researchers, and the producers. Finally, the free private enterprise system, the most effective economic system the world has ever known, has its best

opportunity to work under the existing crop contracting method.

Campbell Soup further opposes S. 608 because it will not improve the agricultural well-being of New Jersey.

The bill, if enacted, takes the burden of collecting dues for the New Jersey Marketing Association whose members are unwilling to voluntarily support the organization and places the onus of dues collection on an uninvolved third party who does not want any part of this task. In fact, using the processor as a collection agency may jeopardize the processor's relationship with growers with whom it contracts. This check-off system is clearly not the answer to New Jersey's agricultural problems.

It will not make producers more efficient in their operations, increase productivity, guarantee a higher yield per acre, or improve quality. A continual drive by bargaining associations for higher prices which does not attack the core of the problem, as mentioned above, can place the New Jersey producer in an even less advantageous position. Both growers in the field and processors in the plant must operate more efficiently to compete effectively in the highly complex and competitive food industry.

New Jersey's agricultural problems are not a one-way street. Processors, as well as producers, have been facing difficult times and have had their profitability diminish. Costs of production have risen and keep rising to the point where New Jersey is an extremely high cost state for food processors.

New Jersey is not California. It is not even Ohio or Indiana, even though in all of these states tomatoes are the number one processing commodity grown. Unlike California, for example, New Jersey has not made significant progress toward mechanical harvesting. Our company has, however, provided financial assistance to several interested growers who are trying to pioneer in this area. Our growing season for tomatoes is substantially shorter than

is California's. Our soil and weather conditions are not as favorable as those of California.

These are some of the built-in restrictions which will not be relieved or removed by requiring processors to become an unwilling agency to police the collection of dues from bargaining association members who will not pay their dues voluntarily.

Despite capricious Eastern weather conditions, the New Jersey tomato producer has fared as well as or better than his counterpart in most other sectors of agriculture. Producers of tomatoes for processing in New Jersey have seen their Gross Return/Acre rise from an average of $333/acre in 1955-59 to $606/acre in 1965-69. Of the major tomato producing states, New Jersey processors presently pay the highest price in the country for tomatoes.

It is further significant to note that from 1959-68, New Jersey acreage used for growing vegetables for processing has increased by 14% This would clearly indicate that vegetable growers' returns in New Jersey have been sufficient to attract land from other uses.

In summary, this legislation will not benefit producers economically. There are many aspects to the farm problem which this bill will aggravate rather than help. A bill that offers no real help to producers and at the same time places additional burdens on processors is not in the long range best interests of New Jersey's producers, processors or consumers.

Campbell Soup Company therefore respectfully request that this Committee not report favorably on S. 608.

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SENATOR DICKINSON: Thank you very much, Mr. Winters. May I ask you a question or two: As I understand, you tend to regard a procedure of this type as a true cost add to your cost product?

MR. WINTERS: Yes.

SENATOR DICKINSON: Is it a fair question to ask whether you find a distinct lack of analogy between this and the rather common practice of Union dues check-off?

MR. WINTERS: Well, there is a difference in my opinion from the Union dues check-off. In the Union dues check-off, you have an agreement between the Union and the company, and the employee from the check-off is an employee of the company. He is associated with the company. In this case the grower is an independent contractor and the association is an independent and sound financial institution and, since they are both independent, in our opinion, it should be a direct dues request and a direct payment from the grower to the association. The fact that we have an agreement with the Union which spells out - and this was agreed to and is under the jurisdiction of NLRB - and I think there is quite a difference between the two situations.

SENATOR DICKINSON: Thank you, Mr. Winters. Your testimony has been very helpful and very clear, and I appreciate very much your coming.

May the chair now call Mr. Arthur H. West of the New Jersey Farm Bureau.

ARTHUR H. WEST:

Senator Dickinson, Members of the Committee:

My name is Arthur H. West, Allentown, New Jersey. I am a farmer, having spent all of my lifetime in that occupation. I appear here today to speak on behalf of the New Jersey Farm Bureau and the New Jersey Agricultural Marketing Association Cooperative. I am currently serving as president of both organizations.

The New Jersey Farm Bureau is a non-profit general farm organization of slightly more than 4,000 member-families in 20 counties, who voluntarily decide each year to join the organization and pay dues to support its activities. We are in our fifty-second year of operation. Our purpose is to organize farm people so as to make it possible for them to accomplish collectively what they are not able to do as individuals. Our state organization is one of the 50 state organizations that make up the American Farm Bureau Federation, which has a membership in 49 states and Puerto Rico of over 1,800,000 families.

The New Jersey Agricultural Marketing Association Cooperative is one of the affiliate organizations that make up the Farm Bureau family of organizations in New Jersey. It was organized some eight years ago for the purpose of building collective bargaining power for producers in the marketing of their crops and livestock. Our Association has a membership of nearly 500 stockholders--mostly in the South Jersey counties.

First of all we want to express our appreciation to sponsors of Senate Bill 608 for putting forward this legislation; and we want to thank you, Senator Dickinson, for the willingness to schedule this public hearing. We have been struggling for some six years to pass this legislation, and this is the first chance we have had to put our views on the record.

This is a highly significant piece of legislation. If it becomes law, it will do more than anything else we know at the present to encourage the efforts of farmers to organize themselves through well-financed, highly-responsible bargaining cooperatives. And the organization of such cooperatives is absolutely essential if the economic situation of farmers is to be improved.

Before we get into the merits of the bill itself, we want to point out to this Committee that New Jersey farmers are up against a very bad economic situation. We are trying to farm in a state where land values and taxes keep on skyrocketing; where labor requirements and costs keep on increasing at a rapid rate; where other costs of production keep on going up; and where farmers continue to become an ever smaller political minority in the nation's most urbanized state.

We could perhaps cope with these problems if the prices we receive for our produce increased accordingly; but that is where we are getting hurt. Right today, tomato and asparagus producers are faced with offered contracts from processors at prices, in most instances, below those of 1968. Many producers of other crops face the same prospect.

