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MEETING  
AGRICULTURAL LABOR RELATIONS BOARD

STATE CAPITOL  
ROOM 4203  
SACRAMENTO, CALIFORNIA

THURSDAY, AUGUST 28, 1975  
9:30 A. M.

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MEMBERS PRESENT

Bishop Roger Mahony, Chairman  
Mr. Joseph Grodin  
Mr. Joe Ortega  
Mr. LeRoy Chatfield  
Mr. Richard Johnsen, Jr.

MEMBERS ABSENT

NONE

STAFF PRESENT

Ms. Annie M. Gutierrez, Executive Secretary  
Ms. Jeanne Bosetti, Secretary



## P R O C E E D I N G S

CHAIRMAN MAHONY: Ladies and gentlemen, the meeting will now come to order. This is the first formal meeting of the California Agricultural Labor Relations Board. We will ask the secretary to please call the roll of the Members present.

MS. GUTIERREZ: Leroy Chatfield.

BOARD MEMBER CHATFIELD: Here.

MS. GUTIERREZ: Joseph Grodin.

BOARD MEMBER GRODIN: Here.

MS. GUTIERREZ: Richard Johnsen.

BOARD MEMBER JOHNSEN: Here.

MS. GUTIERREZ: Chairman Roger Mahony.

CHAIRMAN MAHONY: Here.

MS. GUTIERREZ: Joe Ortega.

BOARD MEMBER ORTEGA: Here.

CHAIRMAN MAHONY: There is a quorum of the Board. We will now proceed. We would like to introduce two people who are with us today at our hearing. To my right and to your left is Ms. Annie Gutierrez, the Executive Secretary of the Board, and Ms. Jeanne Bosetti, sitting down on this lower level, serving as our secretary.

I would like to just give a brief opening statement with brief comments on the meaning of this day for all of us here in the State of California.

1           Today is a day of profound importance and promise  
2 for all of us in the State of California. The Members of  
3 the Board greet this day with a lively hope that the  
4 employer-employee relations in our agricultural industry  
5 will now move from an era of mistrust to one of mutual  
6 cooperation and peaceful partnership.

7           The historic law that becomes effective today is  
8 a sign and a pledge of a new possibility and a new reality.  
9 Many diverse groups with differing views joined together  
10 to bring about this legislation. We invite all today to  
11 continue that cooperative spirit and resolve as we move forward  
12 in the implementation of this new law.

13           We the Members of the California Agricultural  
14 Labor Relations Board dedicate ourselves to carry out our  
15 responsibilities under this law with complete fairness to  
16 all parties and with firm determination to bring peace to our  
17 State's agricultural fields.

18           Our first item of business this morning will be  
19 the adoption of emergency regulations as defined in the  
20 Administrative Procedure Act. This is not a public hearing  
21 on those regulations, those emergency regulations, but  
22 rather this is the regularly noticed occasion when we, as  
23 a Board, must adopt emergency regulations under which to  
24 operate. And I would like to ask the Executive Secretary  
25 to read the Finding of Emergency which gives us the authority

A-  
1 to adopt these regulations.

2 MS. GUTIERREZ: "Finding of Emergency. The  
3 Agricultural Labor Relations Board finds that an  
4 emergency exists, and that the foregoing regulations  
5 are necessary for the immediate preservation of  
6 the public health, safety, or general welfare.  
7 A statement of such facts constituting an  
8 emergency is:

9 "Statement of Facts. The Agricultural Labor  
10 Relations Act of 1975 is designed to define and  
11 protect the rights of agricultural employees  
12 and agricultural employers. The Act defines the  
13 rights of agricultural employees to include  
14 organizing and bargaining collectively with  
15 their employers through representatives of  
16 their own choosing. To ensure that agricultural  
17 employees can freely choose their own representa-  
18 tives for the purpose of collective bargaining,  
19 the Act establishes a procedure by which  
20 they can exercise their choice at a secret  
21 ballot election conducted by the Agricultural Labor  
22 Relations Board. To protect the rights of agricultural  
23 employees and employers, and to prevent labor  
24 disputes that would adversely affect the rights  
25 of the public, the Act also defines certain

1 practices of employers and unions as unfair  
2 labor practices.

3 "The Act is administered and enforced by  
4 the Agricultural Labor Relations Board. The  
5 general counsel of the Board and his staff  
6 investigate and prosecute unfair labor practice  
7 cases and conduct elections to determine employee  
8 representatives. The five-member Board decides  
9 cases, involving charges of unfair labor  
10 practices and determines certain representation  
11 election questions.

12 "The Act does not set forth in detail many of  
13 the procedures used by the Board in administering  
14 and enforcing the Act. Instead, the Legislature  
15 delegated to the Board the authority to adopt  
16 regulations which are necessary to carry out the  
17 provisions of the Act relative to representation  
18 cases and unfair labor practice cases.

19 "The Agricultural Labor Relations Board has  
20 reason to believe that unfair labor practice charges  
21 are likely to be filed on or soon after August 28,  
22 1975, the effective date of the Act. The Board  
23 has also determined that it will begin accepting  
24 representation case petitions on September 2, 1975,  
25 and it expects numerous representation case

1 petitions to be filed on or soon after that date.

2 "In addition, the strict time limitations  
3 contained in the Act relative to the holding of  
4 elections and to the expeditious processing of  
5 certain categories of unfair labor practice charges  
6 make even more apparent the necessity of having  
7 regulations covering these matters in effect on  
8 August 28, 1975, or as soon thereafter as possible.  
9 For instance, Labor Code Sec. 1156.3 requires  
10 that the Board immediately investigate a petition  
11 for representation and, additionally, that any  
12 representation election ordered pursuant thereto  
13 be held ~~within~~ a maximum of seven days of the  
14 filing of a petition.

15 "Moreover, in enacting this legislation the  
16 people of the State of California sought to ensure  
17 peace in the agricultural fields by guaranteeing  
18 stability in labor relations. The events of the  
19 past decade demonstrate that unrest and strife may  
20 occur in the absence of orderly procedures for  
21 resolving labor disputes. In light of the foregoing,  
22 the Agricultural Labor Relations Board has reason  
23 to believe that there exists a potentially volatile  
24 condition in the agricultural fields of the State  
25 which requires definite and orderly procedures to

1       ensure immediate and effective regulations to  
2       enforce the Act.

3       "Also, the Legislature, in providing that the  
4       Act becomes effective on August 28, 1975, fully  
5       intended that the Agricultural Labor Relations  
6       Board be prepared to administer and enforce the  
7       Act on the date it becomes effective. In order to  
8       comply with the legislative mandate, it is essential  
9       that the Board immediately adopt regulations to  
10      enforce the Act.

11      "The current situations therefore suggest to  
12      the Board the urgent and immediate necessity of  
13      adopting detailed regulations covering these matters  
14      to become effective on August 28, 1975, or as  
15      soon thereafter as is possible.

16      "Inasmuch as the five-member Board responsible  
17      for adopting regulations is not authorized by law  
18      to adopt regulations until August 28, 1975, it is  
19      therefore, appropriate and necessary to the efficient  
20      administration of the Act, that regulations relative  
21      to the filing of representation case petitions and  
22      unfair labor practice charges which are intended to  
23      become effective on or soon after August 28, 1975, be  
24      adopted as emergency regulations as defined in  
25      the Administrative Procedure Act (Gov. Code

1       Sec. 11370 et seq.)

2               "Accordingly, these regulations are hereby  
3       adopted as emergency regulations to take effect  
4       immediately upon filing with the Secretary of  
5       State as provided in Gov. Code Sec. 11422(c).  
6       The Agricultural Labor Relations Board has  
7       determined that the above regulations will have  
8       no cost to local government pursuant to Sec. 2231  
9       of the Revenue and Taxation Code."

10              CHAIRMAN MAHONY: Thank you very much.

11              Just a brief note of explanation about the adoption  
12     of our permanent rules and regulations. Probably next week  
13     the dates will be announced when we will have formal  
14     hearings to take testimony on the formulation and the  
15     adoption of the permanent rules and regulations. Today we  
16     are adopting emergency rules and regulations to enable us  
17     to proceed under the provisions of the Act.

18              There are eight chapters of our proposed emergency  
19     regulations. The only one that has been circulated  
20     publicly among the parties is Chapter 3 which deals with  
21     Chapter 5 of the Act, the Representation of Employees.

22              At this time the Chair will entertain a motion  
23     to put on the table the regulations dealing with Chapter 1.  
24     Chapter 1 is the section on Definitions and begins with  
25     Sections 20100 through 20130.

1 BOARD MEMBER GRODIN: Mr. Chairman, I move  
2 the adoption of Chapter 1 Regulations.

3 And in that connection, do we need to take action,  
4 Mr. Chairman, on the adoption of the Statement of Facts  
5 recited in the Emergency Declaration?

6 CHAIRMAN MAHONY: That probably would be appropriate.

7 BOARD MEMBER GRODIN: I would include that in  
8 my motion as well.

9 CHAIRMAN MAHONY: All right. Is there a second?

10 BOARD MEMBER JOHNSEN: Second.

11 CHAIRMAN MAHONY: It has been moved by Mr. Grodin  
12 and seconded by Mr. Johnsen that we adopt the Finding of  
13 Emergency, Statement of Facts as well as Chapter 1 dealing  
14 with definitions.

15 Is there any discussion among the Members?

16 Will the Secretary please call the roll?

17 MS. GUTIERREZ: Leroy Chatfield.

18 BOARD MEMBER CHATFIELD: Aye.

19 MS. GUTIERREZ: Joseph Grodin.

20 BOARD MEMBER GRODIN: Aye.

21 MS. GUTIERREZ: Richard Johnsen.

22 BOARD MEMBER JOHNSEN: Aye.

23 MS. GUTIERREZ: Chairman Roger Mahony.

24 CHAIRMAN MAHONY: Aye.

25 MS. GUTIERREZ: Joe Ortega.



1 BOARD MEMBER ORTEGA: Aye.

2 CHAIRMAN MAHONY: Chapter 1 of our Emergency Rules  
3 and Regulations is adopted.

4 Chapter 2. Chapter 2 is Sections 20205 through 20255  
5 and has to deal with Procedures Under Chapters 4 and 6 of  
6 the Labor Code.

7 The Chair will entertain a motion to adopt  
8 Chapter 2.

9 BOARD MEMBER JOHNSEN: Mr. Chairman, I move that  
10 the Board adopt Chapter 2 of the regulations.

11 CHAIRMAN MAHONY: Is there a second?

12 BOARD MEMBER CHATFIELD: I will second.

13 CHAIRMAN MAHONY: It has been moved by Mr. Johnsen  
14 and seconded by Mr. Chatfield that the Board adopt Chapter 2.  
15 Any discussion among the Board Members on Chapter 2, or  
16 comments thereon.

17 BOARD MEMBER GRODIN: Mr. Chairman, I support  
18 the motion. I think it may be helpful to the audience to  
19 understand that these are rules having to do with procedures  
20 in unfair labor practice cases, and they are patterned in  
21 many cases verbatim after the rules of the National Labor  
22 Relations Board in that regard. And the sections in our  
23 statute dealing with unfair labor practices are themselves  
24 closely related to the Sections of the National Labor Relation  
25 Act in that regard.

1 CHAIRMAN MAHONY: Thank you. This Chapter has not  
2 been circulated among the public but, as Mr. Grodin pointed  
3 out, it tracks almost parallel to the NLRB rules and  
4 regulations.

5 Any further discussion on Chapter Number 2?  
6 Will the Secretary please call the roll?

7 MS. GUTIERREZ: Joseph Grodin.

8 BOARD MEMBER GRODIN: Aye.

9 MS. GUTIERREZ: Richard Johnsen.

10 BOARD MEMBER JOHNSEN: Aye.

11 MS. GUTIERREZ: Chairman Roger Mahony.

12 CHAIRMAN MAHONY: Aye.

13 MS. GUTIERREZ: Joe Ortega.

14 BOARD MEMBER ORTEGA: Aye.

15 MS. GUTIERREZ: Leroy Chatfield.

16 BOARD MEMBER CHATFIELD: Aye.

17 CHAIRMAN MAHONY: Chapter 2 is adopted.

18 Chapter 3, the Procedure Under Chapter 5 of the  
19 Act for the Determination of Questions Concerning Representati  
20 of Employees.

21 This is the particular chapter that has been  
22 circulated among the parties. There has been a change made  
23 since most of the parties have seen this and since the  
24 publication on the 18th of August.

25 And the change has to do with Section 20355 which

1 discusses Eligibility. The change was made to include  
2 the reference and eligiblity of economic strikers under -  
3 Section 1157 of the statute itself. So that first sentence  
4 of 20355 now reads, "Those voters eligible to vote shall  
5 consist of 'eligibile economic strikers and' those  
6 agricultural employees of the employer who were employed  
7 at any time during the following". And the indented  
8 paragraph remains the same. That is the only change in  
9 that chapter from the public version released on Monday.

10 The Chair will entertain a motion to adopt Chapter 3.

11 BOARD MEMBER GRODIN: I so move, Mr. Chairman.

12 CHAIRMAN MAHONY: It has been moved by Mr. Grodin.

13 Is there a second?

14 BORAD MEMBER ORTEGA: I second the motion.

15 CHAIRMAN MAHONY: It has been seconded by

16 Mr. Ortega to adopt Chapter 3.

17 Is there any discussion on Chapter 3?

18 The Secretary will please call the roll.

19 MS. GUTIERREZ: Richard Johnsen.

20 BOARD MEMBER JOHNSON: Aye.

21 MS. GUTIERREZ: Chairman Roger Mahony.

22 CHAIRMAN MAHONY: Aye.

23 MS. GUTIERREZ: Joe Ortega.

24 BOARD MEMBER ORTEGA: Aye.

25 MS. GUTIERREZ: Leroy Chatfield.

1 BOARD MEMBER CHATFIELD: Aye.

2 MS. GUTIERREZ: Joseph Grodin.

3 BOARD MEMBER GRODIN: Aye.

4 CHAIRMAN MAHONY: Chapter 3 is adopted.

5 Chapter 4, which deals with Section 20400, is  
6 on the Service and Filing of Papers.

7 The Chair will entertain a motion to adopt Chapter 4.

8 BOARD MEMBER ORTEGA: Mr. Chairman, can I move  
9 the adoption of the entire remaining chapters at one time.  
10 I so move, if that is possible.

11 CHAIRMAN MAHONY: All right. There are no further  
12 changes in four through eight. The reason we put the other  
13 ones in that order was because there was a change. There  
14 are no changes in our copy of Chapters 4 through 8.

15 Do any Members have any objection to adopting  
16 4 through 8 as one unit?

17 Is there a second?

18 BOARD MEMBER GRODIN: I second it, Mr. Chairman.

19 CHAIRMAN MAHONY: It has been moved by Mr. Ortega  
20 and seconded by Mr. Grodin that we adopt Chapters 4 through 8.  
21 Is there any discussion of the motion?

22 Will the Secretary please call the roll?

23 MS. GUTIERREZ: Chairman Roger Mahony.

24 CHAIRMAN MAHONY: Aye.

25 MS. GUTIERREZ: Joe Ortega.

1 BOARD MEMBER ORTEGA: Aye.

2 MS. GUTIERREZ: Leroy Chatfield.

3 BOARD MEMBER CHATFIELD: Aye.

4 MS. GUTIERREZ: Joseph Grodin.

5 BOARD MEMBER GRODIN: Aye.

6 MS. GUTIERREZ: Richard Johnsen.

7 BOARD MEMBER JOHNSEN: Aye.

8 CHAIRMAN MAHONY: Chapters 4 through 8 are adopted.

9 All of the emergency regulations have now been  
10 officially passed and adopted by this Board. I would also  
11 state that the Board reserves the right to add to, modify  
12 or amend any of the emergency regulations as might be  
13 determined necessary during the course of the early implementa  
14 of this Bill.

15 As I announced also earlier, our permanent rules  
16 and regulations must be adopted by December 28th, 1975,  
17 and shortly public hearings will be scheduled to accommodate  
18 anyone wishing to testify and offer suggestions on our  
19 permanent rules and regulations.

