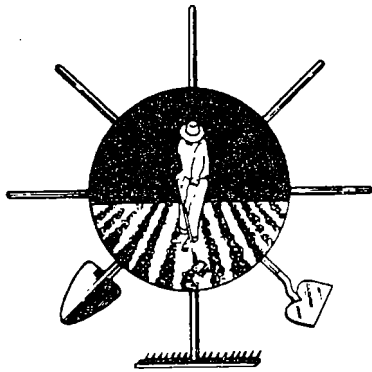




FARMWORKER JUSTICE NEWS

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AGRIBUSINESS PROPOSES A NEW "BRACERO" PROGRAM: ONLY WORSE

by Bruce Goldstein

Agricultural employers recently made their next play in their never-ending game of demanding new legislation to keep farmworkers poor and vulnerable.

On October 27, 1999, Senator Bob Graham (D.-Fla.) and Senator Gordon Smith (R.-Fla.), introduced S. 1814 and S. 1815. The legislation would create a new guest-worker program for agriculture and revise the H-2A guest-worker program by eliminating much of the program's labor protections. The supporters of the legislation include the American Farm Bureau Federation, the National Council of Agricultural Employers, and their cooperating organizations

around the country. Farmworker, labor, immigration, civil rights, and Latino groups have condemned the proposals as unacceptable.

This article outlines the new guest-worker program, which is called the "Farmworker Adjustment Act." This adjustment guest-worker program would create a new category of "non-immigrant" agricultural workers.

These guest-workers would be permitted to perform only temporary or seasonal jobs in agriculture. To enter the program, workers would need to apply within one year after enactment of the bill. They would have to show that they had worked at least 150 days in agricultural employment dur-

ing the one year ending October 27, 1999.

The adjustment workers need to work 180 days per year in agriculture to maintain their status. They would need to leave the United States each year for at least 65 days.

To earn the right to apply for permanent resident alien status, these guest-workers would have to provide employment records to show that they worked 180 days per year in each of five years. The authors say that workers would have seven years to complete this requirement, although it is unclear that this is true. For those who complete the work process, apply no later than six

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ENROLLMENT IN MEDICAID AND CHIP STILL LAGS BEHIND PAST ENROLLMENT IN MEDICAID ALONE

by Shelley Davis

In a study entitled One Step Back (1999), Families USA found that fewer poor children were enrolled in Medicaid and the State Children's Health Insurance Program (CHIP) in 1999 than were enrolled in Medicaid alone before the advent of so-called Welfare Reform. Focusing on the 12 states with the largest number of uninsured children, Families USA

found that nearly 220,000 fewer children were benefiting from government-funded health insurance in June 1999 than had been in January 1996 (before the passage of Welfare Reform). The drop in enrollment occurred despite the fact that 1998 Census data show that there was no decline in the number of poor children who lack health insurance.

In 1997, Congress created the CHIP program to extend government-fund-

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The Farmworker Justice Fund (FJF) is a litigation and advocacy organization based in Washington, D.C. that represents migrant and seasonal farmworkers around the nation. FJF was founded in 1981. FJF advocates for farmworkers in the courts, state and federal administrative agencies, Congress, academia and the press. Its primary focus is on wages and working conditions, occupational health and safety, immigration status, and women's rights.

Volunteer Attorney Joins FJF

In November 1999, the Farmworker Justice Fund received an early holiday gift. FJF is very fortunate to have obtained a volunteer attorney, James B. Leonard. Jim will work, without pay, about 16 hours per week (40% time), generally 2 days per week. Jim offered to work for us after reading about us in a local bar association publication.

Jim retired in 1995 from the Department of Labor as Associate Regional Solicitor in the Arlington, Virginia office, where, for 13 years he headed an office of 12 attorneys handling most of the Department of Labor's trial litigation in federal courts and administrative agencies in Virginia, West Virginia, and Washington, D.C. area.

He began his work for the government in the Department of State in 1967, moved over to the Office of Economic Opportunity from 1971-73, working on legal services issues, and then went to the Department of Labor's national office, where he worked from 1973 until 1982.

Jim graduated from Harvard University with a degree in history in 1964, received a certificate from The Hague Academy of International Law in 1966, and graduated from the University of Pennsylvania Law School in 1967. He lives in Virginia.

His "pro bono" work will include research, writing, analysis and probably litigation on labor standards.