We need to examine why this situation exists. Surely it is not right for the producers of food to be forced into bankruptcy, simply because they have not been able to match the power in the marketplace that has been created by the huge supermarket chains and the giants in the food processing business. Surely the consumers of this country do not expect producers in this state and in this country to produce food at a loss or at a profit margin that affords only a meager existence. Yet that is the situation facing a great many of our farmers in New Jersey today.

The reason for it is two fold: The buyers of agricultural commodities have done a good job of organizing themselves into a relatively few corporations that have tremendous economic power; but the farmers have largely failed in their efforts to achieve a counter-balancing selling power through cooperatives. Every other segment of the economic chain from the farm to the consumer is well organized, and able to achieve a high degree of economic justice in the marketplace. The retail chains, in effect, say to the food processors, if you want space for your products on our shelves, here is the price we will pay. The processors, in turn, say to the growers, if you want to produce for sale to us, here is what we will pay and under these conditions. That's the end of the line. The farmer has no one else to whom he can pass the buck. So he works longer hours; borrows more money; invests in more land and machinery; increases the size of his plant; tries to keep the cost of labor down as much as he can; and in general, squeezes every nickel he can to make ends meet.

The answer is obvious. Farmers can no longer afford to maintain their traditional independence. The economic and political forces beyond his own farm are so great and overpowering that he is being forced to organize his own economic power in the marketplace.

God help consumers of food if the farmers ever decided to stop the flow of food from this nation's farms. That would be the strike to end all strikes. That is something most farmers hope they will never have to do; but unless we are given some help in our efforts to balance out the power that has already come into existence on the buyer's side of the market, more and more farmers will turn to drastic methods. Some farm organizations have resorted to these tactics already. We have already witnessed the burning of potatoes, the dumping of milk, the starvation of chickens, and many other actions that could come only from farmers that are really desperate. Our organization hopes it will not be forced into this type activity.

You may well ask why is it that farmers have been so slow in achieving effective bargaining power. There are many reasons; but they are mostly concerned with the basic attitude and nature of people who live and work on the land. As businessmen we believe in production. We are proud of the fact that we have helped create the best-fed and best-clothed people on earth; and that we help feed and clothe a good portion of the world's hungry population. We are independent minded. We like the idea of an individual citizen being able to make his own choices and accepting the consequences. We have never believed much in turning to Government to solve all of our problems, although we may have the undeserved reputation of living on government subsidies.

Over and above these basic reasons farmers have had to cope with the determined opposition of the buyers in achieving effective organization. Quite naturally the buyers prefer to deal with individual farmers--one at a time. They don't like the idea of what they call "third parties." This is not unexpected; and is not particularly finding fault with them. They feel they are protecting their own economic interests in discouraging farmers from organizing. The cost of the raw product is about the only cost in their business they have been able to keep below the general inflationary price increase.

A few years ago we sponsored legislation that was passed by this Legislature and signed into law that makes it illegal for a buyer to discriminate against a producer because he is a member of a bargaining cooperative. This was an important first step in our effort to achieve a legal framework upon which we could achieve effective organization. Similar legislation has been adopted by the United States Congress. At the present time our national organization is pushing for additional legislation in Congress that would make it illegal for a processor to refuse to recognize and at least meet with representatives of a bargaining cooperative. This is also being vigorously opposed by the processor groups.

The anti-discrimination legislation passed by this Legislature was a help; but in spite of its passage, we find it most difficult to stop very subtle practices on the part of processors that skirt on the edges of the law; or overt practices that are not illegal; but have the effect of making it difficult for a bargaining cooperative to gain strength and remain strong. For example, once the producers that are growing for a particular processor have organized to a high degree, with nearly every grower a member of the association, the processor can still contract with members of the association, reduce the acreage contracted with members of the association, and gradually shift acreage away from members to non-members. In addition, processors and other buyers have a number of enticements and special incentives to offer to producers, such as receiving stations, growing plants for seed at premium prices, offering innovations of production or transportation to some growers before others, and so forth.

But our experience during the last eight years has shown that the biggest problem facing a bargaining cooperative is the collection of dues and fees after a grower has signed a membership agreement and agreed to pay. This is not something we are proud of, or something we particularly like to discuss in public; but it is a fact of life. It is a fact of life discovered years ago by the labor unions; and even by the dairy farmers, who many years ago were able to secure a provision in the State's milk laws, requiring milk processors to check off the dues of dairy cooperatives.

Naturally, we would prefer not to ask for legislation like Senate Bill 608. We would much prefer that farmers pay their dues on a purely voluntary basis, without requiring the buyers to deduct the money from their checks. But we know from experience that the purely

voluntary system does not work, and has within it the seeds of discontent and destruction of the organization.

Several things happen. Some farmers may agree to join the cooperative, and later change their minds and refuse to pay the dues, thinking the organization will not go so far as to take them to court. Other members may have a bad growing year, and be strapped for funds. Others may have some dissatisfaction or disagreement with the organization and withhold their dues. Others simply forget to pay and have to be constantly reminded.

It is only a minority of the members that fail to pay their dues; but when such a minority is able to get by without paying, this creates dissension among the other members.

The only recourse the cooperative has is to try to convince the delinquent members to pay by persuasion, which takes a lot of time and is expensive; or to initiate legal action. When this is done the member gives notice of membership cancellation and the association loses another member.

Senate Bill 608 provides a simple remedy to this problem. It provides that when an individual farmer signs an agreement in which he authorizes the dues of his bargaining co-operative to be deducted by the buyer, then the buyer is obligated to deduct such dues and pay the money direct to the cooperative. There is no referendum. There is no procedure involved where one group of growers forces other growers to join the cooperative or pay dues. It is purely a voluntary, individual decision on the part of each grower. The bill does make it mandatory on the buyers to make the deduction, once the individual grower authorizes it. We would prefer, of course, that this be done on a voluntary basis by the buyers; but in the past, only a few of the small processors have done so on a voluntary basis.

Because we do not want this requirement to be a financial burden on the buyers or processors, we include a provision in the bill that the buyer may retain five percent of the total money deducted to defray him for the cost of making the deduction.