20 We will now move to the public hearing on the issue  
21 of access. I might also state that for people who have  
22 picked up an agenda today, they will notice names actually  
23 typed on there. However, anyone is welcome to testify.  
24 I do request that if someone wishes to testify and their  
25 name is not on that prepared list, would you kindly give your

1 name and affiliation, if any to Mrs. Jeanne Bosetti, our  
2 secretary, so that we will know who else wishes to testify?

3           This is the time and place for the public hearing  
4 on the issue of access which we issued notice of last week.  
5 This is just a brief history of the issue of access and  
6 the reasons leading up to this particular hearing this morning

7           Shortly after the Agricultural Labor Relations  
8 Act was signed by the Governor, there was a task force  
9 of people brought in to help with the preliminary work to  
10 implement the law, many of them from the National Labor  
11 Relations Board and other agencies. During the course of  
12 this there were several draft versions of various rules  
13 and regulations presented, and the Board Members came on  
14 in a consultation manner in August to review many of these,  
15 and we circulated among various parties proposed rules  
16 and regulations.

17           The particular regulations, proposed rules and  
18 regulations, on the issue of access received a variety of  
19 responses. Several complex legal practical problems were  
20 presented, and in view of that the Board decided to adopt  
21 the first batch of emergency regulations without an  
22 access rule, and so we set a public hearing on the first date  
23 that this Act goes into effect in order to hear a broader  
24 testimony to give the Members an opportunity to ask  
25 questions of those who are presenting viewpoints.

1           It is our plan then, today, to take testimony  
2 during the entire day. This evening we would hope that we  
3 would have heard from everyone who wishes to be heard. At  
4 that point the Board will deliberate and decide whether or  
5 not it wishes to adopt an access rule, and if it does, to  
6 what the content of that rule might be and the extent of  
7 its application.

8           If that in fact is what happens, then the Chair  
9 will appoint a drafting committee to work on that later  
10 tonight, and tomorrow the Board will consider the text that  
11 might be presented and any changes or additions or  
12 amendments that the Board Members might wish. It is our  
13 intent to convene tomorrow at 9:30 a. m. to receive testimony  
14 on two additional issues, and also at the conclusion of  
15 that to make some final determination if this Board this  
16 evening wishes to pursue the possibility of adopting an  
17 access rule.

18           Tomorrow, the issues of the use of symbols on  
19 ballots will be discussed and testimony taken, the question  
20 of economic strikers to gather information from the parties,  
21 especially with regards to the definition and possible  
22 eligibility criteria for this.

23           On the printed agenda, which is available to you  
24 this morning, we have asked that you direct your attention  
25 to the first paragraph of the first section.

1 "It is respectfully requested that each group limit  
2 their formal presentation to 15 minutes. The members  
3 of the Board will be interested in asking questions  
4 of each speaker and are particularly interested in  
5 the following questions:

6 "1. Is there a need for an access rule?

7 "2. To what extent are there alternatives  
8 to an access rule? Are these alternatives  
9 effective?

10 "3. What identifiable damage would result to  
11 growers by the adoption of an access rule?

12 "4. Should an access rule be adopted, what  
13 should be its parameters? How should it  
14 be limited?"

15 We will now then proceed to hear from parties who  
16 have notified us that they wish to be heard. As I said  
17 before, if someone is here and wishes to be heard, simply  
18 give your name to Ms. Bosetti and she will give that to us.

19 The first speaker we have scheduled is Mr. George  
20 Pappy and Mr. William Smith who represent the Western Conferen  
21 of Teamsters. We ask them to come forward and to use the  
22 podium here.

23 I would state also that all these proceedings are  
24 being recorded so we do ask the speakers to identify yourself  
25 give your name and address for the record. Thank you.



1           MR. SMITH: Mr. Chairman, Members of the Board,  
2 Ms. Gutierrez, Executive Secretary, and members of the  
3 audience and interested persons to these proceedings, my  
4 name is William Smith and I am an attorney for the Western  
5 Conference of Teamsters.

6           As the Chairman has stated earlier this morning,  
7 this is a very important day in the State of California and  
8 in the lives of agricultural workers of the State. We the  
9 Western Conference of Teamsters ask that all parties to the  
10 proceedings under the Agricultural Labor Relations Board  
11 join in the spirit of cooperation as we intend to so that  
12 this law might effectively end the chaos that has reigned  
13 in the State of California prior to its implementation.

14          Addressing myself first, Mr. Chairman, to the  
15 agenda. Well, before I do that, I'd like to make a slight  
16 diversion. The Western Conference of Teamsters would ask  
17 that this Board intervene in a number of lawsuits that are  
18 presently pending throughout the State, lawsuits that were  
19 generated during the period in which there was a chaotic  
20 atmosphere in the State. There are lawsuits pending. There  
21 are injunctions that are presently in effect enjoining both  
22 the Teamsters and the United Farm Workers from engaging in  
23 certain activities which may be violations of provisions  
24 of the new Act. And we think it would be appropriate that  
25 the Board intervene in order to vindicate its jurisdiction,

1 which would also include, by the way, notice to law enforcement  
2 agencies that arrests should no longer be made of organizers,  
3 threats of arrest of organizers who attempt to reach  
4 employees of employers in an effort to solicit authorization  
5 cards to file petitions under the Act.

6           And I think that really brings us to the crux of  
7 the matter about which we are concerned here in this proceeding  
8 and that is whether or not the unions have adequate access  
9 to the employees in an effort to gather authorization cards  
10 to file petitions under the Agricultural Labor Relations Act.

11           Under a line of cases that have arisen under the  
12 National Labor Relations Act, beginning with a case called  
13 Babcock vs. Wilcox, and the Republic Aviation line of  
14 cases, the National Labor Relations Board and the Federal  
15 Courts have formulated a policy that, in the absence of  
16 reasonable alternatives, union organizers will be granted  
17 access to the premises of an employer for purposes of  
18 organizing. As we all know, the National Labor Relations Act  
19 and its machinery is very cumbersome, and one of the hopes  
20 of all the parties involved under the Agricultural Labor  
21 Relations Act is that we won't have to endure the time factors  
22 that arise under the National Act. The National Act provides  
23 that in the absence of reasonable alternatives there will  
24 be access. However, this is reviewed by the Board on a  
25 case by case basis and hence a considerable length of time

1 often elapses before the Board determines that there is a  
2 reasonable alternative. It may be two to three years,  
3 and by that time either the union's organizing efforts  
4 will have fizzled or the union will have lost interest and  
5 have gone on. Meanwhile, the Board has ruled that there  
6 is a reasonable alternative but there isn't the support  
7 that there may have been at the time when the initial  
8 organizing activity took place.

9           We think that this Board has the power to fashion  
10 out an exception that goes even deeper than the exception  
11 fashioned pursuant to Babcock vs. Wilcox. More directly the  
12 National Act has fashioned certain organizing rules with  
13 respect to the construction industry. Because of the nature  
14 of the construction industry, the Board has taken notice  
15 of the fact that there is no stationary plant, that the  
16 plant moves when the construction site has been completed,  
17 and therefore certain or special organizational rules  
18 apply in the construction industry as opposed to the  
19 regular production and maintenance type plants.

20           We think that this Board has the authority to  
21 fashion out a rule because of the uniqueness of the  
22 agricultural industry in this State, and factors that I will  
23 later enumerate that will demand that we have a reasonable  
24 alternative, an alternative that gives us greater access  
25 than even provided for under the National Labor Relations Act

1 We think in view of the fact that quite often the workers  
2 park their cars inside of the property of a rancher,  
3 sometimes a substantial distance from roads, obviously  
4 on the private property of the rancher, and other times  
5 workers are bused by buses, and when they leave they board  
6 the buses and are dropped at a particular place, leave their  
7 buses or leave the bus and go to their cars. In addition,  
8 when there are roads adjacent, and I suspect that there will  
9 be a position articulated that having access to the roads  
10 adjacent to a growers premises would be sufficient -- we  
11 don't agree with that position.

12 First of all, quite often adjacent to the premises  
13 of a grower is another grower's property which means that  
14 organizers would have to stand on the property of one  
15 grower in order to solicit signatures or he would have to  
16 stand on the property of the grower in question. If he  
17 stood on the road, of course, that would be another violation  
18 of the law. So in that sense, we feel that the organizers  
19 do not have an opportunity to reasonably solicit authorizatio  
20 signatures by standing on the roads or standing on the  
21 property adjacent to the roads in order to solicit  
22 authorization cards.

23 We would recommend that the Board promulgate a rule  
24 of general applicability, a rule, and at this point we make  
25 no suggestion as to what particular place on the property

1 should be designated or what times should be designated for  
2 solicitation of authorizations.

3 We would take the position that a rule of general  
4 applicability apply, which of course would mean that in  
5 order to effectuate due process this Board would have to  
6 hold hearings and this Board would have to make findings of  
7 fact that of course would be reviewable in court. The  
8 hearings would have to be open for the public and we feel  
9 that that is the only reasonable alternative that will allow  
10 access so that the rights of the employees will be protected.

11 I have nothing further at this point. If there are  
12 any questions that anyone would like to direct to me, I  
13 would attempt to answer them as best I can.

14 CHAIRMAN MAHONY: Thank you very much, Mr. Smith.  
15 I would just say that we have taken notice of the fact  
16 of your request that this Board intervene in any pending  
17 lawsuits and any other injunction actions. We will consider  
18 that.

19 At this point are there any members of the Board  
20 who wish to ask Mr. Smith any questions?

21 BOARD MEMBER ORTEGA: Maybe I can start, Mr. Chairma  
22 Since you are the first speaker, we are going to get maybe  
23 to the very basic questions. You mentioned the Babcock case  
24 which talks about reasonable alternatives, and you addressed  
25 yourself to one of the alternatives mentioned which is

1 approaching people at the cars. Now, it mentions, I believe,  
2 in that case about taking license plate numbers and then  
3 tracing the registered owners and thus getting to the  
4 workers that way. Do you think that is a reasonable  
5 alternative?

6 MR. SMITH: Well, Mr. Ortega, one of the difficulties  
7 with that approach is of course that we have transient  
8 workers quite often whose addresses at the time of the  
9 registration of the vehicle may differ from the address  
10 at the time that the person or the organizing effort is  
11 underway. I suppose there can be an argument that labor  
12 camps provide an access, means of access, to these employees  
13 also. However, quite often these employees are not  
14 registered, and their license plates and their addresses are  
15 not listed as the labor camp. In addition, it must be  
16 remembered that these labor camps quite often are on the  
17 property of an employer.

18 BOARD MEMBER ORTEGA: What about some of the other  
19 reasonable alternatives mentioned in the NLRB cases,  
20 newspaper ads, media programs? Are those alternatives viable  
21 in this case?

22 MR. SMITH: Well, that raises a complex problem in  
23 view of the fact that quite often we have people who speak  
24 other languages, whether Spanish, Arabic, Tagalog, one of  
25 the Philippine dialects, and their fluency in English is

1 sometimes limited. It would mean special programming, and  
2 how could one determine which station this particular group  
3 of employees listened to? So I don't think that would provide  
4 a reasonable alternative in this situation.

5 BOARD MEMBER ORTEGA: You indicated that you  
6 opposed the case by case approach. Would you indicate why?

7 MR. SMITH: Well, I think --

8 BOARD MEMBER ORTEGA: And I ask that because I know  
9 that is the NLRB approach.

10 MR. SMITH: Right. Being familiar with the National  
11 Labor Relations Board, and having worked for them for  
12 awhile, and as I said earlier, I am of the opinion that  
13 the Board's processes are very slow -- and for an election  
14 to be held within seven days, it is just absolutely impossible  
15 for there to be a hearing, for the Board to make any kind  
16 of determination, and if these workers are moving from place  
17 to place with any kind of frequency at all and disbanding  
18 from one employer to another, by the time that there was  
19 a determination it would be moot. It would be of no effect  
20 on those employees.

21 BOARD MEMBER ORTEGA: You also indicated that you  
22 would be in favor of a rule of general applicability and  
23 you indicated that you wouldn't state at this time or you  
24 wouldn't attempt to define what place and what time. Would  
25 you attempt to define the number of organizers that would be

A-  
1 permitted if an access rule were adopted, say we could come  
2 up with a number.

3 MR. SMITH: Well, I don't think I can designate  
4 a particular number, Mr. Ortega, in view of the fact  
5 that the number of employees of an employer may vary from  
6 place to place. If there are several hundred employees,  
7 of course that would entail utilization by the union of  
8 a significantly more number of organizers than in a very small  
9 ranch situation. I would, however, take the position that  
10 there should be some designated means by which both unions  
11 could either simultaneously or alternatively have access to  
12 those employees. Whether the employer said that on Tuesdays  
13 and Thursdays from two to four in the XYZ corner, the  
14 Teamsters may send in five organizers to talk to the employees  
15 and on Monday and Wednesday the UFW may do the same at the  
16 same place, I don't know. I would suggest that that might  
17 be something the Board should consider however.

18 BOARD MEMBER ORTEGA: Yes, and we certainly will,  
19 but we are trying to get some specific information from you.  
20 Supposing we made a rule that said only two organizers  
21 could go in, regardless of what the size of the work force is  
22 Could you live with that?

23 MR. SMITH: Well, not having discussed that matter  
24 with my client and not being familiar with the size of the  
25 work force at any particular area or location, I really



1       couldn't answer that at this time.

2               BOARD MEMBER ORTEGA:   Okay.   Thank you.   I have  
3   no further questions.

4               CHAIRMAN MAHONY:   Do any other Members wish to  
5   ask any questions?

6               Yes, Mr. Grodin.

7               BOARD MEMBER GRODIN:   Mr. Smith, I take it from your  
8   request that the Board intervene in pending lawsuits around  
9   the state, that you regard this whole issue as being one of  
10   some urgency, is that correct?

11              MR. SMITH:   That is correct.

12              BOARD MEMBER GRODIN:   And I assume, therefore, that  
13   you are asking the Board to take some action now to adopt  
14   an access rule on an emergency basis, is that correct?

15              MR. SMITH:   Yes, we would like to have an emergency  
16   rule because, as you know, the Act goes into effect and  
17   petitions will be filed next Tuesday.

18              BOARD MEMBER GRODIN:   Right.   We are aware of that.  
19   And I was puzzled by your observation that we ought to hold  
20   hearings and get public comments, because that's what we  
21   thought we were doing now.   And I wondered whether you  
22   were asking us to defer until some later date for the  
23   adoption of the rule or whether you were asking us to go ahead  
24   and do it now?

25              MR. SMITH:   Well, not being totally familiar with

1 processes in these proceedings, I was not aware of whether  
2 or not this hearing was to make findings of fact that are  
3 in fact reviewable, that due process and notice has been  
4 completely served, and I think those are prerequisites to  
5 the promulgation of a rule of general applicability.

6 In the event this proceeding is such a proceeding,  
7 then my comments can be ignored, but I just wanted to make  
8 sure that it is. Well, I want to state our position that  
9 we think that for the application of such a general rule  
10 there has to be such due process.

11 BOARD MEMBER GRODIN: You are not suggesting that  
12 there is a lack of due process with these proceedings?

13 MR. SMITH: No, no, not by any means.

14 BOARD MEMBER GRODIN: So then if we are going to  
15 turn our attention to your request that we act urgently,  
16 we have to get involved in the details as Member Ortega  
17 was suggesting.

18 You suggested, if I understood you correctly, that  
19 the interests of the union in communicating with workers  
20 might be adequately served if there were designated areas,  
21 that is, designated by the employer, to which union organizers  
22 would have access with the reasonable expectation that workers  
23 would be there when they came. Do you see that as an  
24 alternative to access to the workers in the fields during  
25 other times or do you see that as an addition?