He has already been of great assistance to the office and we appreciate the generous donation of his time very much.

FJF hires an Environmental Health Coordinator

On November 3, 1999, José Cárdenas joined FJF as our new Environmental Health Coordinator, after working with the Alice Hamilton Occupational Health Center as Director of "Trabajo Seguro Program", a training program for Latinos in the areas of asbestos, lead, pesticides, hazardous materials and other occupation and environmental issues. He also provided technical assistance in the areas of occupational health, workplace exposure, hazards communications, risk assessment and developing programs such as Brown Fields among Latinos in the Washington metropolitan area.

He worked for the Inter American College of Physicians and Surgeon in D.C. as Director of Occupational Environmental Programs, conducting risk assessments of skin cancer among farmworkers in the Eastern Shore Region. He wrote and edited articles for their monthly magazine *Medico Interamericano*.

He also worked for George Washington University Occupational and Environmental Medicine Division, in Washington, D.C. from 1993-1995 as Research Associate.

José graduated as a physician from the University of Cuenca-Ecuador. He holds a Masters Degree in Anthropology from the University of Azuay-Ecuador. He moved to the United States to study at the George Washington University in the Division of Occupational Environmental Health where he graduated with a Masters Degree in 1997.

F J F S T A F F

Bruce Goldstein
Co-Executive Director

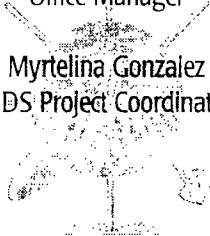
Shelley Davis
Co-Executive Director

Gracy Olmeda-Ruiz
Office Manager

Myrtelina Gonzalez
AIDS Project Coordinator

S. Antonio Diaz
Administrative Assistant

José Cárdenas
Environmental Health Coordinator



"BRACERO" PROGRAM: ONLY WORSE

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months after completing the 5 years, and are otherwise eligible under immigration laws, the issuance of green cards will be staggered over 5 years. There will be a waiting list whose members will be given temporary resident status and the right to work at any job.

There are many reasons to oppose this adjustment guest-worker program.

First, the guestworkers would have few rights and would be vulnerable to exploitation. Non-immigrant guestworkers historically have little bargaining power and virtually no political rights. Guestworkers in the proposed "adjustment" program would be very vulnerable. The bill contains none of the kinds of labor protections that have been included in agricultural guestworker programs during the last 55 years. Even the notoriously abusive bracero program had considerable labor protections in the law and in the workers' employment contracts. The bracero program, much like today's H-2A program, required recruitment of U.S. farmworkers, and required employers to provide housing, transportation benefits, minimal working conditions and protection against wage depression. This proposal does not even offer the limited protections that the growers have included in the bill's proposal to revise the H-2A guestworker program. The bracero program should not be repeated, but incredibly, this proposal lacks even the labor protections that were in the bracero program.

In addition, the potential to gain a green card (permanent resident alien status) will turn out to be a cruel hoax for many of the farmworkers who join the adjustment program. It will be very difficult for many farmworkers to obtain and prove the required 180

days of agricultural employment each year. The National Agricultural Workers Survey found that seasonal farmworkers average only 26 weeks of work and work is not available every day of the week. About one-fourth of farmworkers in this country survive by working in non-farm jobs for part of the year, but these guestworkers would be forbidden to work outside agriculture.

Moreover, under that kind of pressure on guestworkers to secure evidence of 180 work days, workers will lack the bargaining power to demand better wages and working conditions. Workers will be too afraid to challenge unlawful conduct, demand better conditions, join a labor union, or file a lawsuit, for fear of being unable to gain evidence of sufficient employment to qualify for continuing status and later adjustment to permanent residency. Some unscrupulous growers and labor contractors will refuse to provide proof of employment unless workers comply with unreasonable, even illegal, demands. The wages of all farmworkers, including citizens and permanent resident immigrants, will suffer harm from the presence of several hundred thousand guestworkers desperate to take an agricultural job under any conditions.

The bill creates a long process during which families will be divided. It is no secret that agricultural employers are hiring several hundred thousand undocumented workers. The guestworker status would be available only to the current agricultural workers, and not to their family members. Some families are potentially going to be divided for about 16 years under this adjustment program. Until the guestworkers get their green cards – six to 10 years after beginning the program – ordinarily they cannot apply for immigration visas for their family members. The waiting list for

relatives in Mexico is often about six years.