Over the years we have been exposed to most of the arguments processors have used in their opposition to this legislation. They bring up legal difficulties. They dislike the idea of having to do business with a third party; and they conjure up other problems. But we all know why this bill is opposed so vigorously by the processors. They know, as we know, that this

bill is the real key to building effective bargaining co-operatives, and they do not want such organizations to become effective in the marketplace. They prefer that farmers remain as price-takers, while they remain price-makers.

Some processors have even raised the specter of having to move out of New Jersey if this bill should become law. We cannot believe this is a serious possibility, since both Pennsylvania and New York legislators have passed this type of legislation. As evidence of the success of this legislation in those two States, I am herewith filing as a part of this testimony letters from Farm Bureau executives in both States, clearly indicating that the law is working well in those States with absolutely no difficulty, just as the same type of legislation has been working smoothly in the milk industry for years in New Jersey with no difficulty.

I would like to read these two letters. They are very brief, Senator, from Pennsylvania and New York, and they explain their legislation.

SENATOR DICKINSON: Would you like them in the record, sir?

MR. WEST: Yes, I would like them included.

SENATOR DICKINSON: Will you please read them then?

MR. WEST: Very good. We have asked that these be addressed to you and I will give them to you when I have finished.

April 14, 1970

Senator Fairleigh S. Dickinson, Jr.
Chairman of Committee on Agriculture,
Conservation, and Natural Resources
New Jersey State Senate
State House
Trenton, New Jersey

Dear Senator Dickinson:

The Pennsylvania General Assembly in May of 1968 enacted a revised "Cooperative Agricultural Association Act" which included a section entitled "Assignments to Associations."

Todate Pennsylvania Farmers' Association has had experience, with four processors handling two commodities, subject to membership fee deductions. In each instance, PFA and its member producers were pleased with the function under Section 28, as it is termed by the trade. Processor inconviences seem to be minimal and grower drop-out non-existent.

From the results our association has experienced in implementing the concept of Section 28, we are in position to offer a favorable recommendation for this business-like method of operation.

Respectfully,

Charles R. Ord

Charles R. Ord
Administrative Secretary

O/y
encl.

Pennsylvania Agricultural Cooperative Marketing Association

An Affiliate of the Pennsylvania Farmers' Assn.

21st and Chestnut Sts. • Camp Hill, Pennsylvania 17011 • Telephone (717) 737-1480

DEDUCTION OF COOPERATIVE DUES

House Bill No. 1413 which is known as the "Cooperative Agricultural Associations Act" was signed into law on June 12, 1968 by the Governor of Pennsylvania. Section 28 of this Act specifies requirements for the deduction of dues and reads as follows:

SECTION 28. CONTRACT ASSIGNMENTS TO ASSOCIATION. - IF ANY CONTRACT AUTHORIZED BY A COOPERATIVE CONTAINS AN ASSIGNMENT TO THE ASSOCIATION OF ANY PART OR ALL OF FUNDS OR TO BECOME DUE THE MEMBER DURING THE LIFE OF THE CONTRACT FOR ANY PRODUCT PRODUCED OR TO BE PRODUCED BY HIM OR FOR ANY SERVICES PERFORMED OR TO BE PERFORMED IN PRODUCING ANY PRODUCT, ANY PERSON WHO ACCEPTS OR RECEIVES SUCH PRODUCT FROM THE MEMBER IS BOUND BY SUCH ASSIGNMENT AFTER RECEIVING WRITTEN NOTICE FROM THE ASSOCIATION AND THE MEMBER OF THE AMOUNT AND DURATION OF SUCH ASSIGNMENT. HOWEVER, AS TO ANY SEASONAL CROP, IF NO FUNDS ARE PAID OR BECOME PAYABLE BY ANY PERSON UNDER SUCH AN ASSIGNMENT FOR A PERIOD OF TWO CONSECUTIVE YEARS DURING THE LIFE OF THE CONTRACT, THEREAFTER THE ASSIGNMENT SHALL NOT BE BINDING UPON ANY PERSON WHO RECEIVES OR ACCEPTS SUCH PRODUCT FROM THE MEMBER UNTIL THE ASSIGNMENT IS REAFFIRMED BY THE MEMBER IN WRITING AND WRITTEN NOTICE THEREOF IS GIVEN BY THE ASSOCIATION OR THE MEMBER. ANY SUCH REAFFIRMATION SHALL CONTINUE TO BE EFFECTIVE DURING THE LIFE OF THE CONTRACT UNTIL ANOTHER SUCH LAPSE OF TWO CONSECUTIVE YEARS SHALL OCCUR. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY CONTRACT OR ASSIGNMENT THEREUNDER IN EXISTENCE ON THE EFFECTIVE DATE OF THIS ACT.

NEW YORK FARM BUREAU

RT. 9W GLENMONT, NEW YORK 12077
518-436-8495

April 13, 1970

Senator Fairleigh S. Dickinson, Jr. Chairman
Agr. Conservation Committee & National Resources
New Jersey Senate, State House
Trenton, New Jersey 08600

Dear Senator Dickinson:

New York State has had a law which provides for the deduction of member's dues to cooperatives since 1964.

Since the deduction law our association has been able to more effectively serve the needs of members and in that way serve the processing companies as well. Grower-processor relations have never been better. In one instance our members provide and guarantee the complete tomato requirements for a processing company at considerable savings to that company.

Some processors may argue the deduction of dues is an expensive troublesome job. In the six years this law has been in effect, we have had only one processor complain while others have willingly performed this task and many have told us privately it is little or no trouble to them.

The collection of member's dues, often a matter of only a few dollars per individual member, would be an expensive task for our association, but one which can and is being performed economically by processing companies.

We believe the voluntary membership of some six hundred fruit and vegetable growers who support our marketing organization with both time and money is sufficient testimony that marketing bargaining associations are fulfilling a need of today's complex agri-business. Legislation providing for the deduction of member's dues creates a climate for such organizations to function.