1           MR. SMITH: Well, without taking any position  
2 on the access to the fields, I think there are inherent  
3 problems with going right into the fields and I am sure  
4 that employers are going to raise objections to such a  
5 procedure. And for that reason we would --

6           BOARD MEMBER GRODIN: I imagine somebody is going  
7 to have objections to most anything that is proposed.

8           MR. SMITH: Yes, sir.

9           BOARD MEMBER GRODIN: But I am asking you for your  
10 thoughts as to what you think would be probable.

11          MR. SMITH: Yes, I do think that would be a viable  
12 alternative.

13          BOARD MEMBER GRODIN: I have no other questions.

14          CHAIRMAN MAHONY: Just one clarification, Mr. Smith.  
15 We are talking about temporary emergency rules and regulations  
16 So that just as we adopted the ones earlier this morning, we  
17 also have the authority to adopt other emergency temporary  
18 regulations today if we wish, or tomorrow. And that the  
19 formal permanent rules will be formally noticed and follow  
20 the regular procedures as set up in the Administrative Code.  
21 So this is the proper hearing and this is the time and place  
22 to do that.

23                 Any further questions?

24                 Mr. Johnsen.

25                 BOARD MEMBER JOHNSEN: Mr. Chairman. Mr. Smith,

1 following up on the questions of Mr. Grodin, if a designated  
2 area, for example, was the area along the road, whether it  
3 be on the ranch or off the ranch, that the workers normally  
4 park or the bus unloads the workers, would that be in your  
5 opinion a designated area?

6 MR. SMITH: Well, I am not sure that I understand  
7 your question.

8 BOARD MEMBER JOHNSEN: Well, I'd like to know what  
9 you mean by a designated area? In other words, if where they  
10 park their cars, would that be sufficient for the organizer  
11 to have the authority? Let's assume that it was on the  
12 farm road and the workers parked along the road on the farm.

13 MR. SMITH: I think there are inherent problems  
14 with allowing access only at the road, as I stated earlier.  
15 Quite often the workers would get off work and rush right  
16 to their cars and jump in their cars and leave. In addition,  
17 we may run into problems with -- well, I suppose -- I suppose,  
18 to be quite honest with you, if there were a designated area  
19 adjacent to the roadway that the grower had admitted organizer  
20 to, that that would suffice. I don't think it has to be  
21 a designated square within the ranch perimeter. It can be  
22 on the edge of the ranch. And I suppose, if the rancher  
23 did allow access at this point to the employees at designated  
24 times, that that would suffice.

25 BOARD MEMBER JOHNSEN: Do you feel that the workers

1 should be required to be a certain length of time in that  
2 designated area or should the workers have the voluntary  
3 right to either go and listen to an organizer or not.

4 MR. SMITH: Well, I think it would proscribe the  
5 worker's rights to force him to be there to listen to a  
6 union organizer. He has the right to choose whether he  
7 wants to or not. I think he should be put upon notice that  
8 union organizers are available should he be interested at  
9 a certain time and a certain place, but by no means should  
10 he be forced to go there to speak to any union organizer.  
11 I think that is a matter of his own free choice.

12 BOARD MEMBER JOHNSEN: I understand that your union  
13 has quite a few contracts. Have you had problems in the  
14 past with access to ranches that you'd like to tell us about?

15 MR. SMITH: Well, we do have some problems, as a  
16 matter of fact. We have contracts presently with certain  
17 employers where we are enjoined by certain courts of the  
18 State from soliciting authorization cards from those employees  
19 even though we have a contract that provides that we have  
20 access for legitimate union business purposes. Certain  
21 judges have seen fit to rule that legitimate union business  
22 does not entail solicitation of authorization cards while  
23 on the premises, even during free time, whether lunch hours,  
24 breaks and before and after work. And I think that is a  
25 serious problem.

1           We have had union organizers threatened with arrest  
2 and harrassed because of their efforts to organize. And  
3 I think that it is important that this Board intervene so  
4 that -- I don't know whether the Board plans to take notice  
5 of conduct occurring prior to the implementation or the  
6 effective date of this Act or not, but I think that might  
7 pose a serious problem in the event one union is enjoined  
8 from soliciting authorization cards and another is not.

9           BOARD MEMBER JOHNSEN: One last question, Mr. Smith.  
10 Would you care to guess as to out of the number of farmers  
11 that you have contacted, what percentage would be problems  
12 of access and what percentage of farmers would allow you to  
13 come on and speak to the men who would voluntarily like to  
14 listen?

15           MR. SMITH: Well, I have had no discussions with  
16 my client in that regard and I am not privy to that  
17 information. I really don't have an answer.

18           BOARD MEMBER JOHNSEN: Thank you.

19           CHAIRMAN MAHONY: Any other questions by Members?

20           BOARD MEMBER CHATFIELD: Mr. Smith, with respect to  
21 your present contracts, would you say that the situation you  
22 described where you are enjoined from access under these  
23 existing contracts, would you say that is the rule or the  
24 exception?

25           MR. SMITH: I would say that's the exception.

1           BOARD MEMBER CHATFIELD: So for the most part you  
2 do have access where you do not have contracts?

3           MR. SMITH: I think that would be a fair statement,  
4 that we do have access, yes.

5           BOARD MEMBER CHATFIELD: Then could you very  
6 briefly try to describe for me in a just very plain manner  
7 what you think reasonable access would be for a union  
8 organizer or for a union?

9           MR. SMITH: Well, that raises a difficult question  
10 because, as I stated earlier, there are a number of  
11 employer type situations that must be countenanced in  
12 determining what circumstances are reasonable. But, as I  
13 said earlier --

14           BOARD MEMBER CHATFIELD: Well, if we are going to  
15 make a rule, I presume it would have to apply to the  
16 majority of the cases. There will always be exceptional  
17 circumstances. So I am just thinking, if you could explain  
18 in the main what you think might be a reasonable approach  
19 to the access rule?

20           MR. SMITH: Okay. We would simply urge that certain  
21 designated places be set aside for reasonable time intervals  
22 in which employees who are interested might be approached  
23 by union organizers for the purposes of soliciting authorization.

24           BOARD MEMBER CHATFIELD: Thank you.

25           CHAIRMAN MAHONY: Any other Members have any

1 further questions?

2 Mr. Smith, I just have one question. It has been  
3 stated that if an access rule were to be adopted, that  
4 would probably lead to more conflicts and difficulties  
5 in the fields than we have without an access rule. Would  
6 you have any comment on that statement?

7 MR. SMITH: That is a possibility. However, I  
8 tend to discount that. There are presently employers,  
9 employers with which we have contracts, who have permitted,  
10 and this is simply upon information that I have received,  
11 both unions to attempt to solicit authorization cards from  
12 employees in the bargaining unit. However, in the event the  
13 Board does feel that there would be some kind of difficulty,  
14 I think there is another alternative, and that is to provide  
15 alternate times and alternate places or alternate designated  
16 places for the purposes of soliciting by rival labor  
17 organizations.

18 CHAIRMAN MAHONY: You do not think, therefore, that  
19 the presence, the mere presence of organizers at a particular  
20 property at designated times at designated places would  
21 necessarily lead to any problems?

22 MR. SMITH: No, I don't think necessarily that  
23 they do.

24 CHAIRMAN MAHONY: Any other questions by Board  
25 Members?



1 Thank you very much, Mr. Smith.

2 MR. SMITH: Okay. Thank you for your time and  
3 attention.

4 CHAIRMAN MAHONY: Mr. William Marrs, an attorney  
5 representing the California Farm Bureau Federation.

6 MR. MARRS: Mr. Chairman, I have a statement. Could  
7 I give it to the Members of the Board?

8 CHAIRMAN MAHONY: Yes. Jeanne, would you pass them  
9 out?

10 MR. MARRS: Mr. Chairman, I just have a few  
11 comments and I will just sketch what I have prepared. I  
12 think there is some severe Constitutional and legal problems  
13 with a general access rule of any sort. You have got Fifth  
14 Amendment property rights and First Amendment free speech  
15 rights. And the Supreme Court is fairly clear on this, I  
16 think. The NLRB precedent, in Babcock and Wilcox, I think  
17 is against a general access rule, and the Penal Code in  
18 California, I think precludes a trespass rule.

19 Now, I don't know whether this Board can adopt the  
20 regulation which is going to overrule the Legislature. I  
21 mean that's of questionable legality. You have a general  
22 counsel and able lawyers on the Board and I am sure that you  
23 have considered these questions and I don't know how you can  
24 resolve them.

25 The only other thing I would mention would be the

1 policy considerations in the Act. The policy of the Act  
2 is for employees to self-organize, and it prevents employers  
3 from interfering with these rights, but the policy of the  
4 Act is not to provide labor organizations with any rights.  
5 They are also precluded from interfering with employee rights.  
6 And it seems to me that in most situations if the employees  
7 want to self-organize for any reason whatever, the situations  
8 that you have talked about this morning like coming in on  
9 a bus, I would think that if they wanted to organize and if  
10 they wanted to talk to the union, both unions have many  
11 locals or many halls throughout the State, and they can talk  
12 to them any morning or afternoon when they get off work.

13         There may be some special circumstances, some  
14 captive circumstances, which the NLRB uses, in which case  
15 the only way the union can effectively talk to these  
16 employees is to have access to the property. But aside  
17 from that I see no reason for an access rule. And as a  
18 matter of practicality, I am not sure if a rule is adopted  
19 what is going to happen. Whether it is going to calm things  
20 down, I doubt that very much, and I would foresee extensive  
21 litigation on it.

22         One is going to follow right after the other and  
23 I don't think there is going to be any reasonable alternative.  
24 I won't say reasonable alternative. I just think it is  
25 natural if there is an access rule adopted someone is going

1 to challenge it, and I don't know whether that is going to  
2 help things or hurt things.

3 Then you have unfair labor practices. Is the  
4 election certified? I think it is going to cause more  
5 problems than it is going to solve.

6 And those are the only comments I have and I would  
7 be glad to answer any questions if you have any.

8 CHAIRMAN MAHONY: Thank you, Mr. Marrs. Are there  
9 any questions of any Members of the Board?

10 Mr. Grodin:

11 BOARD MEMBER GRODIN: Mr. Marrs, as you have stated  
12 and as the memorandum states and as I understand the laws  
13 under the National Labor Relations Act, while it is the  
14 general principle that union organizers do not have access  
15 to employer's property, there is an exception to that  
16 principle where no other reasonable or effective means of  
17 communication with the employees exists. Is that correct?

18 MR. MARRS: Yes, as I understand Babcock and Wilcox.

19 BOARD MEMBER GRODIN: And there is also provision  
20 in our statute to the effect that we should apply applicable  
21 NLRB precedent, is that correct?

22 MR. MARRS: Yes.

23 BOARD MEMBER GRODIN: So then, at least to the  
24 extent that the National Labor Relations Act creates a right  
25 of access by union organizers to the property of the employer

1 our statute could be said to do so as well, could it not?

2 MR. MARRS: I think that is what it says exactly.

3 BOARD MEMBER GRODIN: All right. And to that  
4 extent, whatever that extent is, then you would agree that  
5 our Legislature has adopted, in the Agricultural Labor  
6 Relations Act, a law which under certain circumstances allows  
7 access despite the provisions of the Penal Code which protect  
8 property against trespass. Would that not follow? That is,  
9 if there are any circumstances of which union organizers  
10 have access to employer property, it might be that the  
11 Legislature intended to modify the trespass law and allow  
12 modification to that extent, is that not correct?

13 MR. MARRS: I don't think I would take that position  
14 in a legal argument, but it is conceivable. I don't see how  
15 that is possible by regulation.

16 BOARD MEMBER GRODIN: I am not talking about  
17 by regulation.

18 MR. MARRS: On a court case, you might.

19 BOARD MEMBER GRODIN: All right. Now, if our  
20 statute then contemplates some limited right of access,  
21 whatever that right of access might be and how limited it  
22 might be, and I understand your position to be that it is  
23 very limited indeed, would it be desirable to by way of  
24 an interpretive rule to make clear the Board's position with  
25 respect to what Right of Access might be, however limited it

1 might be, so that the party would know how the Board intends  
2 to view the sections of the Act which are comparable to those  
3 under the NLRA, and rely upon them as to access?

4 MR. MARRS: I don't know what the form of the  
5 interpretive rule would be. If it is a rule of general  
6 application then I don't see how it could stand up. If you  
7 issue a rule that says that "We intend to follow the NLRB  
8 precedent under Babcock and Wilcox," A, B, C and D, and then  
9 passed that out, then I would think as each case arose the  
10 guy would say "I don't fall under that," and so you are right  
11 back where you start, I think.

12 BOARD MEMBER GRODIN: Would you comment on the  
13 factors which the Labor Board and the Courts have relied  
14 upon under the NLRA for inclusion of any particular cases  
15 that there are alternative methods of access available,  
16 pertaining to the question that Mr. Ortega asked of  
17 Mr. Smith? Under the NLRA, the Labor Board and the courts  
18 have said that even though the workers are employed in an  
19 isolated area, where there is no effective means by which you  
20 could reach them on the job, if they come to work in  
21 automobiles then the union can write down the license numbers  
22 on those automobiles and through the Department of Motor  
23 Vehicles, determine in that manner where the workers live  
24 and then go and visit them. That may provide a reasonable  
25 alternative to access to employer's premises. Mr. Smith

1 suggests that that alternative is not as a practical matter  
2 available given the transient nature of most farm workers.  
3 Would you agree or disagree with that proposition?

4 MR. MARRS: Well, as far as transient farm workers,  
5 I would agree, but I wouldn't say that the transient farm  
6 workers -- how many of those are we talking about? Each  
7 situation is different. The U. S. Department of Agriculture  
8 says that nine percent of the farm workers in the State  
9 are migrants and 91 percent aren't. So in some communities  
10 the employees stay there the year around. They don't go  
11 anyplace. And they would be just like Babcock, I think, where  
12 I think the Court said you could go to towns and they could  
13 live in the community, they had a newspaper, and there would  
14 be reasonable alternatives there.

15 But on say the people going from the crops into  
16 the melons, and then someplace else where they are there four  
17 or five days, that would be different obviously. But then I  
18 think that would have to be handled the way the Board handles  
19 it, the National Board, rather than a general rule of  
20 applicability, because then you are getting everybody under  
21 one big broad brush, and I am not sure that the findings of  
22 fact are sufficient to do that.

23 BOARD MEMBER GRODIN: I have one final question.  
24 Would you address yourself to the concerns of your parties  
25 that you represent with respect to an access rule? I mean,

1 obviously, it is a private property and they prefer not to  
2 have people coming onto it who they don't want there, and  
3 that is understandable. But beyond that, I am talking about  
4 in terms of specific concerns that they might have with  
5 respect to union organizers coming on their premises. Are  
6 their concerns about the impact of that upon their property  
7 or upon the way they conduct their business? And is there  
8 any way that those concerns could be accommodated by a  
9 rule of general application?

10 MR. MARRS: Well, as any employer, I think they  
11 have the basic concern that they would just as soon not  
12 have a union on their property. And that is a legitimate  
13 management concern and I don't think anybody disputes that.  
14 I am sure that there would be some fear, fear of harassment  
15 of their workers. I don't know whether they would be afraid  
16 of property destruction. I would think not.

17 But then flip it over. Suppose that a person is  
18 not a union organizer and he goes on the property and starts  
19 to pick up a few pears or something and the guy calls a  
20 sheriff and he just says "I was just down here trying to  
21 organize the workers. You can't arrest me."

22 (Laughter.)

23 BOARD MEMBER GRODIN: Couldn't that problem be dealt  
24 with by requiring some mode of identification?

25 MR. MARRS: I don't know.

1 BOARD MEMBER GRODIN: I have no other questions.

2 CHAIRMAN MAHONY: Any other Members of the Board  
3 have questions?

4 BOARD MEMBER ORTEGA: Let me just follow up your  
5 line of questioning? As I understand it, you indicated  
6 that you feel most of the Federation members are not  
7 really afraid of property destruction. That's not the issue  
8 with them, is that it?

9 MR. MARRS: I didn't say that. I would hope that  
10 that would not happen. I mean it has happened a lot in  
11 the past and I would just hope that it wouldn't happen. I  
12 don't know. An access rule is not going to solve that problem.  
13 If someone wants to get your property they are going to do  
14 it whether there is a law against it or not, or a rule or  
15 a regulation.

