Public Membership

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There has occurred recently in California a legislative development that carries enormous portent for agricultural marketing and policy. Involved is the very existence of institutions created by the state government; through these, the state in the person of its Director of Agriculture participates in agricultural marketing and at times goes to the rescue of farmers confronted with prices which are so disastrously low that the maintenance of the agricultural industry is problematic. As an outgrowth of the Great Depression of the 1930s, labor received its *Magna Carta* with the passage of the Norris-LaGuardia Act (1932) followed by the Wagner Labor Relations Act (1935); industry and finance were aided by the Reconstruction Finance Corporation; and the man in the street was assisted by home mortgage insurance, bank insurance, unemployment insurance, and the Social Security system. In all these measures, the government acted as a supportive agent in order to stimulate the economy in its recovery and bring it back to a healthier level. As a part of that package of legislative measures, the government introduced price and income support programs for basic farm crops, including wheat, corn, cotton, and tobacco. For specialty crops, such as those grown in California, there was enacted — both at federal and state levels — innovative agricultural marketing legislation including marketing orders. It should be pointed out that, while the marketing order program was beneficial to farmers, the intent was that benefit would accrue to the public at large. This was in the same context as labor union legislation resulting in benefit to industrial workers and, at the same time, to the public at large.

Now, after some 38 years of experience with these types of agricultural marketing programs, new legislation has been introduced at the state level for California marketing orders. In these bills emphasis is put on strengthening representation of public members or "consumer interests" in the marketing order advisory committees. Two examples are Assemblyman Thurman's A. B. 1475 and Assemblyman Montoya's A. B. 1121. The Thurman Bill would change state legislation so as to require a minimum of 1 percent and a maximum of 10 percent of the advisory board committees' membership to be direct representatives of the public. In comparison, the Montoya Bill would change legislation so as to require that at least 50 percent of the membership of a marketing order advisory committee be direct representatives of the public. Because of the wider implications of the Montoya Bill, it is discussed in more detail below.

Under the date of March 12, 1975, Bill A.B. 1121 was introduced into the California Legislature (95-76, Regular Session) by Assemblyman Montoya. The intention of the bill is to amend certain sections of the California Food and Agricultural Code relating to the marketing of California agricultural products. The particular thrust (pp. 1-4) of the bill is to amend existing legislation and thereby require that the Director of Agriculture appoint, to each marketing order advisory board, members in such proportion that at least 50 percent would be public members "to represent the interest of consumers."

The basic legislation currently underlying California marketing orders and their advisory boards is derived from the California Marketing Act of 1937. This legislation required the Director of Agriculture to appoint producers and handlers to the various advisory boards to assist him in administering the marketing orders. By legislation, tradition, and practice, these advisory boards have been *advisory* to the director and thereby without final decision-making authority. The 1937 legislation requires that, in carrying out his functions for a particular marketing order, the director is to appoint someone who is neither a producer (farmer) nor a handler (processor, shipper) to represent the Department of Food and Agriculture or the general public. We point this out to stress that, under the 1937 legislation and the operation of its marketing orders, the interests of the general public or consumer interest have not been neglected by intent or by practice.

What is innovative under the Montoya Bill is that with its enactment there would be the requirement that at least one-half of the membership of each of the marketing order advisory boards be public members whose function it would be to represent the interests of consumers; these public members would be appointed by the Director of Consumer Affairs from a master list to be compiled by him. Emphasis on the strengthened consumer representation may be viewed as part, or a reflection, of the current consumer movement. Perhaps the proposed legislation is an effort to correct an alleged imbalance in the earlier act. While it is not our intention either to question or to support the current wave of consumerism, we should like to offer a few salient points so that the proposed Montoya Bill may be viewed in a broader perspective.

We should like to begin by questioning the choice of 50 percent as the correct figure. There is neither theoretical nor empirical evidence to justify this particular ratio. Moreover, one may wonder whether a single figure, such as 50 percent is appropriate for **all** products or marketing orders. Perhaps a case could be made for flexibility so that each order would have its own percentage figure appropriate to its specific circumstances. Even if one were to grant the thesis that the general public with its consumer interest should have substantial-

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ly increased representation on the boards, there remains the question as to the size of the total board as well as its composition. Here we might note that there is implicit in the bill the notion that the general public with its consumer interest has not up to now had representation on marketing order advisory boards. This is not the case. With the 1937 legislation, the director and this staff have been aware of and concerned with the interests of the general public to more than a minimal degree. It is erroneous to assume that there exists a dichotomy, with consumers' interests divergent from those of producers and handlers. Actually, the intent of the earlier legislation was to enlist the services of these two latter sectors so that the public interest would be served.

In summary to this point, it is suggested that the proposed 50 percent be subjected to the fullest scrutiny. In the process, attention and emphasis should be given to the view that a particular number may not be as important as the degree of knowledge underpinning the operations of the advisory boards. What is important is the amount of and judicious use of necessary information at the hands of the board. To that end, the legislation might well include guidelines or constraints so that the list of nominees from which members of the boards are selected would be — through experience, study, and other means of knowledge accumulation — particularly qualified to serve in this important fuction. Further, the proposed legislation should provide for initiation and support of research and investigation to supply the director and the advisory board, the legislature, and the public generally with an increasing reservoir of relevant knowledge. In this connection substantial research and writing are now available on the subject of marketing orders. Yet, further research oriented to particular questions is called for.

Perhaps other avenues and procedures might be utilized to accomplish the same objective as that of the Montoya Bill. For example, a separate section or division in the director's office could be established and charged with the responsibility of acting as the watchdog for the general public in the matter of marketing orders. An alternative of a different type would be one whereby the auditor general would be given the responsibility of keeping continuous watch for the interest of the general public and reporting back to the legislature periodically concerning his findings. Another alternative could be that the present boards composed of farmers and handlers would be countervailed by another advisory board for the same product and order. This would be composed of final consumers and distributors. Care must be taken, however, that the whole apparatus and organization of marketing orders not become too complicated, lest they lose the ability to operate successfully.

An additional thought bearing on this question is that the proposed legislation might include a section stating that, as marketing order advisory boards submit their recommendations to the director, an economic impact evaluation be included, with estimates of the effects of the recommendations on various interests and segments of the society. This would be consistent with the requirement, in other proposed courses of action, that due recognition be given to the possible outcomes. In the case of marketing orders, the economic impact statement would of necessity make explicit the effects on consumers.

Since 1937, the nature and functions of the marketing order advisory boards have undergone evolutionary change with various dimensions of emphasis. Over the years, the boards have become reservoirs of particular expertise available to the director. For example, in the grading of agricultural products and in the advertising and promotion of farm products to attain expanding markets, the boards have become the most knowledgable source. Such technical expertise is not acquired easily, and its utilization has redounded to the benefit of all the citizens of California and not just one special interest group. This caliber of expertness comes from knowledge and experience not likely to be readily available in the ranks of consumer groups, no matter how well intentioned.

In the discussion and evaluation of the issues related to the Montoya Bill, caution must be exercised lest important economic-marketing matters with which the boards are concerned be obscured or biased by popular ideological rhetoric emanating from bandwagon riders rather than being based on sound principles of public policy and public planning.

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