Very truly yours,

NEW YORK FARM BUREAU

John S. Gold

John S. Gold, Administrator

NYFB MARKETING COOPERATIVE

Michael J. Muscarella

Michael J. Muscarella, Mgr.

MJM/p

MR. WEST: Now the question before this Committee and before this Legislature is whether or not you want to adopt this simple bill to give some help and encouragement to the efforts of individual farmers to achieve justice in the marketplace. We strongly hope your answer will be yes, and that the new operating procedures of the Senate will allow this bill to come to the floor of the Senate for a vote.

Under the best of circumstances, the relatively few farmers left in New Jersey face almost unsurmountable problems if they are to continue to farm in this State. Those of us who are left own abut a third of the open space left in New Jersey. It would seem to us that one of the best ways this Legislature could devise to preserve open space that not only doesn't cost the taxpayers money but in fact pays the highest land taxes in the United States, would be to pass legislation like Senate Bill 608 that will help make it possible.

We appreciate this opportunity to present our views on this legislation, and I will submit to you these two letters from New York and Pennsylvania.

SENATOR DICKINSON: Thank you very much, Mr. West.

If I might interrupt for a minute there is just one question I would like to ask.

The class in the gallery is most welcome here. I thought it might be of help to you to know what is going on.

This is in brief a taking of public testimony on farm legislation which seeks to have the farm co-operatives check off their dues automatically when a product is sold to processors. And again you are most welcome.

The question I would like to ask you alluded to New York and Pennsylvania. The previous testimony referred to California and Ohio. I was wondering how typical legislation of this character is in the various farming States in the Union.

MR. WEST: Well, I think it is what we would have to say new in the fruit and vegetable processing industry. It is not at all new in the milk industry where this has been going on for forty or fifty years in many States. Dues are deducted in California through many of the marketing orders that are in operation in California and, as you probably are aware, there are oodles of marketing orders of food products in California. Practically every crop they get they have a marketing order and dues are deducted through marketing order techniques in that State.

In the State of Ohio they have a similar situation to ours and I believe they are seeking also to pass such legislation in that State. New York and Pennsylvania have accomplished this. Indiana has a like situation to us and is also attempting to pass this.

There is considerable effort being expended by the United States Congress and what may be done varies naturally, but the Congress is not nearly so involved because there are

many States where this is not applicable and this does not necessarily become a problem that the Congress becomes too much concerned about because it is not the concern with every State and these crops are not grown in every State,

SENATOR DICKINSON: Thank you very much, Mr. West. You have been very helpful and we appreciate it.

Mr. Vincent Gangemi. Please excuse me if I mispronounce your name. Would you care to testify next?

V I N C E N T G A N G E M I: Senator Dickinson, my name is Vincent Gangemi, Mullica Hill, New Jersey. I am a producer of tomatoes, asparagus and other vegetable crops, and have been a farmer all my life. I am Chairman of the Tomato Advisory Committee of the New Jersey Agricultural Marketing Association, and a member of the Executive Committee of that Cooperative. I appear here today to speak as President of the New Jersey Council of Farmer Cooperatives, a non-profit association with a membership of some 25 farmer cooperatives in New Jersey.

The New Jersey Council of Cooperatives strongly favors the passage of Senate Bill 608. We consider this bill the key to building stronger bargaining cooperatives in New Jersey.

Farmers have been struggling for many years to organize and build strong and effective cooperatives that are capable of representing their interests in dealing with food processors and other buyers in the marketplace; but these years of struggle have, unfortunately, brought very limited results. This assessment is true, in my opinion, and it is due to several reasons:

1. We farmers have a tradition of being independent-minded. We like to make our own decisions. We believe in the American free, competitive economic system; and we have been slow to give up this independence, even to our own organizations.

2. We are large in numbers and scattered throughout the country. It is hard for us to get together and to work together as a unit.

3. We have met the steady and determined opposition of most of the large processors and other buyers, who naturally would rather continue dealing with individual farmers, rather than an organized group of farmers.

4. We have lacked basic legislation to assist and encourage us to get together; and to require the buyers to recognize our associations and deal with them in purchasing agricultural commodities.

The buyers of our produce have organized themselves into very effective combinations, and are able to concentrate their buying power in a relatively few companies. This power is now so concentrated, that most individual farmers are overwhelmed and cannot meet them in the marketplace on an equal basis.

But we know these are the economic facts of life in our country today, and we are not saying it is necessarily bad. As farmers, we are finally coming to realize that we must also concentrate our selling power through cooperatives. This we are trying to do; but we must have some basic legislation to help make our efforts successful.

There is a sizable group of farmers who think the only answer is for farmers to become a part of the labor union movement. Many of them have about given up the idea that farmers will ever voluntarily join together to create effective bargaining power. They see compulsory membership in a union-type organization as the only answer.

But most of us have not yet given up. We believe that with some minimum encouragement and protection in the law, we can build effective bargaining cooperatives on a voluntary basis, without a union shop or closed shop, and without strikes and violence. At least, that is what we would like to do.

Several years ago, the Legislature did pass one piece of legislation that has been of some help. Known as the anti-discrimination amendment to the basic agricultural co-op law, it forbids a processor or other buyer from discriminating against a

producer who is a member of a bargaining cooperative. We find it is difficult to prove such discrimination; but nevertheless, we think the law is helpful in preventing such discrimination.

Senate Bill 608 is the next logical step in the kind of legislation needed by bargaining cooperatives to help them build effective bargaining organizations. The producers of milk recognized this fact many years ago, and they have had the benefits of this kind of legislation for many years. All we are asking in this bill is that the producers of other commodities have the same rights as milk producers.

Really, we are not asking for much in this bill. We are not asking the taxpayers to spend their money on farmers. This is a self-help approach. We are merely asking that the State of New Jersey require processors and other buyers of agricultural commodities to deduct the legitimate dues and fees of bargaining cooperatives and pay such monies directly to such cooperatives. Each individual farmer would decide on a voluntary basis whether he wanted such deductions made from his check; and only his money would be involved.

This legislation has been before this Legislature for the last five or six years. We farmers, who are trying to run a high-risk business, trying to pay our bills, trying to keep up with all of the new regulations and requirements of Government on our farms, find it difficult to understand why the Legislature has refused to pass this simple legislation.