16 BOARD MEMBER ORTEGA: Yes. So if there was an  
17 access rule, for example, that limited it to certain places,  
18 as has been suggested, or to a certain limited number, would  
19 there be objection to that?

20 MR. MARRS: Yes.

21 BOARD MEMBER ORTEGA: On what ground?

22 MR. MARRS: Well, an employer cannot interfere with  
23 an employee's rights but he does not have to aid a labor  
24 organization in organizing its employees. And by inviting  
25 him onto his property to talk about that, that is exactly



1 what he is doing and that is exactly what the Supreme Court  
2 in Babcock said he did not have to do.

3 BOARD MEMBER ORTEGA: Thank you.

4 CHAIRMAN MAHONY: Any further questions?

5 Mr. Johnsen.

6 BOARD MEMBER JOHNSEN: Mr. Marrs, do you have any  
7 experience through the Farm Bureau or past years as to  
8 loss of crops and things of that sort because of activity  
9 in the field?

10 MR. MARRS: Well, there has been extensive property  
11 damage done, especially in the San Joaquin Valley. There  
12 are some south central farmers and some of the other  
13 people who will testify to that, but I think there has been  
14 lots and lots of trees cut down and houses burned down.

15 (Laughter.)

16 CHAIRMAN MAHONY: Excuse me. We will not have  
17 any reaction from the members of the audience please.  
18 Thank you.

19 MR. MARRS: I think the history of the farm labor  
20 problem in California has been that there has been a lot of  
21 property damage.

22 I would say yes. An access rule is not going to  
23 solve that, though. I mean the adoption of one or not is  
24 not going to solve that problem. If someone wants to  
25 get you they are going to get you.

1 BOARD MEMBER JOHNSEN: I was not thinking in that  
2 context. I was thinking in the case where the grower  
3 voluntarily let organizers come on to talk to workers and  
4 this type of thing. I don't mean from a malicious standpoint.

5 MR. MARRS: I am unfamiliar with any grower that  
6 has voluntarily let a labor organizer on his property. There  
7 may be some here but I don't know any.

8 BOARD MEMBER JOHNSEN: Thank you.

9 CHAIRMAN MAHONY: Any other Members?

10 Mr. Chatfield.

11 BOARD MEMBER CHATFIELD: Mr. Marrs, could you  
12 elaborate a little further on your understanding of employees  
13 and the right to self-organize? What does that mean?

14 MR. MARRS: Well, as I understand the Act, it's  
15 to protect the rights of the employees to self-organize,  
16 and to prohibit the employer from interfering with those  
17 rights. I would imagine, by way of example, two situations.  
18 You have one employer, that let's just say is a bad employer,  
19 and employees don't like it, and they need someone, they  
20 think, to protect them to bargain with him for wages or  
21 whatever reason. So then they would decide that they  
22 need somebody and I think this Act does that.

23 On the other hand, suppose we have an employer  
24 who is a good employer, and I know some people who don't  
25 believe there are such things, and his employees are very

1 happy with this situation. What would be the point in  
2 having an organizer come on and try to organize them?

3 BOARD MEMBER CHATFIELD: What I was trying to get  
4 at, I think, is what would you think the rights of an  
5 employee to self-organize on the employer's property might  
6 be?

7 MR. MARRS: Well, I think the NLRB precedent says  
8 they can carry on any union activities they want as long as  
9 they are not disruptive and they are done during nonworking  
10 times, breaks, before work, after work, as long as they are  
11 nondisruptive whatever that entails. Each case is different.

12 BOARD MEMBER CHATFIELD: And if an employee took  
13 a day off and he came out on the property to speak to the  
14 workers, what would be the Farm Bureau's position, do you  
15 think, with respect to that kind of a situation?

16 MR. MARRS: An employee took the day off to talk --

17 BOARD MEMBER CHATFIELD: To self-organize.

18 MR. MARRS: -- to his fellow employees?

19 BOARD MEMBER CHATFIELD: To self-organize.

20 MR. MARRS: Why would he take the day off to do that?

21 BOARD MEMBER CHATFIELD: Well, there might be a  
22 situation where it is not such a good employer and he would  
23 like to help to organize his fellow employees.

24 MR. MARRS: Well, if he is not an employee, then  
25 he would be an organizer, but I would assume that while he was

1 working he would be organizing and talking to the employees  
2 at that time.

3 BOARD MEMBER CHATFIELD: No. Supposing he is an  
4 employee and he takes the day off to come out?

5 MR. MARRS: Well then, he loses his status as being  
6 an employee that day. I don't think it is a very practical  
7 problem because the only time he could talk to them would be,  
8 as I understand your rule, at lunch time or before or after  
9 work, and he could do that when he is working at the same  
10 time.

11 BOARD MEMBER CHATFIELD: But in fact you think that  
12 he would be looked upon as a union organizer?

13 MR. MARRS: If he wasn't working, yes.

14 CHAIRMAN MAHONY: Any further questions?

15 BOARD MEMBER ORTEGA: Yes, I have one question. You  
16 cited part of the Act which says that it is the policy of  
17 the State of California to protect the rights of argicultural  
18 employees to full freedom of association and self-organization  
19 That same section says not only to protect but to encourage  
20 and protect the right of agricultural employees. How would  
21 you read that word, "to encourage", in relation to what  
22 this board is attempting to do?

23 MR. MARRS: It would encourage the employees to  
24 self-organize but it would not encourage labor organizers  
25 to organize from the outside. I don't think there is any

1 question but that that is what it means, that the policy  
2 is for employees to encourage employees to self-organize  
3 to protect themselves if they want to.

4 BOARD MEMBER ORTEGA: Thank you. No further question

5 CHAIRMAN MAHONY: Mr. Marrs, on that same point,  
6 if, in effect, the employees started to self-organize and  
7 one of them takes leadership in the self-organization process  
8 doesn't he very quickly become then a union organizer? I  
9 don't see the distinction.

10 MR. MARRS: He isn't a union organizer but he has  
11 lost his status as an employee.

12 CHAIRMAN MAHONY: I am saying he has not been  
13 sent there by a union --

14 MR. MARRS: Right.

15 CHAIRMAN MAHONY: -- and he doesn't belong to a  
16 union as an organizer, he is just interested in organizing  
17 his workers. But isn't there some point very quickly, if  
18 he starts taking a leadership role in the organization process  
19 isn't he in fact becoming then a union organizer?

20 MR. MARRS: Well, as long as he is an employee,  
21 he has all the rights in the Act, and he is protected in  
22 those rights and he can organize as much as he wants to.  
23 But, as I understand it, if he gets fired or interfered  
24 with, then that is an unfair labor practice.

25 CHAIRMAN MAHONY: So that if he is an employee and h

1 either was or becomes a proponent for a particular union  
2 as a union organizer, he is still regarded as an employee,  
3 he is not an outsider.

4 MR. MARRS: Certainly, that is right.

5 CHAIRMAN MAHONY: On the same thrust that Mr. Ortega  
6 made here about the stated policy of the State of California,  
7 I think there is a second policy that is implicit here  
8 throughout the Act, and that is that the workers, if they  
9 are going to have an election, should have a reasonable  
10 knowledge of the choices if they are going to vote.

11 MR. MARRS: Yes.

12 CHAIRMAN MAHONY: I would suspect that part of the  
13 activities would be to make certain that they have a reasonable  
14 understanding of the choices available to choose. And I  
15 was just wondering whether you felt the need to have a fully  
16 informed voter would have any bearing on the need for  
17 access?

18 MR. MARRS: Not for the need for access. Well,  
19 under your procedures that you have adopted this morning,  
20 the employer, once the petition is filed and the showing  
21 of interest has been made, the labor organization gets  
22 copies of the names and addresses, so that they can receive  
23 Board notices and all other pertinent information. And I  
24 think that's a proper proceeding and that's the purpose  
25 of the Act.

1           When the employees have decided that they want  
2 someone to represent them or however they want to do it  
3 then when they file a petition, then all the interested  
4 parties can get their two cents in. I mean it's going to  
5 be a little tight within seven days. The employer at the  
6 same time is under the same time constraints because he has  
7 to make his views known at the same time to the employees.

8           CHAIRMAN MAHONY: Under the rules, as you know,  
9 there are seven days which is the period of time to when  
10 the election must be held, news reports and various other  
11 reports have indicated that possibly an employer could favor  
12 one organization over another, maybe even inadvertently,  
13 through his own thinking or things he has said. Do you  
14 think that the adoption of an access rule might in some way  
15 tend to mitigate that kind of influence, that is in case  
16 inadvertently an employer did have a preference, that if in  
17 fact there was full access to any union, and I am not just  
18 saying to your union, I am saying any union, that that might  
19 help mitigate any problem like that?

20           MR. MARRS: Well, I think the Babcock rule is  
21 implicit, that it is a nondiscriminatory, nonsolicitation  
22 rule, and you can't favor one labor organization over another  
23 or even a nonlabor organization. That's part of the rule.  
24 And if the employer has any preference, I think he gives up  
25 his protection of Babcock and Wilcox.

1 CHAIRMAN MAHONY: Thank you very much. Any others?

2 BOARD MEMBER CHATFIELD: Just one more question.

3 CHAIRMAN MAHONY: Go ahead.

4 BOARD MEMBER CHATFIELD: Mr. Marrs, how would you  
5 read this phrase?

6 It says "The policy of the Agricultural Labor  
7 Relations Act is to encourage and protect the right of full  
8 freedom of association," that concept of a right of full  
9 freedom of association.

10 MR. MARRS: The whole phrase is for the employees  
11 to do that, and I think that's my point.

12 BOARD MEMBER CHATFIELD: You think it just is  
13 limited to self-organization?

14 MR. MARRS: Well, it's to the employees. Now,  
15 if they seek an outside person, that's their right under  
16 that.

17 BOARD MEMBER CHATFIELD: And supposing they invite  
18 that outside person on to help them?

19 MR. MARRS: Well, I think they should better go  
20 to the outside person's meeting hall to do that because --  
21 well then, one individual could invite a labor organizer on  
22 for the other ten and the other ten might not want to listen  
23 to him, whereas the other way, if they really have some  
24 desire for self-organization, then they will go to the  
25 labor organizer. And that's the way it is done in industry.



1 That's the way employers become unionized.

2 BOARD MEMBER CHATFIELD: Well, we are charged with  
3 the responsibility of encouraging the right of full freedom  
4 of association and self-organization. I was just interested  
5 in how you felt we are going to do that.

6 MR. MARRS: Well, you protect the employee from the  
7 unfair labor practices and interference by labor organizations  
8 and by employers. I think that's fairly clear.

9 CHAIRMAN MAHONY: Any other questions?

10 Thank you very much, Mr. Marrs. We appreciate  
11 that. And I'd also like to compliment both Mr. Smith and  
12 Mr. Marrs for focusing directly on the issues and getting  
13 a nice crisp presentation. It has helped us greatly. Thank  
14 you very much.

15 The California Peace Officers Association.  
16 Mr. Rod Blonien, Executive Director, and Mr. Al Cardoza,  
17 Sheriff, Solano County.

18 MR. BLONIEN: Good morning, Mr. Chairman and  
19 Members of the Board. Thank you for giving us this opportunity  
20 to appear and testify this morning.

21 For the last ten years -- incidentally, I am  
22 testifying this morning on behalf of the California State  
23 Sheriff's Association as well as the California Peace  
24 Officers Association. The views that I am going to express  
25 this morning are more or less the consensus views of the

1 majority of the sheriffs from jurisdictions that have  
2 labor relation problems.

3           Historically, the last ten years, there has been  
4 strife in the fields of California and in the communities  
5 of California that are involved in the agricultural trade.  
6 The people that have been in the middle of the strife, by  
7 and large, have been law enforcement. We have been called  
8 to protect the rights of the landowner. We have been called  
9 to protect the rights of the worker, who may be harassed  
10 and who may find that he is no longer employed. We have  
11 been called to protect the rights of the labor organizer.  
12 Because of this, we have also been called to enforce Court  
13 injunctions that one side or the other may have sought.

14           Because of this we have become somewhat unpopular  
15 in most of the communities, trying to be the middle person  
16 protecting the rights of all and really not satisfying  
17 anyone. We would like to have a clear definite distinct  
18 law that would be apparent to everyone so that labor  
19 organizers, growers, and agricultural workers would respect  
20 the law.

21           Substantial amounts of time and money have been  
22 expended by law enforcement in trying to protect the rights  
23 of the groups involved. Last year in excess of \$1.2 million  
24 was expended by eight counties who were involved in policing  
25 the agricultural labor relations problem. This year we hailed

1 the Agricultural Labor Relations Act as an answer. Some of  
2 us looked upon it as the panacea, the answer to all of our  
3 problems. However, after studying it, we realized that  
4 there were questions that were left unanswered, and one  
5 of the most serious questions we feel is the question of  
6 access.

7 We feel that a statement must be made in the  
8 regulations on the question of access, and either a positive  
9 statement or a negative statement. "You do have access  
10 and access should be granted for X period of time," very  
11 specific, or "There is no access granted." Currently there  
12 are people throughout the State who are under the impression  
13 and the opinion that the question of access has been  
14 answered in the regulations in an implicit manner.

15 Because of this there have been people in the State  
16 who are testing the regulations. There was an incident in  
17 Yolo County a number of days ago where an organizer, I  
18 believe, wanted to challenge the access question, and called  
19 a press conference and then went out and proceeded to be  
20 arrested for going on the land. And if there is not a  
21 positive or a negative statement in the regulations on the  
22 question of access, we are going to continue to see this  
23 type of activity occur throughout the State.

24 And again, law enforcement will be in the middle  
25 trying to uphold 602 and 603 of the Penal Code, and trying

1 to protect the rights of the farmer, the rights of  
2 the organizer and the rights of the worker.

3 So we would like a statement either yes or no.  
4 However, we would prefer a negative statement, a statement  
5 stating that there should be no access. And the reason for  
6 that is that we feel that if there is an access regulation  
7 that it will be the cause of much conflict and violence.  
8 Past experience has shown that the question of access has  
9 been perhaps the focal point or the main reason for there  
10 being much strife in the fields.

11 There is a problem that has been alluded to this  
12 morning, the conflict between the regulations and the Penal  
13 Code. There are also potential conflicts between the  
14 regulations, if you were to grant an affirmative access, and  
15 court injunctions which are currently effective throughout  
16 the State. Yesterday at our meeting we talked about six  
17 different injunctions pending in the valleys and Northern  
18 California. And the questions would arise, how does this  
19 regulation affect this Court injunction, how does it affect  
20 the second, third and fourth and fifth Court injunctions?

21 The injunctions are not the same. They differ in  
22 many respects. And I think there may be a legal question  
23 and a legal challenge to the regulations in each injunction.

24 If the Board does decide that there should be a  
25 regulation on access -- we are not advocating it because we

1 would prefer that there not be a regulation granting access --  
2 but if you do grant access, I think you need to have a  
3 statement much more definite than you had in proposed  
4 regulation 17. In proposed regulation 17 there was verbage  
5 such as there should be allowed a reasonable number of  
6 organizers to come on to the property. And, of course, the  
7 obvious question is, what is a reasonable number of  
8 organizers?

9           What is the reasonable number of organizers in  
10 a farm that has 5,000 acres? What is the reasonable number  
11 of organizers in a property that perhaps has a hundred  
12 acres? And the question also, what is the reasonable  
13 duration of time during which an organizer should be allowed  
14 on the property?

15           And another question, a very serious question,  
16 that law enforcement is concerned about, the regulation,  
17 proposed regulation 17, did not have a curfew regulation.  
18 It said that you should be there for a reasonable period of  
19 time. Does that mean that someone could come out on the  
20 property at three a. m. and be on the property from three  
21 a. m. to 3:30 or four a. m.? We saw that as a very serious  
22 potential problem.

23           The question of breaks. One problem that we foresaw  
24 was what happens when machinery malfunctions and there is  
25 an involuntary break, where a break has to be granted because

1 the machinery isn't working and perhaps the farmer is paying  
2 the person for perhaps an hour, an hour and a half, while  
3 the machinery is down. They may be assigned other duties.  
4 Is that considered a break within the parameters of Rule 17  
5 as it was drafted?

6 Another problem that I wasn't aware of that some  
7 people brought to my attention yesterday was that there are  
8 some workers who don't want to be approached by organizers,  
9 and what should happen if two-thirds or three-fourths or  
10 all the workers decide that they don't want to be approached  
11 by an organizer? If you have an access rule should the  
12 organizer still have the opportunity to come on and talk to  
13 the worker even though the worker doesn't want to listen  
14 and isn't interested in being unionized? I think that's a  
15 question that must be answered.

16 Again, if an access regulation, a positive access  
17 regulation, is adopted, I think we are concerned about  
18 specified areas being set aside wherein this access should  
19 take place. And we would prefer it to be away from  
20 equipment, away from automobiles and away from the agricultural  
21 product itself, sort of an isolated safe zone where the  
22 organizer could meet with interested workers.

23 To answer some of the questions that I have  
24 propounded, with respect to Rule 17, and if you did have  
25 a positive access statement, with respect to the reasonable n

1 of workers, we thought of possibly a ratio situation where  
2 you could have one organizer for 20 workers or one organizer  
3 for ten workers or one organizer for a hundred workers,  
4 whatever the Board would feel comfortable with. But we  
5 would like a definite distinct statement so that when we are  
6 called to the scene and there is a problem, the grower  
7 comes up and says "I have got 35 organizers on my property  
8 and I have only got a hundred twenty workers," is that  
9 reasonable? No one knows.

10 But if you set a ratio, we could judge the situation  
11 based upon the ratio and determine whether or not the  
12 trespass law is being violated.

13 Reasonable time. Perhaps an hour is a reasonable  
14 time for an organizer to be present. Again, more specific,  
15 more definite.

16 We would also request that notice be given prior  
17 to the time an organizer does come onto the property if  
18 a positive access rule is adopted. We would ask that  
19 notice be given to the grower and to law enforcement so that  
20 if there is going to be a potential problem, that we could  
21 perhaps be in the area, not necessarily on the boundaries  
22 of the farm, but maybe a mile or two miles away, so that  
23 if violence does erupt, that we could be there before  
24 serious damage was done to persons and to property.

25 And again, the problem of curfew arises. Perhaps

1 there should be no organizing allowed after ten p.m., after  
2 11 p. m., after darkness, and before the hours of daylight  
3 in the morning.

4 We have one other concern, and that is Section 1151.2  
5 of the Act itself, and that is the section of the Act that  
6 allows the Board to grant transactional immunity to any  
7 person who comes before the Board. And the problem that  
8 we foresee is the possibility of a person coming onto a  
9 property, someone doing damage, someone doing violence to  
10 another person, being called before the Board, and the Board,  
11 anxious to have that person testify in the labor relation  
12 hearings, grants that person transactional immunity, so the  
13 person could testify. And that would preclude law enforcement  
14 from then bringing penal charges, criminal charges against  
15 the person who had committed the violence.

16 And take a very exaggerated case. If you had  
17 a person coming upon a property and perhaps committing an  
18 aggravated assault upon someone else, and if you needed  
19 that person's testimony in a hearing before the Board, you  
20 might grant transactional immunity to that person. Well,  
21 that would then preclude law enforcement from prosecuting  
22 the person who was the transgressor, the person who committed  
23 the act, and bringing criminal charges against that person.  
24 we would caution you to use that section very sparingly  
25 and certainly not in serious aggravated cases.



1           And if I just might summarize, we are concerned,  
2 with being neutral, in maintaining the law. We are  
3 concerned with potential conflict between any regulation  
4 that you would adopt and the Penal Code, and also with  
5 court injunctions. And because of the violence that would  
6 possibly potentially be involved with a positive statement  
7 on access, we would prefer that there be a statement, a  
8 negative statement, stating that there is no access. If  
9 a statement is granted, it must be very definite and certain.  
10 Thank you.

11           CHAIRMAN MAHONY: Thank you very much, Mr. Blonien.  
12 One clarification before we have questions of the Board  
13 Members. You referred to the access rule, Rule Number 17.  
14 Just for the information of the audience, in a set of  
15 draft rules and regulations that were studied and sent out  
16 to various parties earlier in August, one of them which was  
17 numbered 17, had proposed language for a proposed access  
18 rule. However, I think you should be very clear to everyone  
19 that Rule 17, or former Rule 17, is not, in effect, on the  
20 table before us this morning. That was a draft that was  
21 considered. It is not before us any way at this time.

22           Questions by Board Members?

23           BOARD MEMBER GRODIN: Mr. Chairman.

24           CHAIRMAN MAHONY: Mr. Grodin.

25           BOARD MEMBER GRODIN: I'm sorry. How do you pronounce

1 your name?

2 MR. BLONIEN: Blonien. It is like "onion" but  
3 with the "B-1."

4 BOARD MEMBER GRODIN: You made a very persuasive  
5 case --

6 MR. BLONIEN: Thank you.

7 BOARD MEMBER GRODIN: -- for definiteness and certainty  
8 And you pointed to the fact that in the past all parties  
9 have suffered, including peace officers, from the lack of  
10 definiteness and certainty. And you have made certain  
11 specific suggestions with respect to the content of the rule  
12 if the Board should choose to promulgate one, that would  
13 provide the kind of definiteness and certainty which you  
14 think necessary. Assuming that the Board were to follow  
15 your advice and adopt the rule that incorporates hypothetically  
16 all of the suggestions that you have made, do you then see  
17 any problem from a law enforcement position, assuming that  
18 that is the way that the Board views the statute as  
19 requiring that kind of access?

20 MR. BLONIEN: I think some of the sheriffs do see  
21 a problem, and there is a lot of emotionalism involved in  
22 both sides in the labor question. And there are, I think,  
23 some growers, some farmers, who say "This is my land, I  
24 own it, I pay the taxes, and I should have the right to  
25 determine who enters on my property." And they would say,

A  
1 you know, "The Penal Code 603 states that this is the law  
2 and the regulations don't control the Penal Code." There  
3 would still be strife. Our people see that.

4 BOARD MEMBER GRODIN: And on the other hand,  
5 if the Board were to adopt the rule which you have advocated  
6 that there should not be any access, what would you predict  
7 as to whether or not there would be some union representative  
8 who will try to gain access nevertheless?

9 MR. BLONIEN: That is a professional problem.

10 BOARD MEMBER GRODIN: So that no matter what the  
11 Board rules, there may be law violators in this area just  
12 as there are law violators in the other areas.

13 MR. BLONIEN: But, would it be possible to grant  
14 access in the public domain, the area fronting the owner's  
15 property and off to the side of the road? This is one  
16 possibility that we foresaw.

17 And another possibility that we foresaw would be  
18 the organizer perhaps leaving literature off with the grower

19 (Laughter.)

20 MR. BLONIEN: -- and having the grower distribute  
21 the literature. And if he didn't, it would be a violation  
22 of the fair labor standards, and that he could then be  
23 brought before the Board, and then have one or two opportunities  
24 during which the organizer could meet at a neutral position  
25 off the grower's land and address the people and articulate

1 the specific reasons for the organization and unionization.  
2 That's a thought.

3 BOARD MEMBER GRODIN: I have no other questions.

4 CHAIRMAN MAHONY: Mr. Ortega.

5 BOARD MEMBER ORTEGA: Let me just follow up.

6 Mr. Grodin is right, you made a very persuasive and very  
7 clear statement in regard to that.

8 MR. BLONIEN: Thank you.

9 BOARD MEMBER ORTEGA: Let me just, and I don't  
10 want to prolong this, take one item, and that is that you  
11 said you would prefer a no statement on access?

12 MR. BLONIEN: A negative one. We want a statement  
13 that says either yes or no but --

14 BOARD MEMBER ORTEGA: But you would prefer a no.

15 MR. BLONIEN: Yes.

16 BOARD MEMBER ORTEGA: And you said you would  
17 prefer a no because a yes would promote strife, and that's  
18 what Mr. Grodin asked you about there. And I wonder -- the  
19 answer I got when you answered Mr. Grodin was that some of  
20 the farmers feel that this is their land and if you make  
21 an access rule, because of their feelings and their emotions  
22 that this is their land, that it would result in some strife.  
23 Is that your answer then?

24 MR. BLONIEN: I believe that to be the impression  
25 of many of the law enforcement people that I have spoke with.

1 However, I would differentiate the no access statement to the  
2 labor camp situation because I think the Supreme Court  
3 dicta in a recent UFW case, addresses that problem where  
4 there are no other alternatives. But where there are other  
5 alternatives to access, we would prefer that there be a  
6 statement that says that there should be no access.

7 BOARD MEMBER ORTEGA: So then if the, and this is  
8 very iffy, if we adopt an access rule and if the organizers  
9 pursuant to that rule go on the farm or the ranch, and if  
10 the farmer decides to throw them out physically or in some  
11 other way, it would be the position of the sheriffs that  
12 they would enforce the rights of the access rule, is that  
13 correct? They would take action against the farmer who is  
14 violating the law and who is creating the strife you talked  
15 about.

16 MR. BLONIEN: I think that the sheriffs would  
17 respect the law and they are sworn and bound by the duty to  
18 enforce the laws of the State of California, and they would  
19 enforce the laws. And if there is a conflict, somewhat of  
20 a potential conflict, let's say, between the regulation and  
21 between State law, the Penal Code, they would probably be  
22 bound to enforce the Penal Code.

23 I might respond to someone who asked a question  
24 that it is implicit in some of the enabling language in the  
25 Agricultural Labor Relations Act, isn't it implied that the

1 organizer should have access to the property? And I think  
2 that that language specifically isn't definitely enough  
3 to refer to the Penal Code, and additionally, that the  
4 legislative intent would probably be otherwise. And my  
5 reason for stating that is that there is a bill in the  
6 Legislature right now which I believe hasn't passed out of  
7 the first committee. It may have passed out of the first  
8 committee but hasn't passed out of the first House, that  
9 states that 602 of the Penal Code does not apply to  
10 agricultural-labor problems, and I see that as being  
11 legislative intent to say that the Agricultural Labor  
12 Relations Act didn't address that question.

13 And if it did, then what is the need for coming  
14 back with this bill by Assemblyman Torres -- I don't have  
15 the number of the bill but I could provide it for you --  
16 that specifically addressed that problem?

17 BOARD MEMBER ORTEGA: Your short answer then would  
18 be that you would enforce whatever the law is?

19 MR. BLONIEN: We would enforce the law.

20 BOARD MEMBER ORTEGA: Regardless of what the law  
21 is?

22 MR. BLONIEN: Yes. I think, to state our position  
23 again, it is that we would like to see the law be whatever  
24 would cause the least amount of strife and would be the  
25 easiest for us to protect the rights of all citizens.

1           BOARD MEMBER ORTEGA: You mentioned, going on to  
2 a slightly different subject, you mentioned having the  
3 organizers or union people pass out literature on the road  
4 outside the private property. Some of the cases would  
5 indicate that there are some problems with that. There are  
6 some places, particularly freeways, where organizers have  
7 been thrown off the freeways, if not arrested, for trying  
8 to pass out literature. And there are some other roads  
9 that are controlled. Knowing that, would you believe that  
10 that is a practical solution, to have people on roads?

11           MR. BLONIEN: Well, I suppose it depends on the  
12 frequency of travel on the road and danger that would be  
13 posed to the people who would be organizing. If it is  
14 a typical country road, farm type country road, I don't  
15 think that would be that great of a problem and I am not  
16 aware of any law that would preclude people from being in  
17 that access shoulder part of the road. I think there is a  
18 law that precludes them from being on the freeway, but  
19 organizing in the ditch or the public area adjoining the  
20 property, I am not aware of any violation.

21           BOARD MEMBER ORTEGA: So, assuming it is not a  
22 freeway, just a normal country road and cars coming through,  
23 someone would have to step out and you would have to have  
24 people hand literature to someone in the car. I guess the  
25 car would have to stop in order to hand literature into the

1 car. You say that would be all right as far as you are  
2 concerned?

3 MR. BLONIEN: That may very well be a violation  
4 of law, but if they were standing in the ditch in the  
5 public access area to the farmer's land, and as people would  
6 be filing past them they would be passing them out there,  
7 or as the cars would be pulling onto the driveway, they could  
8 be again standing in the public access area handing out  
9 literature, I don't see that as being a violation. But if  
10 you are stopping traffic and going out, I think you have a  
11 safety and a hazard problem.

12 BOARD MEMBER ORTEGA: So it would depend on just  
13 what part of the road you are on?

14 MR. BLONIEN: I think so, yes.

15 BOARD MEMBER ORTEGA: It is not a definite thing.

16 MR. BLONIEN: No.

17 BOARD MEMBER ORTEGA: Thank you very much.

18 CHAIRMAN MAHONY: Any other Members?

19 Mr. Johnsen:

20 BOARD MEMBER JOHNSEN: We passed over it rather  
21 rapidly, but have you considered the employee housing  
22 situation on the farm to be different from normal access?

23 MR. BLONIEN: I consider it to be different because  
24 of the Dicta in the Supreme Court case, the United Farm  
25 Workers versus Superior Court, the one that was issued, I



1 think, it was July 28th or 29th. In there there is a  
2 statement that we are talking about the First Amendment  
3 right of the worker and that he should have the opportunity  
4 to have organizers come onto the property to talk to him.  
5 But I think you have to read that case and say that perhaps  
6 in that instance there was no other alternative.

7           The worker arose at six in the morning and went  
8 to the fields, was perhaps fed in the fields or perhaps  
9 brought back to some central feeding location, went back  
10 to the fields, and when he was finished working for that day,  
11 he was perhaps taken back to the housing area. And so the  
12 organizer wouldn't have any opportunity to contact him. I  
13 think, looking at that, I read that into the case that that  
14 United Farm Worker Case, the Court did not hold to that  
15 point but just discussed it and sort of passed it off as  
16 a side thought, an afterthought.

17           BOARD MEMBER JOHNSEN: If we had a regulation in  
18 regard to employee housing, do you think that would have  
19 to be as specific as other access?

20           MR. BLONIEN: I definitely do.

21           BOARD MEMBER JOHNSEN: It could not be treated the  
22 same as someone going to someone's home in town or wherever  
23 he may catch him as far as disturbing the peace and that  
24 sort of thing?

25           MR. BLONIEN: I think that you would have to have

1 a separate rule for the labor camp situation in that you  
2 couldn't allow them 24-hour access, allowing an organizer  
3 to come on at will, because again, there is a potential  
4 for strife between the farmer. And perhaps the farmer  
5 has had violence in his field, he has vines cut, he has  
6 had other damage done, tractors perhaps vandalized, and  
7 he may have security people that he has employed around  
8 his perimeter of his property.

9 And now, at three o'clock in the morning, you see  
10 a person, perhaps walking, perhaps driving, down an access  
11 road and you have an immediate suspicion that is drawn.

12 "What are you doing here?"

13 "I am an organizer."

14 "Well, sure you are. I bet you are out here doing  
15 some violence." And again, strife, potential strife.

16 BOARD MEMBER JOHNSEN: But you feel there would  
17 be the least potential strife if we adopted no rule in the  
18 access area except at maybe employee houses?

19 MR. BLONIEN: That is the consensus from the  
20 sheriffs from the agricultural counties that will be affected  
21 by the regulations.

22 CHAIRMAN MAHONY: Mr. Chatfield.

23 BOARD MEMBER CHATFIELD: Mr. Blonien, what has  
24 been the experience of the California Peace Officers Association  
25 and the Sheriffs Association -- I am sorry, I don't know the

1 exact title.

2 MR. BLONIEN: State Sheriffs Association.

3 BOARD MEMBER CHATFIELD: The State Sheriffs  
4 Association, with respect to those employers who have  
5 allowed access over the years?

6 MR. BLONIEN: I might ask Sheriff Cardoza to answer  
7 that question. This is Sheriff Al Cardoza of Solano County.  
8 He is more familiar with these specific questions and he  
9 could perhaps answer more clearly.