Speaking for the thousands of growers who are members of the cooperatives that are affiliated with the Council, we hope this Committee will give this bill its prompt approval; and that it can be moved to the floor of the Senate for early consideration.

We appreciate the opportunity to express our views on this bill.

SENATOR DICKINSON: Thank you very much, sir. I have no questions.

Has Mr. Herald arrived?

Good morning, sir. Just carry right on.

R I C H A R D H E R A L D: My name is Richard Herald. I am Eastern Agriculture Regional Manager for the H. J. Heinz Company. We have a tomato processing plant at Salem, New Jersey. The bulk of the tomatoes processed at Salem are grown by local growers who contract with the H. J. Heinz Company.

There are many reasons why we oppose Senate Bill 608, however, I would like to dwell upon the legal entanglements that may ensue from passage of this bill. I would like to relate to you an incident that occurred in Ohio concerning the deduction of moneys from growers' accounts.

First of all, there is no Ohio law requiring processors to check off association assessments due from the respective processors' growers to the association. In an effort to promote harmony with the growers' association the H. J. Heinz Company decided we would render this check off and bookkeeping service to the association. In an effort to avoid controversy with the growers relative to the check off and actual payment of the funds, we required the growers to give us an assignment for the amount due the association.

A number of our Ohio Growers signed membership applications in Cannery Growers, Inc., which was the predecessor organization to Ohio Agricultural Marketing Association. These membership applications were to become effective only after the association had signed 70% of the Heinz growers. After the passage of three years the association attempted to activate the growers' contracts thus making the grower a full member and subject to assessments. Upon receipt of information from the association that the nine growers were members, the Company required the growers to sign an assignment form authorizing the check off. Subsequent thereto, the growers entered into litigation with the association in an effort to determine their membership status. The case was dismissed on jurisdictional grounds.

The nine growers directed the company not to pay over any of the funds withheld. This left the company in the position of holding funds which were claimed by the nine growers as well as the association. Payment over to either party could have resulted in a lawsuit by the other party which was obviously a position the Company did not want to be in. The Company therefore filed suit in Fremont, Ohio asking the court to determine who was entitled to these funds. In order to reach a decision on that question the court had to determine whether or not the nine growers were members of the association.

The Court ruled that the nine growers were not members of the association and that the nine growers were entitled to the funds held by the H. J. Heinz Company.

As a result of this litigation and the waste of time and money involved as well as the public relations aspect of being involved

litigation with the growers, the Company decided we would no longer honor assignments or check off assessments from marketing associations.

There are several areas whereby there may be disputes over money owed to a grower. Most processors who contract crops assist the grower in financing his crop by supplying seed, plants, fertilizer, or possibly harvesting equipment, the cost of which is deducted from the growers account. If the crop is such that there is not sufficient money to cover his bill to the processor, who has first claim to the money -- the processor or the association?

We can ask the same question in the case where the grower assigns his produce check to a bank or other lending agency. Nowhere in Senate Bill 608 is this point made clear.

In any dispute over money such as occurred in Ohio and surely will occur in New Jersey if Senate Bill 608 is passed, there is no way for our Company to win. There is nothing for us to gain for all we desire to do is pay the money to whomever is rightfully entitled to it. However, from our experience in Ohio, we know there is much to lose in time, money, and most important, good public relations with the growers involved in the litigation.

Thank you for allowing me to make this presentation.

SENATOR DICKINSON: Thank you. Mr. Herald, may I ask you a question, please?

MR. HERALD: Of course.

SENATOR DICKINSON: Of course a company such as yours and with as many diversified products presumably does operate in Pennsylvania and New York, which have been previously alluded to. I was wondering if you would care to give your observation on your experience in those states.

MR. HERALD: Sir, we were in the tomato business in New York; we were also in the tomato business in Pennsylvania - Pennsylvania in the processing and we had a factory at each location processing tomatoes. Unfortunately, these plants do not process tomatoes anymore for economic reasons. So I can't comment on that.

SENATOR DICKINSON: In other words, the net effect is you can't comment as to whether those particular laws have been harmful or successful.

MR. HERALD: That's right. I can't.

SENATOR DICKINSON: Thank you very much, Mr. Herald.

Has Mr. J. Ogden Perry, Jr. arrived?

J. O G D E N P E R R Y, JR.: Senator Dickinson, Members of the Senate Committee on Agriculture, Conservation, and Natural Resources, and interested parties, first of all, I would like to apologize for our tardiness but, unfortunately, we had a small fire in our new plant in Salem yesterday afternoon which caused us some problems.

name is Ogden Perry and I represent the New Jersey Canners and Food Processors Association as their president. I would like to state that I appreciate this opportunity to testify before this public hearing concerning S-608.

We feel it is only proper for us at this time to express our complete opposition to this bill. I would like to explain our position.

This bill in essence requires that a food processor or buyer deduct monies due farmers for contracted crops and remit these monies to any non-profit cooperative agricultural marketing association. These monies represent an indebtedness to that association by the grower as a result of his joining that association voluntarily. Furthermore, it requires the buyer or processor to supply the association with information heretofor considered privileged unless requested by a governmental agency.

Supporters of this bill like to relate this type of legislation to the fact that food processors as well as other industry throughout the state are required to do this very thing for the unions which represent their employees. This simile does not exist and the use of this practice to justify the use of the other is improper.

Food processors as well as other industries in our state certainly do collect monies from their employees and remit these monies to the union which in fact represent their membership dues. However, this is done and made possible by contracts negotiated and entered into by both the union and the company at the bargaining table. In such negotiations the company recognizes that the union is a representative agent of the employee.

Such is not the case with the type of cooperative agricultural association mentioned in S-608. Processors in New Jersey negotiate contracts not with the association but with individual growers. The fact that some may be members of the association is immaterial to the contract and in fact any preferential treatment given to non-members of such an association can be deemed to be illegal in the state of New Jersey.

This, of course, is the key difference. There is a contractual relationship between the union and the company, and no relationship exists between processor and such association.