10 MR. CARDOZA: Mr. Chairman and Members of the  
11 Board, in relation to your question, sir, and in some  
12 instances that has worked well. In other instances, it  
13 has not. It gets down to specifically a matter of personaliti  
14 It may be a personality between either the organizer or  
15 a personality either between the grower. So that's kind  
16 of difficult.. I don't think that you can establish any  
17 norm on that is what I am saying.

18 BOARD MEMBER CHATFIELD: Well, I was referring,  
19 I guess, specifically to Mr. Smith's testimony, from the  
20 Western Conference of Teamsters, where he indicated that  
21 as a general rule their union has access to employer's  
22 property. What has been your experience or your Association's  
23 experience with those properties?

24 MR. CARDOZA: Well, again, that has varied from  
25 area to area. In our particular county we have not had

1 a tremendous amount of problem with that when that was a  
2 mutual agreement on the part of the organizer and the  
3 grower. You have to keep in mind that our county was involved  
4 in this situation only last year. We seemed to be involved  
5 mainly with one union in our case, the United Farm Workers,  
6 so there was not a great deal of conflict between like the  
7 organizer for the United Farm Workers or the organizer for  
8 the Teamsters Union.

9 BOARD MEMBER CHATFIELD: Oh, but I understood  
10 Mr. Blonien to suggest that the potential for strife really  
11 existed on the part of the employer who was very emotionally  
12 concerned about his property rights?

13 MR. CARDOZA: Well, that, and also on the part of  
14 the worker. Now, we have had a lot of problem with that  
15 on the part of the worker who is out there telling the  
16 employer "I don't want that organizer. I don't want to be  
17 bothered by him. Please do not let him come on here."  
18 And so you have that factor to consider also.

19 BOARD MEMBER CHATFIELD: Do you have any experience  
20 with respect to what we read in the newspaper with respect  
21 to a Ventura County judge granting access to particular  
22 properties presumably in Ventura County?

23 MR. CARDOZA:.. None. I have not had any. We have  
24 not had that kind of experience in our County.

25 BOARD MEMBER CHATFIELD: Does the Association have ar

1 MR. CARDOZA: We have asked our people at the  
2 legal level to look at it but I haven't had any feedback  
3 at this point as to what their interpretation of that  
4 decision might be.

5 BOARD MEMBER CHATFIELD: I have no more.

6 CHAIRMAN MAHONY: Are there any other questions?  
7 Mr. Ortega.

8 (Thereupon a short discussion was held off  
9 the record.)

10 BOARD MEMBER ORTEGA: Yes. I just wanted to  
11 ask the sheriff an opinion question based on his experience  
12 as an expert on law enforcement. If you had a choice  
13 between having a definite number of organizers going on  
14 the property, say two or three or five, going on the property  
15 to try to organize a certain area, a certain group, if you  
16 had a choice between that and having no rule, and as you  
17 know we cannot make any rules applicable to the public roads,  
18 and having say 50 or a hundred organizers if you will, outside  
19 at the entrance to the property trying to reach the employees  
20 as they go in and as they come out, from a law enforcement  
21 point of view, which would you think would present the less  
22 amount of strife and make your job easier?

23 MR. CARDOZA: Mr. Ortega, with all due respect,  
24 that's exactly why we are here today is because law enforcement  
25 is -- first of all, maybe I should have prefaced my remarks

1 by offering my condolences to this group because I feel  
2 that you are now in the position that we have been in for  
3 a long time.

4 (Laughter.)

5 MR. CARDOZA: And the reason that we are here  
6 is because I don't think the law enforcement is the one  
7 that should be making those kinds of decisions. Some  
8 decision has to be made and it has to be mutually agreed  
9 upon, and then if anyone violates that, then I think that's  
10 the role of law enforcement with all due respect.

11 BOARD MEMBER ORTEGA: Okay.

12 CHAIRMAN MAHONY: Mr. Grodin.

13 BOARD MEMBER GRODIN: Would your concern,  
14 Sheriff Cardoza, go to those employees who did not want  
15 to be bothered by any union organizers, be met by the idea  
16 that was tossed out that there might be an area, for  
17 example a parking area or a staging area, where employees  
18 are before they begin work or after they finish work, at  
19 which union organizers could talk with them but they would  
20 not be bothered when they were out in the fields during  
21 the rest periods or certainly while they were working?  
22 Would that meet the concern that you expressed?

23 MR. CARDOZA: Well, Mr. Grodin, here again now,  
24 first of all; I think that you know as enforcement people  
25 as Mr. Blonien has expressed, we also have a responsibility

1 to protect, if you will, the individual worker or groups  
2 of workers. And we have had workers say either to us or  
3 to the employer that they want areas set aside, for example,  
4 where they might park their vehicles and that they would  
5 prefer that no kind of discussion take place wherever their  
6 vehicles are located, that they would like to be assured  
7 that there is some security to their property, as this is  
8 considered to be their property and rightfully it is.

9 BOARD MEMBER GRODIN: The property being their  
10 automobile?

11 MR. CARDOZA: Yes, their automobiles, personal  
12 property. So that sometimes on the part of the worker --

13 BOARD MEMBER GRODIN: Well, I don't understand.  
14 Has there been problems with the vehicles themselves?

15 MR. CARDOZA: Right, right, right.

16 BOARD MEMBER GRODIN: And what kind of problems  
17 are those?

18 MR. CARDOZA: Malicious mischief, acts of malicious  
19 vandalism.

20 BOARD MEMBER GRODIN: All right.

21 CHAIRMAN MAHONY: Any other Members of the Commission

22 Mr. Blonien, you referred in your opening remarks  
23 that there were presently several court injunctions or  
24 various injunctive actions pending in the courts. Just  
25 from my knowledge of some of these actions in the newspapers,

1 they seem to differ. There are various remedies applied  
2 and various courts prescribe various things. And I am  
3 wondering, we do not have an access rule right now, I  
4 am wondering if it would be a better way to go to continue  
5 the way we are and let the various courts issue various  
6 rules so we can conceivably end up with at least 58 various  
7 rules in the State of California to deal with in this issue,  
8 or whether it might be better for this Board to consider  
9 some type, as you said, of clear definite distinct law  
10 apparent to everyone that in fact applies to the whole State.  
11 Would you have any comment as to that?

12 MR. BLONIEN: Well, if you are concerned about,  
13 let's say, having a statement and having that conflict with  
14 the court injunctions and things being up in the air and  
15 no one really knowing what the law is or what law to enforce,  
16 maybe you could draft your regulation to say "except as  
17 where there is a court injunction already in effect, and then  
18 that should be the prevailing law"?

19 CHAIRMAN MAHONY: I am thinking of differing  
20 court injunctions dealing with access that may be conflicting.  
21 For example, I can think of the Kern County and Tulare  
22 County line that goes just through north of Delano. It  
23 actually goes through several growers' vineyards, the  
24 county line. And it is very conceivable, and as has happened  
25 in the past, where the Kern County Court has one rule in



1 existence and Tulare County has another on the same grape  
2 acreage.

3 MR. BLONIEN: Right.

4 CHAIRMAN MAHONY: And I was just wondering whether  
5 you feel that with this approach, which is the better  
6 way to go?

7 MR. BLONIEN: Well, it wouldn't be a problem for  
8 law enforcement because the jurisdictions would correspond  
9 to the county boundaries. But it would be a problem for  
10 the organizers because they may be working one field and  
11 they drive across the road and they are working in another  
12 county and another law would then prevail.

13 CHAIRMAN MAHONY: Or not even across the road,  
14 it may just be the same field.

15 MR. BLONIEN: Just in the same field, and from one  
16 end to the other. This is a potential problem.

17 CHAIRMAN MAHONY: Do you feel that the California  
18 Peace Officers and Sheriffs would be better served, better  
19 aided in their responsibilities, if there were in fact one  
20 rule that applied everywhere rather than divided up county  
21 by county?

22 (Thereupon a short discussion was held off  
23 the record.)

24 MR. BLONIEN: Sheriff Cardoza just said he thinks  
25 it is a difficult question to answer. I agree with him.

1 I think it probably would be better to have a law, rule,  
2 regulation, that would provide statewide that would be  
3 in effect.

4 CHAIRMAN MAHONY: I have no other questions.

5 MR. BLONIEN: Because then you wouldn't have the  
6 problem with organizers, let's say, working in one end  
7 in the field and one law prevailed and at the other end of  
8 the field another law prevailed, and drive ten miles and  
9 have a third law prevail. It would be confusing. It would  
10 be easy for an organizer to violate the law unintentionally,  
11 but still would again be that spark which could ignite a  
12 possible conflagration.

13 BOARD MEMBER CHATFIELD: I just have one further  
14 question. Mr. Blonien, maybe I misunderstood the thrust  
15 of your testimony. I thought you were saying that if you  
16 had a choice you would rather have a negative statement  
17 that there should be no access, and that would be your number  
18 one position. But if there were an access rule you wanted  
19 something quite specific and detailed and so that you all  
20 would not be caught in the middle.

21 MR. BLONIEN: Correct.

22 BOARD MEMBER CHATFIELD: And that's your interpretation  
23 of why you prefer the roadside, so to speak?

24 MR. BLONIEN: Correct.

25 BOARD MEMBER CHATFIELD: Is there any change in that

1 MR. BLONIEN: No, that is our position.

2 BOARD MEMBER CHATFIELD: That is your position?

3 MR. BLONIEN: Yes.

4 CHAIRMAN MAHONY: Any further questions of  
5 Mr. Blonien?

6 Thank you very much Mr. Blonien and Mr. Cardoza.

7 MR. BLONIEN: Thank you, Mr. Chairman.

8 MR. CARDOZA: Thank you very much.

9 CHAIRMAN MAHONY: I appreciate your testimony and  
10 your cooperation.

11 Mr. Jerome Cohen, attorney for the United Farm  
12 Workers.

13 (Applause.)

14 CHAIRMAN MAHONY: I do appreciate the fact that  
15 some members are going to receive certain types of  
16 reactions, but I think in fairness to all who are here  
17 today to testify I am going to have to require that you  
18 refrain from any visual and verbal expressions on the part  
19 of anybody. Thank you.

20 MR. COHEN: Mr. Chairman, Madam Secretary, Members  
21 of the Board, with me is Mr. Tom Dalzell, and we have some  
22 documentation that we'd like to submit to the Board concerning  
23 both the current status of access, and the declaration goes  
24 specifically to the issue of the inadequacy of alternate means  
25 of reaching the workers. So I will give them to the secretary

1           I'd like to address myself first to the question  
2 of what I consider to be the legal foundation which gives  
3 you the power to adopt a uniform access rule. United Farm  
4 Workers is proposing that there be a uniform access rule  
5 that would give us a reasonable number of workers before  
6 starting time, during the established breaks, at lunch time,  
7 after work time.

8           What we are proposing is for the workers on a  
9 piece rate, whose time is their own, that they be allowed  
10 to stop and talk to union organizers. And we also would  
11 like to point out that the United Farm Workers versus  
12 Santa Cruz County with BUAK as the real party of interest,  
13 does specifically give us not only a First Amendment right  
14 but a right under Article 1, Section 2 of the California  
15 Constitution, to be in the camps, and we would hope that  
16 there would be no arbitrary time or number limitations on  
17 camp access, and what we are really discussing here is  
18 field access.

19           In that connection I'd like to point out that I  
20 think that the California Supreme Court said in a case  
21 called Wilson versus Superior Court, which is 119 California  
22 Reporter 468, that Article 1, Section 2 of the California  
23 Constitution is more definitive and broader than the  
24 First Amendment, and that standard was adopted to labor  
25 disputes in the BUAK case. The Peace Officers Association

1 alluded to First Amendment rights, but I'd like to point  
 2 out to the Commission that when we take a look at the  
 3 case, look at footnote six, because for literary convenience  
 4 the Court said that whenever they chose to use the term  
 5 First Amendment right they were also using Article 1,  
 6 Section 2 of the California Constitution which they have  
 7 earlier said is broader than the First Amendment.

8           Now statutorily I think we have some interesting  
 9 questions at the outset. First, the policy, as stated in  
 10 the National Labor Relations Act, is to encourage collective  
 11 bargaining and then to protect the rights to associate  
 12 and self-organize. And they are separate, those last two.

13           The policy of this statute, as stated in 1140.2  
 14 is to encourage and protect the right to associate, the  
 15 right to self-organize and the right to designate representati  
 16 of your choosing. So I think it is the Charter of this  
 17 Board to adopt a positive rule that does encourage the  
 18 exercise of those rights.

19           I think there is a distinction. One could argue  
 20 that the National Labor Relations Act encourages collective  
 21 bargaining subsequent to having protected certain rights.  
 22 And so to encourage the rights is a stronger statement  
 23 and I think we must assume the Legislature intended it to  
 24 be such.

25           Now, there is a section, a saving clause, at the end

1 statute, which I think goes to some of the arguments that  
2 have been made about the trespass issue. It is 1166.3(b),  
3 and the Legislature specifically said this, "If any other  
4 act of the Legislature shall conflict with the provisions  
5 of this part, this part shall prevail."

6 And there are other instances in the statute, the  
7 transaction immunity section which the peace officers have  
8 alluded to, but this section here, I think, clearly implies  
9 that this law preempts the trespass clause of this State,  
10 so when the peace officers say they will enforce the  
11 trespass laws over this law, they are flying directly in the  
12 face of legislative intent when they say "this part shall  
13 prevail."

14 And this part certainly protects regulations which  
15 this Board is authorized to promulgate under the law, and  
16 I think access is such a regulation. I think that what we  
17 have is a law that attempts to protect farm worker rights  
18 and to encourage farm worker rights, and what we'd like to  
19 avoid as much as possible is the delay and obfuscation that  
20 would arise when lawyers for the management of various units  
21 begin to litigate every issue.

22 And if we were to decide access on a case-by-case  
23 basis, there would be endless litigation. I have no doubt  
24 that no matter what this access rule is someone is going  
25 to litigate it, but I think the litigation might come quick

1 and it might make it easy for everybody once and for all  
2 to determine in a uniform way just what is expected of them.  
3 And I think that might in the long run save the time of the  
4 Board and save the time of the parties, as well as put the  
5 parties on notice.

6 Now, there are a lot of arguments. So what I am  
7 saying first of all is I think it is incumbent upon this  
8 Board to be more protective and to encourage worker rights,  
9 which gives you a broader Charter than the National Labor  
10 Relations Act, for instance gives NLRB.

11 So that when you talk about an applicable NLRB  
12 precedent, I think you have to talk about the concepts  
13 of encouraging worker rights.

14 Now, one of the issues that this Board has asked  
15 us to address ourselves to is the question of are there  
16 alternative ways of getting to the workers? Now, in the  
17 declarations that we have submitted, we try to reach some  
18 of those questions. And I think that if you were talking,  
19 for example, about reaching workers with radio and newspaper,  
20 you have in the Delano area for instance, four different  
21 languages spoken. If you are talking about trying to find  
22 out where workers live, you find that 30 to 40 percent of  
23 the workers, and even more, may have addresses, but the  
24 addresses may be over a 7,000 square mile area in Delano.  
25 You have workers that come from Porterville and you have

1 workers that come from Lost Hills, all over the southern  
2 half of the valley. How can an organizer go to those  
3 houses in each of those towns and reach those workers?  
4 Not all the workers live in the camps. We think it is  
5 important to have access to the camps but in some areas maybe  
6 20 percent of the workers live in the camps.

7           The workers are migrant. All the workers don't have  
8 cars. It would cost us two bucks a shot to get license  
9 plates and track them down, and by that time, two weeks later,  
10 the workers may be gone in most of the crops. So there is  
11 just really no adequate way considering the fact that they  
12 are either bused or brought right onto the property, to  
13 reach those workers other than being right there on the  
14 property.

15           Newspapers. The Delano Record isn't read by  
16 farmworkers. It is the only newspaper in Delano. There is  
17 no Spanish speaking newspaper available to them other than  
18 La Opinion. I don't think there is any paper in Yemenese.  
19 There is no paper in Punjabi for the Punjabis that work  
20 there. What about the Filipinos that speak Tagalog and  
21 Ilocano? I think that we have a substantial problem in  
22 reaching the workers in a normal way, to say nothing of  
23 the expense.