Is it really the responsibility of the legislator in New Jersey to coerce through the legislative avenue an industry to act as a collection agency for a non-profit organization with which it has no legal or contractual ties? If the legislator accepts this responsibility, is it not reasonable to assume that the proverbial Pandora's box, if not opened, is at least unlocked, making way for all such non-profit organizations or associations

to insure their collection of dues by passing similar legislation.

The relationship between grower and processor is similar to that which exists between any industry and its suppliers of raw materials. If this legislation is deemed justifiable, then why should not glass companies or other suppliers located in New Jersey who have formed non-profit associations, petition the legislature to pass bills similar to S-608 for their own special interests.

Other proponents of S-608 say "why is S-608 objectionable when most companies institute payroll deduction procedures to support United Funds, etc." This comparison is so ridiculous I will not insult your intelligence to pursue it further.

Please keep in mind that S-608 makes it "unlawful for any buyer, handler, or processor to fail or refuse to make such deductions and send such payments as prescribed herein", and refusal to conform to these provisions places the processor, an unrelated third party, liable to civil action.

There is absolutely no provision for voluntary collection on the part of the processor or buyer and in fact this has been deliberately circumvented.

Surely if a person, partnership, firm, or corporation deems it to his advantage to seek membership in a non-profit cooperative agricultural

marketing association and agrees to pay dues as a requirement to his acquiring membership, then that cooperative association has every right to expect the member, or applicant for membership, to pay such conditional dues.

In the event that the member defaults on his contractual commitment to pay such dues, then there is already sufficient legislation on the books in New Jersey to allow the association a legal recourse. If such recourse is not deemed advisable by the association, then it can solve this problem by the expulsion from membership of the indebted member, thereby disqualifying him from the advantages of such membership.

Since I am serving in my second term as president of the New Jersey Canners and Food Processors Association, I am well aware of the dilemma occasionally facing executive committees of such non-profit associations and organizations in the collection of the dues from their membership. Our normal procedure on such matters is to annually bill the member processor and hope that he feels that he gets sufficient benefits from his voluntary membership in our association to justify his payment of dues. In the event he does not feel this way, then he has a choice of doing two things: tendering his resignation to our organization, or simply through procrastination, fail to pay his dues. In which case, we then have a choice of two recourses: follow up our request for payment of such dues, or drop him from membership to our association, denying him of the benefits of membership.

ust admit that it has never occurred to the executive committee of our association to press the legislators of New Jersey to solve our problem by requiring a third party to collect our dues for us under penalty of civil action.

We will submit the following observation: membership to the non-profit association, etc., as referred to in S-608, is purely voluntary on the part of the applicant. The proponents of S-608 are telling the New Jersey legislature in so many words that they cannot collect their dues and other assessments from what we consider to be a responsible membership. Why this situation exists when there are sufficient laws on record to offer them recourse we do not know. In any case we question the fact whether it is the duty of the New Jersey legislator to support this voluntary association with a legislative backbone which demands that the voluntary member will pay his dues through the third party or that third party may suffer civil consequences.

In the light of these facts the question rises: Where does S-608 serve in the public interest?

This, we believe, is the primary necessity and prerequisite for every piece of legislation brought before the New Jersey legislature.

Again, I would like to thank you, Senator Dickinson, and others present, for allowing us to participate at this public hearing and for hearing our views of S-608.

If there are any questions you would care to pose, I would be happy to answer them to the best of my ability.

SENATOR DICKINSON: Thank you very much, Mr. Perry. I have no questions at the moment but, if you are still around, I might ask you some, if I may.

Ladies and gentlemen, I think it would be appropriate to take a recess of, let us say, five minutes, and continue thereafter.

(Recess)

(After recess)

SENATOR DICKINSON: May we come to order, please.

The record will note that Mr. Laird Willson of the Del Monte Corporation made an appearance via a written statement. (See p. 46)

My list of appearances indicates that somebody, and it does not specify who, was to appear from Seabrook Farms. Is there anybody here?

Will you please state your name for the record.

J A C K P H I L L I S: My name is Jack Phillis, Plant Superintendent at Seabrook Farms Co., Inc. Seabrook opposes S-608 and has some serious questions and statements to make concerning this Bill.

1. This Bill does not define clearly the nature or the amounts of the deductions that a processor is required to make. Does this mean just dues payable to such an organization or does it also include fines, assessments, initiation fees, and/or loans that may be advanced by such an organization.

2. Also, there is no provision for priority of claims in the event that the grower has membership in more than one such association. Who then would receive the first payment?

3. Does such collection of "monies due" supersede any other financial commitments or lines made by the grower against the income from crops delivered?

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4. The Bill does not provide the processor with adequate notice that a member has authorized the processor to make deductions in favor of an association. Thus, a processor is caught in the dilemna of either violating the law if it fails to deduct or of a lawsuit by the grower in the event that the grower did not authorize the deductions or later cancelled such authorization.

5. The Bill states that the processor will be liable under the law for failure to check-off. This failure to check-off could result from several things:

   (a) An innocent mistake.

   (b) A strike at the processor's plant or by others.

   (c) Because of prior loans or agreements signed by the grower committing his crop income to others, there may not be enough monies left in his account to make the check-off payments. Is the processor then liable for payments?

6. Under Chapter 13, Title 4 of the revised Statutes, how many marketing associations presently qualify, or how many could possibly qualify under S.608?

7. Does this Bill apply to the corner grocery store or roadside market that has a verbal or written agreement for a supply of products from members of these marketing associations?

8. Is the producer's agreement for dues collection valid forever or must it be re-executed every year?

9. In the event that a grower were to verbally, or in writing, state that he is no longer a member of a marketing association and does not want to be checked-off, and the marketing association claims otherwise, who is the processor to believe?

We feel that this Bill is "special interest" legislation for associations which apparently have trouble collecting dues from members who claim they want to be members. It is our feeling that the value of such organizations is questionable as to their overall contributions to the agricultural community, which extends far beyond the growing of a crop.