24           The other issue that the declarations go to is  
25 the issue of what is going on in access right now. We have



1 over 30 arrests of United Farm Workers organizers in the  
2 Salinas area, for attempting to talk to workers during the  
3 established breaks and at lunch time. We have had over 30  
4 arrests in Delano. However, as the declarations indicate,  
5 there are Teamster organizers on the fields, and except in  
6 the very rare instance, the one injunction that Martin Zaninovi  
7 brought against the Teamsters in Delano, those Teamsters  
8 are in there and they have access.

9           And I think it is appropriate for this body to  
10 adopt an emergency regulation as soon as possible so that  
11 the workers who are out there right now and who are going to  
12 have to make a choice within the next two weeks, assuming  
13 the petitions are filed on the second and I assure they will  
14 be, that they have the opportunity to talk to both groups.  
15 And it seems to me that the notion was raised that there  
16 somehow isn't due process in this hearing but that there  
17 should be a full hearing. I think I'd like to address myself  
18 to that right away.

19           Justice Jackson in Mullane versus Central Hanover  
20 Trust said that when notice of a person is due, process which  
21 is a mere gesture is not due process. But I don't think  
22 the notice of this hearing was mere gesture. I think that  
23 all the parties knew that today we were going to talk about  
24 access and I think that is certainly enough notice to all  
25 of us. We had time to prepare our declarations, even though

1 we have had a lot of other things we have to do right now  
2 in terms of preparing for the elections. We knew there  
3 was going to be a hearing. The growers knew there was going  
4 to be a hearing. The Teamsters knew that. I certainly  
5 think you have given adequate notice to adopt an emergency  
6 regulation and I would urge that it be adopted and I would  
7 urge that you adopt it as soon as possible because we have,  
8 assuming petitions are filed on the second, we have 12 or  
9 13 days to try to make up for the difference of having our  
10 organizers outside and the Teamsters organizers inside.

11 CHAIRMAN MAHONY: Thank you very much, Mr. Cohen.  
12 Any questions by the Members?

13 Mr. Johnsen.

14 BOARD MEMBER JOHNSEN: Mr. Cohen, you made quite  
15 a point of the fact that there are not alternative methods  
16 of contacting the workers.

17 MR. COHEN: Yes.

18 BOARD MEMBER JOHNSEN: Would you explain for me  
19 in very simple terms just how you go about deciding that on  
20 this particular ranch you want to organize the workers and  
21 how you would go about going in there?

22 MR. COHEN: Well, right now the tactics are pretty  
23 much dictated by the history of the fight that has gone on.  
24 As you know, one of the circumstances which prompted the  
25 Legislature to adopt this law in an emergency session was to

1 put to the test those alleged contracts which many growers  
2 hold with the Western Conference Teamsters, Local 1973 and  
3 Local 890, and so many of the workers have expressed --  
4 over the years have expressed, because in 1970 there was  
5 a large strike in Salinas -- after the initial agreement  
6 was signed, in which the California Supreme Court in England  
7 vs. Chavez by the way, characterized as having been sought  
8 out by the growers.

9           So one of the things that is happening now is that  
10 there is organizing activity challenging those contracts.  
11 In addition to that, there are other areas that are being  
12 organized where there are no contracts. But basically the  
13 union has organizers available to go to ranches wherever  
14 workers indicate they want the union.

15           BOARD MEMBER JOHNSEN: Well, all right. Following  
16 up on that last statement then, if, let's say, on ranch  
17 A there are 50 workers, am I correct in assuming that one  
18 or more of those workers have come to your union and said  
19 "We would like you to be out there"?

20           MR. COHEN: At present, in some cases, yes. Sometime  
21 we go into the labor camps and talk to the workers and when  
22 there is interest -- you see, an organizer in this situation  
23 is not going to try to talk to the workers who are not  
24 going to sign cards because we are in the business of  
25 trying to win elections to get collective bargaining. So I

1 am not that concerned about the concerns that the peace  
2 officers raise about "Are you harassing the workers."  
3 If the workers aren't going to sign the card, the organizer  
4 is wasting his time, because unless he gets 50 percent of  
5 the agricultural employees in a given unit, we don't trigger  
6 an election.

7 Right now we can't go to the workers in a field  
8 and say "This is a leaflet about the union. Come to the  
9 meeting." It is very hard in certain instances to make  
10 an initial contact with workers because we are deprived of  
11 access. And as I say, not all workers live in camps. Some  
12 workers live in communities that in some areas cover about  
13 7,000 square miles.

14 BOARD MEMBER JOHNSEN: Am I correct, Mr. Cohen,  
15 in assuming that in the very near future your union will be  
16 filing some petitions for elections?

17 MR. COHEN: Yes, we will, Mr. Johnsen.

18 BOARD MEMBER JOHNSEN: Probably quite a few I would  
19 imagine. But obviously then you must have had access to  
20 the workers in order to file these petitions.

21 MR. COHEN: No, we have had --

22 BOARD MEMBER JOHNSEN: Then how did you get the  
23 signatures then?

24 MR. COHEN: We could have filed many many more  
25 petitions had we had equal access with the Teamsters. We have

1 had a limited number of organizers and we have had to  
2 struggle, and when you have to get an organizer out of  
3 jail for going onto a grower's property to talk to workers,  
4 that diverts your energy. The uniform access rule would  
5 encourage the right to associate because it would allow  
6 those organizers to go out there. And we are not talking  
7 about destruction of property. That proposed Rule 17 presents  
8 destruction of property. We could have been a lot more  
9 effective in the last three months had we had equal access.

10 BOARD MEMBER JOHNSON: You could have had more  
11 but you have had some access?

12 MR. COHEN: We have had access to camps, most  
13 especially since July 28th, when we were able to show  
14 the California Supreme Court's opinion to the various  
15 D. A.'s and sheriffs who at times before that were predisposed  
16 to even kick us out of the camps. So we have been able to  
17 reach a certain percentage of the workers in the camps.  
18 And a certain percentage of the workers, we have just gone  
19 in and reached them in the fields.

20 There are some workers in the Salinas area who,  
21 rather than letting the organizers be arrested, said that  
22 "If you are going to arrest the organizers, take all of us  
23 too." And in that situation the grower and the sheriffs  
24 decided not to arrest the organizer. But it has been  
25 sporadic. We have been denied access almost uniformly.

1           BOARD MEMBER JOHNSEN: That's my last question  
2 then. Are there some growers who do allow you voluntary  
3 access?

4           MR. COHEN: There seems to be a split in the  
5 growers. I have been working in the Salinas area so I  
6 can give you personal knowledge of that. There are some  
7 growers who have, let us say, relaxed their position about  
8 access, and they have allowed us in during the breaks and  
9 lunch time and before and after work. There are not many,  
10 but some. Many growers are still extremely stubborn over  
11 the access question because they know that it takes a lot  
12 of energy to fight tangential legal battles.

13           CHAIRMAN MAHONY: Any other Members have questions?

14           Mr. Grodin.

15           BOARD MEMBER GRODIN: Mr. Cohen, first of all, when  
16 you talk about equal access I assume you would distinguish  
17 between access which both or all competing unions might have  
18 in situations in which there is no body to represent them  
19 and no contract, and the access rights which may exist in  
20 a situation in which there is a contract which itself extends  
21 access not for purposes of organizing but for purposes of  
22 processing grievances and so forth?

23           MR. COHEN: Mr. Grodin, I would distinguish only  
24 after certification under this Act. I would have to look  
25 very closely at whether that representative was really in

1 there adjusting grievances, for example, or whether he was  
2 in there under some guise. So I think as to preexisting  
3 contracts, I am not sure that distinction can be made.

4 BOARD MEMBER GRODIN: Okay. With respect to the  
5 future, however, would you agree that once an election has  
6 been held and a union has been certified and bargaining  
7 takes place and the contract is entered into, that a rival  
8 union -- that first of all the contracting union access rights  
9 should be determined by way of the contract to negotiate --  
10 and that a rival union should not have the right to access  
11 just forever during the term of the contract but rather  
12 limited to some period related to the time which they could  
13 file a petition for another election?

14 MR. COHEN: I understand what you are getting at,  
15 Mr. Grodin, and I think that one has to carefully examine  
16 the notion. For instance, if you were concerned about the  
17 next peak season during which a union could have an election,  
18 it would seem to me that you would have to expand the thinking  
19 a little bit, for instance in grapes, because the peak  
20 season in Coachella might come in say June, but there may  
21 be a heavy compliment of workers in those periods doing  
22 the pruning and the thinning immediately preceding the  
23 peak season in which it would be possible to file.

24 I think if you took that into consideration, then  
25 I can understand what you are getting at. We are assuming,

1 of course, a bona fide election and all objections have been  
2 disposed of and there is a certification in the contract.

3 BOARD MEMBER GRODIN: Yes, right.

4 MR. COHEN: Yes.

5 BOARD MEMBER GRODIN: Okay. Specifically now,  
6 with respect to what you think ought to be in an access  
7 rule, referring to the period before and after work, those  
8 two periods, is it necessary for union organizers to have  
9 access to the fields generally or would it be adequate to  
10 allow them access to those areas in which employees either  
11 now naturally tend to congregate before or after work,  
12 or which would hypothetically be set aside for that purpose  
13 especially, pursuant to a rule?

14 MR. COHEN: Well, Mr. Grodin, I think that is  
15 a self-regulating mechanism in terms of what the growers  
16 and the peace officers might consider organized for  
17 harassment, in terms of if he is not being effective he  
18 better go elsewhere. I think we have to reject the notion  
19 of a designated area for the following reasons.

20 First, I think it would open the possibility of  
21 grower manipulation. Second, there is the possibility of  
22 surveillance. Third, you are talking about encouraging  
23 worker rights, and I think it is important for an organizer  
24 to be able to go right out there where the worker is  
25 working and say "See, they still have the short handled hoe



1 here. See, this water is warm. This machine is dangerous."  
2 And go right there to the working conditions and talk to  
3 the workers about it. We are not talking about during work.  
4 We are talking about during the established breaks, before,  
5 during lunch and afterwards, with the exception of the  
6 piece rates which I think is a hard problem and I think the  
7 labor organizers should be allowed to talk to workers when  
8 they feel like taking a break because they have to work  
9 hard enough to make enough money to live anyway.

10 So I think the notion of a designated place is  
11 an unacceptable alternative. I think it should be right  
12 there in the work area.

13 BOARD MEMBER GRODIN: If organizers were to be  
14 permitted into the work area, would you agree that there  
15 should be a limit as to the number of organizers?

16 MR. COHEN: Well, you know there are some crews  
17 that have 90 workers in the crew, others with 20 workers  
18 and some crews are 50 workers. It would worry me if you  
19 set an arbitrary number which would perhaps cause the  
20 organizer to stay out a little longer than he really should  
21 have to. If you had a crew of 90 people and you had two  
22 organizers, for example, it is totally inadequate. If you  
23 had five, it might be better. If you are worried about  
24 numbers -- not the best possible solution because the best  
25 possible solution would be to allow for reasonable numbers,

1 and then to work it out -- but if you had to have specifics,  
2 then you might have to adopt some kind of proportional  
3 formula. And I think that whatever that formula would be,  
4 I think it should be the same during the breaks, at lunch  
5 time, and before and after work. I don't see any reason to  
6 adjust the formula one way or the other depending on the  
7 time of the day.

8 But I think it should be enough people so that  
9 they can talk to the workers, pass out their leaflets  
10 and deliver their message, do their business and then leave  
11 as quickly as possible. I think that's not only to our  
12 advantage but it is to the growers' advantage.

13 BOARD MEMBER GRODIN: Would you explain what you  
14 meant by the possibility of grower manipulation with respect  
15 to designated areas?

16 MR. COHEN: Well, it seems to me that if there  
17 is a designated area that -- in the first place, I don't  
18 know if the grower would set aside that area or he would  
19 say that that area is on the side of the road. If there  
20 are any work problems, they could not be discussed openly  
21 in that area. The area is, for instance, sterile in terms  
22 of working conditions. Number one, whether working foremen  
23 and supervisors would be in that area, whether the growers  
24 would encourage workers not to come to that area and if  
25 the workers were voluntarily going to that area, if they

1 would put pressure on them. They have got the power, the  
2 outside union doesn't have that power, to discourage workers  
3 to come to that area.

4           Whereas, if you go into the work area, the workers  
5 have to be there because they are doing their job, and the  
6 grower can't really make them leave there. All the can do  
7 is maybe switch crews. But I think that the whole concept  
8 of what power the employer has over the workers is that  
9 the problems are compounded if you are talking about  
10 designated areas rather than the work fields. To say nothing  
11 of the fact that you could probably organize their rights,  
12 really, in the most meaningful way by talking about the  
13 working conditions that the worker is working under.

14           BOARD MEMBER GRODIN: How about the area in which  
15 the employees customarily park?

16           MR. COHEN: The areas in which the employees  
17 customarily park --

18           BOARD MEMBER GRODIN: When they drive.

19           MR. COHEN: -- may not be adequate because you have  
20 some people that are bused in by labor contractors. It  
21 may be very far from the work area. It may be that the  
22 grower could have those workers go into the fields almost  
23 immediately. If you gave us sometime before starting time,  
24 they could arrange it that they would show up just before  
25 they would have to work. I don't think it is adequate.

1           BOARD MEMBER GRODIN: Well, if the employer had  
2 that much control over the worker, couldn't they effectively  
3 prevent them from talking to the organizer out in the field  
4 anyway?

5           MR. COHEN: Well, it depends on what the sanctions  
6 are that this Board imposes on the employer. I don't know  
7 if you are talking about just giving us grounds to object  
8 or unfairs. By the way, this is another thought. I don't  
9 know what form the rule will take but if the rule falls  
10 short of any Constitutional rights that we feel we have under  
11 the California Constitution or the First Amendment, I hope  
12 that this Board notifies Agribusiness that they are not  
13 necessarily prescribing the rights but the statutory rights  
14 from which certain consequences would flow. Because I am  
15 afraid whatever rule you adopt will become the rule that  
16 they will use and they won't allow us to expand it in any  
17 way.

18           And that's why I am saying that we are pushing  
19 for the maximum rule. We do not want a rule that affects  
20 our rights to go into the camps at all. We think we have  
21 that right, and we would like reasonable numbers for the  
22 fields.

23           BOARD MEMBER GRODIN: You think that BUAK gives  
24 you this right or there is a Constitutional basis for  
25 access to the fields?

1           MR. COHEN: I think there may be under the  
2 California Constitution. I think that the courts are  
3 signaling loud and clear. When you take Wilson versus  
4 Superior Court and they are telling us that the California  
5 Constitution, Chapter 1, Section 2, is broader than the  
6 First Amendment, and they go out of their way to point that  
7 out that it applies to the labor disputes in BUAK, I think  
8 it certainly is an interesting question.

9           CHAIRMAN MAHONY: Any other Members?

10          Mr. Ortega.

11          BOARD MEMBER ORTEGA: Just very briefly, Mr. Cohen,  
12 You indicated that -- let me just ask the question. Would a  
13 limited number of organizers in the fields be acceptable  
14 to you?

15          MR. COHEN: Well, let's be frank. It depends on  
16 what the number is, Mr. Ortega. Obviously the growers  
17 would want it to be as few as possible and we would want it  
18 to be as many as possible. I'm not saying that we want it  
19 as many as possible to harass the workers but I think you  
20 can get your work done with more people. I think if you  
21 have a crew of 90 people and you give us five organizers,  
22 I don't know how much they can do at lunch time. On the  
23 other hand, it may create a certain definiteness that  
24 might be desirable provided that we had enough.

25          BOARD MEMBER ORTEGA: You would want it tied up,

1 as you indicated, if there is a number, to a proportional  
2 formula or ratio formula, is that correct?

3 MR. COHEN: If that were the way the Commission  
4 had to go, I would think so, yes.

5 BOARD MEMBER ORTEGA: Let me ask you about this.  
6 You want access to your breaks as well as lunch time, both  
7 before and after?

8 MR. COHEN: Yes.

9 BOARD MEMBER ORTEGA: How crucial is the break  
10 period? I ask that because there has been some questions  
11 raised about breaks, whether they are possible or practical.

12 MR. COHEN: Well, I think in lettuce, for example,  
13 I think that the breaks become important. When a worker  
14 takes a break, the time is his own. If we have a leaflet  
15 to pass out, if something has happened and if we are going  
16 to call a meeting, I think it is important to have the right  
17 to go in there. We are not going to be able to go in there  
18 and engage in long dissertations about the benefits of  
19 the union or how bad the working conditions are. I think  
20 the breaks are needed for short visits. For instance,  
21 if there is something that has happened that a meeting needs  
22 to be called, then I don't think there is any other way to  
23 go than to go out there on the break. It might help.

24 And that says nothing to the piece work question.  
25 If it doesn't disrupt the grower's operation, I don't see

1 anything wrong with going out there on breaks.

2 BOARD MEMBER ORTEGA: Well, we could put language  
3 like that in the regulations, that you can go out during  
4 breaks if it does not disrupt the grower's operation.

5 MR. COHEN: Well, I thought you had language like  
6 that in the regulation you withdrew.

7 BOARD MEMBER ORTEGA: The Rule 17?

8 MR. COHEN: Yes.

9 BOARD MEMBER ORTEGA: That was generally acceptable  
10 to you, was it?

11 MR. COHEN: Well, provided there was a proviso there  
12 for piece rate workers.

13 BOARD MEMBER ORTEGA: What is such a proviso?  
14 Why don't you give us that now?

15 MR. COHEN: Well, piece rate workers don't have  
16 any established breaks and sometimes they don't even have  
17 a lunch break, and so they stop on their own. I think,  
18 during those times, if there is people on piece rate that  
19 decide to take a rest, and it doesn't disrupt the employer's  
20 operation, I think we should have the right to talk to those  
21 workers.

22 BOARD MEMBER ORTEGA: Thank you Mr. Cohen.

23 MR. COHEN: By the way, we have another packet of  
24 documentation. It has to do with some of the letters in  
25 terms of the access policies and various growers in the Delano

1 area. And so you can take a look at what I consider to be  
2 the unequal access right now, which goes not to the  
3 configuration of the rule but, I think, to the need for  
4 an emergency regulation.

5 BOARD MEMBER ORTEGA: Mr. Chairman, I assume that  
6 the papers that Mr. Cohen has given us will be available  
7 through our secretary for inspection or copying by other  
8 speakers who may be interested in reacting.

9 CHAIRMAN MAHONY: Yes, that is correct. Any other  
10 questions?

11 BOARD MEMBER ORTEGA: Then they are to be received  
12 and made part of the record.

13 CHAIRMAN MAHONY: Mr. Cohen, I have a couple of  
14 questions, particularly about the piece workers. Crews  
15 usually have their own area and they work various parts,  
16 say the vineyard, or whatever the crop might be, and they  
17 take maybe very sporadic types of breaks. Wouldn't it be  
18 kind of difficult for the union organizer to locate where  
19 each crew might be and at what point they are on a break?

20 MR. COHEN: Well, I am assuming that there is some  
21 communication between the worker in the piece rate crew  
22 and the union organizer. There often is. In fact, even  
23 if there is no established break by the grower, when we  
24 are talking to the crew, the crew says that we are going  
25 to take a break at a certain time. It is not established



1 in terms of the language of your proposed regulation, but  
2 it is a break nonetheless.

3 No, you are right. I am not suggesting that the  
4 union organizers are going to be roaming all over the  
5 grower's property to find out when the piece rate workers  
6 are going to take a break. That wouldn't be in our interest  
7 to waste the organizers' time that way. But there are times  
8 when we are informed of piece rate breaks and when the crew  
9 intends to take a break, and it is not established by the  
10 grower. I think in those cases we should have the right to  
11 talk to the workers as well.

12 CHAIRMAN MAHONY: Okay. Any other questions?

13 Mr. Chatfield:

14 BOARD MEMBER CHATFIELD: Mr. Cohen, what happens  
15 when the union loses an election, with respect to the access?

16 MR. COHEN: And you are assuming that there is  
17 no objection, that it is timely filed and that there is  
18 certificate and bargaining. Well, I thought Mr. Grodin  
19 and I were sort of examining that question. And the  
20 implication of the questions are that at the next peak season,  
21 during which a petition could be filed, you would have the  
22 right to organize. And I am suggesting that it has to be  
23 expanded really to cover maybe two situations.

24 Number one, the situation in which there is a  
25 high complement of workers at some other season of the year,

1 for instance, take Coachella where there is a peak season  
2 -- say there is a contract and it would expire in 1978,  
3 and peak season is in June. There are a lot of workers  
4 there during the pruning and the thinning and I think we  
5 would have to be able to take that into account in terms of  
6 organizing activity number 1 and then I don't know what  
7 the Board's position is on the deauthorization procedure,  
8 but there is a deauthorization procedure in the Act and  
9 it may damn well be that there should be access in terms of  
10 outside organizers to talk about that if there is a contract  
11 which is in effect which is not being enforced or which  
12 somebody alleges is a sweetheart contract.

13 I don't see why an outside union organizer couldn't  
14 come in there and, let's be frank, if the fight between  
15 the Teamsters and the farm workers continues, maybe the  
16 Teamsters should be allowed to come in and try to deauthorize  
17 us and maybe we should be allowed to deauthorize them.  
18 You may be playing with that right if you deny access during  
19 the period of certification. I'm not necessarily advocating  
20 you do something about it but it is a problem.

21 Here's some pictures of county roads, by the way,  
22 roads which go onto private property, and you will notice  
23 that the roads that are on the private property are just  
24 as big and in some cases bigger than the county roads which  
25 are shown in some of them, too. We have some pictures of

1 barbed wire fences around camps, too, and I think you should  
2 look at those.

3 CHAIRMAN MAHONY: Those will be received into  
4 the record.

5 BOARD MEMBER CHATFIELD: What about access after  
6 the union wins an election and is certified? The access  
7 rule, if there is an access rule, does it apply?

8 MR. COHEN: It is very important. If they are  
9 certified precontract or postcontract, Mr. Chatfield?

10 BOARD MEMBER CHATFIELD: Precontract.

11 MR. COHEN: Well, I think precontract is vital  
12 for the union representatives to be able to go into the  
13 fields. You are negotiating those working conditions under  
14 which the workers have to work, and you should have access  
15 to the fields. And in many cases, if an employer is  
16 negotiating in good faith, you are going to find that he  
17 will allow union organizers, representatives of the  
18 negotiating committee, piece rate experts, whoever you may  
19 have to go out there, he will allow them out there.

20 If a grower doesn't, well, I think there is an  
21 indication that we may have some problem which may lead to  
22 the first test case on whether the Gissell remedy will  
23 apply under this Act but I think that what we need to  
24 worry about is giving the union as much maybe even and if  
25 not more access after they are certified.

1           In Stockton, by the way, and I referred to  
2 one crew being 90 in number in Stockton, I am informed  
3 that some of the crews have a hundred fifty to two hundred  
4 people in them. Those are large crews.

5           BOARD MEMBER JOHNSEN: Mr. Chairman.

6           CHAIRMAN MAHONY: Mr. Johnsen.

7           BOARD MEMBER JOHNSEN: Mr. Cohen, if I understand  
8 your position correctly, you feel that unions should have  
9 free access to meet the workers anyplace they happen to be  
10 on the farm --

11          MR. COHEN: Yes.

12          BOARD MEMBER JOHNSEN: -- at any time, regardless  
13 of whether a contract is in force or not in force, and things  
14 of that sort?

15          MR. COHEN: Yes, but not at any time, before work,  
16 during lunch time, during established breaks and during the  
17 break for piece rate, after work and at any time they are  
18 in the camp.

19          BOARD MEMBER JOHNSEN: Yes, but you mentioned the  
20 fact that the breaks are not regulated types of breaks  
21 and occur at odd times, and you would know about those.

22          MR. COHEN: No, some breaks, breaks for piece rate  
23 crews, may be odd and unregulated. Breaks for hourly workers  
24 in many cases are regulated.

25          BOARD MEMBER JOHNSEN: Yes, but in the unregulated

1 ones, you would have to have the organizers available to  
2 be on the farm. They would have to be around so that they  
3 could rush out to this particular corner or something. They  
4 would have to be available practically at any time on the  
5 farm.

6 MR. COHEN: Depending on how much organizing had  
7 to be done in a given area, yes.

8 BOARD MEMBER JOHNSEN: One other question. Is  
9 part of union organizing in general done by people who are  
10 in the crews working with the other workers or is all of it  
11 done by so-called outside organizers who come in?

12 MR. COHEN: Well, you know, in Bleak House,  
13 Dickens tossed out someone who spontaneously combusted and  
14 goes up in smoke all by himself. In self-organization, the  
15 concept that Mr. Marrs brought up, workers don't all of  
16 a sudden organize out in the fields, unless you are talking  
17 about Mr. Boggiato who organized the Federation of  
18 Agricultural Workers, which is a company union. That happens  
19 spontaneously with the grower's help. But outside workers  
20 usually do have to communicate with the workers and then  
21 after the communication begins then there are in-ranch  
22 committees which may or may not develop, depending on how  
23 much fear there is on a given grower's property.

24 And by the way, in terms of your Charter to  
25 encourage organizing, one way to overcome that fear is to

1 allow the union organizers, whether they be Teamster  
2 organizers or United Farm Worker organizers or meat cutters,  
3 whoever they are, out there on the property so that the  
4 people see that this law does mean something.

5 BOARD MEMBER JOHNSEN: One of your techniques might  
6 be though that you would get one member to work out there  
7 and then he would start generating some enthusiasm for  
8 your organization, I assume, on the crew.

9 MR. COHEN: Yes, that's true.

10 BOARD MEMBER JOHNSEN: Thank you very much.

11 CHAIRMAN MAHONY: Mr. Cohen, I have just a question.  
12 You have distributed some photographs to us, and this one  
13 shows apparently an access road through the property.

14 MR. COHEN: Yes.

15 CHAIRMAN MAHONY: This private road is a very large  
16 area.

17 MR. COHEN: That is Giumarra.

18 CHAIRMAN MAHONY: And there are a number of  
19 automobiles that are parked along the side here. Wouldn't  
20 it be possible, because this looks like a good staging area,  
21 when they get ready to report to their foreman or supervisor,  
22 wouldn't it be possible that a designated area could be  
23 so set there before or after?

24 MR. COHEN: It is possible, but not very effective,  
25 as I pointed out. I think it is subject to grower manipulation.

1 and surveillance and it doesn't allow the working man to  
2 talk about the working conditions under which the workers  
3 are working. I don't see why this Committee is worried  
4 about allowing organizers on the property provided that they  
5 do not disrupt the operation of the grower. Once they do  
6 that they lose that privilege. But assuming they don't,  
7 I think they should be allowed in the work area. We are  
8 talking about a Charter that is broader than the NLRB.

9 CHAIRMAN MAHONY: Anything further?

10 BOARD MEMBER GRODIN: I have one. Is there any  
11 problem from your point of view in requiring organizers to  
12 identify themselves in some manner?

13 MR. COHEN: No problem, Mr. Grodin.

14 BOARD MEMBER GRODIN: With respect to the alternative  
15 of written communication, and I understand the language  
16 problem which exists with respect to newspapers --

17 MR. COHEN: Yes.

18 BOARD MEMBER GRODIN: -- one of the alternatives  
19 relied upon under the National Labor Relations Act is hand  
20 billing, and one of the suggestions that has been made in  
21 many cases is that unions could, on the public property  
22 at least, on the public road, hand the hand bill in through  
23 the window of the passing car. Do you have any observations  
24 about that?

25 MR. COHEN: Yes. I think in some cases you would

1 have to hope that the car window was open and you would  
2 have to fold your hand bill into a paper airplane and try  
3 and shoot it in there. I just don't think the ten seconds  
4 that elapse when that car zooms by that organizer at the  
5 edge of that field is a very effective time. And as to  
6 where you would handbill if you can't go into the fields,  
7 I think if you will take and examine the declaration of  
8 Mr. Maddock, who runs the Delano operation, you would find  
9 that the workers come from maybe a five to seven thousand  
10 square mile area in some cases.

11 The best way to assure that you are reaching all  
12 the workers is to handbill them right there in the fields,  
13 and if you go to alternate places, the burden on the union  
14 is almost impossible.

15 BOARD MEMBER GRODIN: Is there anything you can  
16 tell us about the literacy issue with respect to handbills?

17 MR. COHEN: Well, that's another problem. A man  
18 that can't read or write in any language is not going to  
19 find out much by looking at a handbill. I mean, he will  
20 see the eagle, which I hope he also sees on the ballot but  
21 that is a separate subject. He will see that eagle and  
22 he will know that there is something in it from the United  
23 Farm Workers, but he can't ask the handbill a question.  
24 If he looks at it and the organizer isn't there to communicate  
25 with him, you have a problem.



1           BOARD MEMBER GRODIN: Do you have any information  
2 that you can provide us with respect to the frequency of  
3 that sort of literacy problem?

4           MR. COHEN: Yes, we have some declarations. I  
5 didn't bring them here. I brought them in terms of the  
6 discussion on symbols.

7           BOARD MEMBER GRODIN: Okay. Could you provide us  
8 with those?

9           MR. COHEN: Yes. Today, rather than tomorrow.

10          BOARD MEMBER GRODIN: Yes.

11          MR. COHEN: Okay. We will get them.

12                 Should I give them to the Secretary later this  
13 afternoon?

14          CHAIRMAN MAHONY: That would be fine. Any other  
15 questions?

16                 I have just one question, Mr. Cohen. What if the  
17 workers out in the rows don't want to listen to the  
18 organizers?

19          MR. COHEN: Then he is wasting his time by staying  
20 very long, and also when the election comes, I assume they  
21 will give him an answer to what effect his presence had.

22                 But if there is a petition that has been circulated  
23 on some of the ranches, and we will provide a declaration  
24 about that, I'd be very wary of any petitions circulated  
25 by supervisors, foremen, growers and other men on grower

1 property, indicating the workers don't want the union.  
2 I think there are ways under this bill to test whether the  
3 workers want the union, and one of the ways is not to  
4 deny access to the union organizers.

5 CHAIRMAN MAHONY: Any other questions?

6 Thank you very much, Mr. Cohen.

7 (Applause.)

8 CHAIRMAN MAHONY: I think since it is now five  
9 minutes after 12, that we will declare a lunch break until  
10 one o'clock. We will reconvene at one o'clock promptly,  
11 and because the Honorable Richard Alatorre has other committee  
12 responsibilities, we will take Assemblyman Alatorre out of  
13 order at one o'clock and then continue with Mr. Dressler  
14 and the rest of the agenda.

15 (Thereupon the morning session of the  
16 August 28th, 1975 meeting of the Agricultural  
17 Labor Relations Board was recessed at  
18 12:05 p. m.)  
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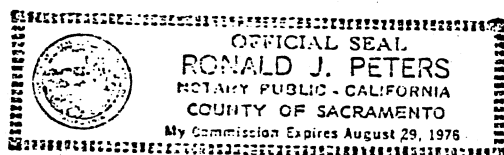
1 State of California )  
2 County of Sacramento } ss.

3 I, RONALD J. PETERS, a Notary Public in and  
4 for the County of Sacramento, State of California, duly  
5 appointed and commissioned to administer oaths, do hereby  
6 certify:

7 That I am a disinterested person herein; that the  
8 foregoing Agricultural Labor Relations Board Meeting was  
9 reported in shorthand by me, Ronald J. Peters, a Certified  
10 Shorthand Reporter of the State of California, and  
11 thereafter transcribed into typewriting.

12 I further certify that I am not of counsel or  
13 attorney for any of the parties to said meeting, nor in  
14 any way interested in the outcome of said meeting.

15 IN WITNESS WHEREOF, I have hereunto set my hand  
16 and affixed my seal of office this 1<sup>ST</sup> day of SEPTEMBER  
17 1975.



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25

*Ronald J. Peters*  
Ronald J. Peters  
Notary Public in and for the County  
of Sacramento, State of California