It is our feeling that tax money paid by growers, buyers, handlers, processors and others involved in marketing produce is used to support programs conducted by Rutgers University, Research Stations, and a fine State Agricultural Department that has a marketing division in its present structure.

We appreciate the time you have given us.

SENATOR DICKINSON: Mr. Phillis, you are very thoughtful to come. Your statement is appreciated and I have no questions of you now.

Thank you again.

Is Mr. William Schlechtweg here?

W I L L I A M A. S C H L E C H T W E G, SR.: Senator Dickinson, ladies and gentlemen, my name is William Schlechtweg and I am from Freehold, Monmouth County. I am a fruit grower by profession. I am Master of the New Jersey State Grange. The New Jersey State Grange has a membership of over 10,000 persons in the State of New Jersey, who are vitally interested in New Jersey agriculture.

On behalf of the New Jersey State Grange I wish to support Senate Bill 608, a bill concerning the voluntary deduction of dues for agricultural bargaining associations.

The State Grange supports this legislation for the following reasons:

A. This is a completely voluntary procedure in which no farmer would be compelled to participate unless he wanted to do so on a voluntary basis.

B. Our New Jersey Milk Industry has similar legislation for the deduction of dues and, therefore, an agricultural precedent has been set for New Jersey. This procedure, used extensively by the milk industry, has proved highly beneficial to the dairymen.

C. Strength in bargaining becomes more and more essential for the farmer as the complex problems of marketing procedures increase with each passing year.

In conclusion, I should like to re-emphasize

the importance of this legislation to farmers throughout New Jersey and also the fact that the procedure set up is entirely voluntary and no one is compelled to participate who does not wish to do so.

I might also say, Senator, that as a fruit grower I might add several remarks.

About this same time last year our processing apples were bringing 4¢ a pound; at this time the offer is approximately 2¢ a pound and they are not being taken even at that price. The statement is that probably if we keep them long enough they will be cheaper.

I might also say that the cider apples last year at this time were 1 1/2¢ a pound; at this time we are having an offer of 3/4¢ a pound. And I might say to you that a bushel of apples would weigh approximately 48 pounds; it costs us 30¢ a bushel to have a bushel of apples picked and we are now being offered 36¢ for the fruit, plus the fact we have 35¢ in storage. So I think this all the more makes it necessary that we do have a bargaining cooperative.

Senator, I wish to thank you for your consideration in having me here this morning to make this presentation.

SENATOR DICKINSON: Thank you very much. May I ask you a question, please.

In your judgment, is the milk situation truly analogous, that is to say we are in general treating

there with a price fixed commodity whereas the various other agricultural commodities in the State are in general susceptible, hopefully, to the economics of supply and demand.

To restate it, is it, in your judgment, fair to take that as an analogue as to what would happen with other commodities?

MR. SCHLECHTWEG: I would say it is, Senator. I would have the feeling, sir, that the production really doesn't make the big change in price, it's a question of how long they can hold off in a perishable commodity until it must be sold. In other words, this seems to be the tactic. Now, I would say at this particular season - again I'm going back to the fruit - I see no reason why the same prices are not paid that were paid last year. I find that the product selling in the store is no lower than it was last year and, therefore, it seems to me that we should have a balanced price and I would think this, I would think that if we had some method of bargaining it would be bringing approximately the same price as last year. I feel that the product would be used up at that particular figure.

SENATOR DICKINSON: Thank you, sir, you have been very helpful. I appreciate your time.

Mrs. Zwemer, would you care to testify at this time?

M R S. S U S A N N A Z W E M E R: Mr. Chairman, I am Susanne Zwemer, President of the Consumers League. I wish to read a statement prepared by the Chairman of our Migratory Farm Labor Committee, Dr. John M. Stochaj. He regrets very much that he cannot be here and give his statement personally but he is Professor of Industrial Relations at the Newark College of Engineering and has a full schedule of classes on Friday.

SENATOR DICKINSON: Thank you, Mrs. Zwemer, would you please continue.

The Consumers League of New Jersey endorses Senate Bill 608, dues deduction by food buyers, handlers or processors, of members of agricultural marketing cooperatives providing this dues deduction is authorized by co-op members.

The Consumers League recognizes that the bargaining power of the typical New Jersey farmer without a co-op is almost negligible vis a vis the giant food handlers, buyers and processors. Without question, as a matter of equity the farmers ought to be assisted in narrowing the bargaining gap between themselves and giant concerns. Cooperative marketing associations constitute one such attempt and should be encouraged.

Much evidence is available that the small and medium sized farm is faced with rising costs and lower prices and, therefore, extinction. Interestingly enough,

on April 14, 1970, Channel 13 presented a program "Hard Times in the Country", which showed conclusively that the farmers described above are being eliminated by a combination of giant food processors, giant retail establishments and giant non-agricultural concerns. This is unfair within any conceivable concept of equity and justice.

The Consumers League hastens to add that such a provision is already in effect for dairy producer cooperatives in New Jersey and in sister states of Pennsylvania and New York for farmer co-ops as well.

We are, however, at a loss to understand why 5% of the deducted moneys should go to the buyer, handler or processor. In labor management relations, dues deduction is not paid for by the union and certainly would never amount to 5% of moneys collected.

Thank you for the opportunity of presenting this statement in support of S-608.

SENATOR DICKINSON: Mrs. Zwemer, thank you very much. I have no questions.

MRS. ZWEMER: Thank you.

SENATOR DICKINSON: Mr. Pollitt, please.

D O N A L D P O L L I T T: Thank you, Mr. Chairman. My name is Donald Pollitt. I am employed by the American Agricultural Marketing Association as Assistant Manager of the Fruit and Vegetable Division. I appreciate this opportunity to present this statement in support of S-608,

known as the Cooperative Deduction Bill.

Agricultural marketing and bargaining programs are of great interest and importance to farmers. Producers of many agricultural commodities in the United States have been working through their state Farm Bureau Marketing Associations and the AAMA for the past ten years to develop effective marketing and bargaining programs. There are many examples of satisfactory negotiations between organized growers and processors who have cooperated with the Farm Bureau Marketing Associations by participating in businesslike negotiations and by making deduction of member's association service fees when authorized by member.

Other processors - some of national importance - have refused to honor grower members' requests to make deduction from their receipts for association service fees.

Farm Bureau Marketing Associations have been developed on voluntary membership and have attempted to build and maintain a relationship with processors built upon mutual respect and cooperation. The fact that some processors have refused to cooperate has resulted in the adoption of Farm Bureau policies and introduction of legislative proposals to establish rules of fair play in marketing-bargaining relationships and to improve the climate for associations to operate more effectively.

The Agricultural Fair Practices Act of 1967, now in effect, defines unfair practices in regard to

processors' discrimination against association members because of their membership in a bargaining association.

Farm Bureau policies for 1970 support additional legislation to define and clarify the rights and limitations of bargaining associations and also call for legislation related to processor deduction of members service fees.

The 1970 Farm Bureau policy statement is as follows:

"We support legislation to require buyers of farm products to deduct marketing association dues and pay the dues collected to the marketing association, provided association membership is voluntary and collection is requested of such buyers by individual producer members of the association. Buyers should be permitted to retain a portion of the dues collected for collecting services rendered - the amount to be agreed upon by both buyer and seller at the time request is made."

Deduction from grower receipts when authorized by growers is an old and established practice. Deductions are made for various charges, including plants, container rentals, custom services, production supplies, etc. Some processors deduct association service fees voluntarily and others under state statutes. States with statutes which make deductions by processors mandatory when authorized by association members include New York, Pennsylvania, and Wisconsin. A number of other states are in the process of obtaining such legislation.

The establishment of strong, well-financed agricultural marketing associations is instrumental in assisting farmers to market and bargain more effectively. Strong farmer owned and controlled marketing associations are valuable tools in helping farmers reach and maintain an economic level so important to future production of an adequate volume of high quality food and fiber.

Some processors and contractors resist farmers efforts to build marketing strength through effective marketing associations because they feel it weakens their bargaining power advantage which they have long enjoyed. A processor's refusal to make deductions of association member's service fees when authorized and requested by the association member, is an effort to weaken the association. It is also discriminatory against the association and its members when these companies make deductions for other services and goods but refuse to make deductions for association service fees.

The authorized deduction of grower association service fees and other authorized charges has proven to be the most efficient and businesslike procedure for processors, associations and growers.

We respectfully urge your favorable consideration of S-608.

Thank you, Senator.

SENATOR DICKINSON: Thank you very much, sir. I have no questions. We appreciate your coming.

Is there anybody else now present who cares to make a statement to be in the record for the Committee? If not, I shall ask that the record be held open for one week so that if anything does come up it can be added to the record.

I should like to thank you ladies very much for doing this work this morning and thank you all for coming.

If there are no further matters to come before us, ladies and gentlemen, we will stand adjourned.

(Hearing adjourned)

My name is Laird Willson. I am the Eastern Division Manager of the Del Monte Corporation in Swedesboro, New Jersey.

I would like to present to your Committee some of the special provisions which are presently provided producers and agricultural marketing associations.

I. Let us focus for a few minutes on the unique status of agricultural bargaining associations under present law. The members of these associations alone--of all business enterprises--have the right to sell their production on a collective basis. Since the enactment of the Clayton Act in 1914, and the Capper-Volstead Act in 1922, Congress has decreed that the anti-trust laws should not be fully applicable to farmers who choose to market their crops collectively through a bargaining association.

What this means is that the members of the association may agree in advance on the prices they will charge to purchasers of their crops and may delegate to a common marketing agent, the bargaining assoication, the exclusive right to negotiate for the sale of their production.

Other businesses are, of course, subject to the traditional prohibitions of the Sherman Act against collective action, price agreements, and sales or purchases through a common marketing agent.

What we have then is one rule for the growers and one rule for the processors, who are prohibited from negotiating or purchasing on a collective basis; canners must deal as individuals with the growers or with their marketing association.

II. Further concessions were afforded the members of marketing associations with the enactment of the Agricultural Fair Practice Act of 1968 , now Public Law 90-298.

I would like to give you the basis of this legislation as set forth in the laws declaration of policy:

"'Because agricultural products are produced by numerous individual farmers, the marketing and bargaining position of individual farmers will be adversely affected unless they are free to join together voluntarily in cooperative organizations as authorized by law. Interference with

This right is contrary to the public interest and adversely affects the free and orderly flow of goods in interstate and foreign commerce.

As enacted, the AFPA prohibits handlers, their employees or agents from coercing, intimidating or discriminating against any producer because of his relationship or lack of relationship with an association of producers of agricultural commodities.

Significantly, the Act retained the key freedom-of-contract provision which states:

> 'Nothing in this Act shall prevent handlers and producers from selecting their customers and suppliers for any reason other than a producer's membership in or contract with an association of producers, nor require a handler to deal with an association of producers.'

The Act coes not eliminate the processor's freedom to choose his suppliers based on any criteria other than association membership."

III. In addition to the existing legislative provisions to support agricultural marketing associations, there is presently before the Senate Committee on Apriculture on Forestry "The Agricultural Markeing and Bargaining Act Of 1969" S-2225.

~~Simply stated, the bill would compel processors to negotiate with any bargaining association representing one or more growers who has supplied, or might supply agricultural products to the processor. No longer would the processor have the legal capability of determining from what growers he would like to purchase his raw product. His sources of supply would be determined by the operation of law rather than by his exercise of experienced and informed business judgment."~~

~~Again this bill would require. S 2225 would~~.

"Simply stated, the bill would compel processors to negotiate with any bargaining association representing one or more growers who has supplied, or might supply agricultural products to the processor. No longer would the processor have the legal capability of determining from what growers he would like to purchase his raw product. His sources of supply would be determined by the operation of law rather than by his exercise of experienced and informed business judgment."

IV. In light of all the special treatment that Congress has afforded to bargaining associations, if these associations have not been able to obtain voluntary payment of membership dues, should the handler or processor be required to extropolate payment of said dues from their members crop payment?