Proponents of this new adjustment program argue that undocumented workers would be better off under this program because they would be "legal" and no longer living in the shadows. Farmworkers should not be placed in the unfair position of having to choose between undocumented status and a temporary status akin to indentured servitude. In both cases, workers are extraordinarily vulnerable. Any new program should provide real immigration status.

The growers often justify the need for a guestworker program by arguing that it would help solve the problem of unlawful immigration. But that is not true, either. Guestworker programs cause illegal immigration by establishing new migration patterns and through visa overstay, hence the saying: "There is nothing more permanent than a temporary foreign worker program."

Growers continue to hire undocumented workers because they will work for cheap. A new guestworker program will not stop that.

If this country improves the wages and working conditions for farmworkers, there will be less employee turnover, more labor stability, higher productivity, less farmworker poverty and less need for growers to demand new waves of foreign workers. This proposal goes in the opposite direction.

Agricultural industry lobbyists have promised to press for passage of this complex legislation when Congress returns from recess in January 2000. There is likely to be a major battle. You may keep track of developments by reading FJF's materials and other information on the web site of the California Rural Legal Assistance Foundation (www.crlaf.org/gwork-ers.htm). ❀

WATCH FOR THE DEBUT IN LATE JANUARY OF www.fwjjustice.org

FJF KICKS OFF ENVIRONMENTAL HEALTH PROJECT ALONG US-MEXICO BORDER

by Shelley Davis and José Cárdenas

Lack of potable water, inadequate waste and garbage disposal, exposure to lead, industrial pollution of the air and water, and the widespread use of agricultural pesticides pose serious, preventable health risks to border residents and challenges to the health professionals who serve them. Border residents often lack knowledge of the potential health consequences of exposure to environmental hazards. Nor do they know practical ways to reduce or eliminate their exposures. Similarly, primary care professionals typically receive little training in the recognition, diagnosis and treatment of pesticide poisoning or other illnesses related to environmental toxicants.

Over a two-year period, FJF and its local partners, will work in four communities along the US-Mexico border. Using a train-the-trainer model, the project will recruit, train and supervise 25 Promotores de salud (lay health educators) in each area who will provide environmental health education to members of their communities. The Promotores will focus on issues such as pesticides, lead, asthma and access to potable water and adequate sewage disposal. In addition, workshops for health professionals will be held at migrant and community health centers along the border, to teach the essentials needed to diagnose and treat patients suffering from pesticide poisoning or illnesses related to other environmental exposures. Participants from both sides of the border are welcome at all training events.

The first workshops for Promotores took place in Texas and Arizona and focused on preventing pesticide exposure in the fields and at home. Many of the Promotores are current or for-

mer farmworkers, so they well know the nausea, dizziness, blurred vision and skin rashes that often result from exposure to pesticides on the job. The pesticide training was presented by Shelley Davis and José Cárdenas of FJF and Vikki Martinez and Gia Gulina of Texas Rural Legal Aid. The Promotores also received training on leadership development and communication skills to empower them and

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ed health insurance benefits to children of the working poor. With an allocation of \$24 billion over a 5-year period, CHIP is one of the biggest expansions of the social safety net to have occurred since the creation of Medicare and Medicaid in the 1960's. The program is intended to cover between three and five million children whose parents earn 150% of the federal poverty level or more (depending on the state).

Just a year before the enactment of CHIP, Congress had passed the so-called Welfare Reform and Illegal Immigration Reform laws. Those two acts carried a very different message. Immigrants – even legal immigrants – were stripped of eligibility for a vast array of government benefits, from Food Stamps and Supplemental Security Income to Medicaid. Initially, 44% of the total cost savings to be derived from Welfare Reform were to come from eliminating benefits to immigrants.

Caught in the crossfire has been the effort to enroll low-income children in Medicaid and CHIP. Immigrants have been especially leery of enrolling their children in these programs, even when they are eligible.

help them effectively educate others. The leadership training was provided by Mily Treviño and Raquel Sotelo of Lideres Campesinas, a non-profit organization of farmworker women based in California. Myrtelina Gonzalez of FJF conducted the workshop on communication skills. The Arizona group was recruited by Emma Torres and Steven Olmos of Puentes-de Amistad. The Promotores showed great enthusiasm for acquiring new knowledge and a great desire to bring the information that they had learned to their communities.✿

Fears related to immigration issues also have kept many farmworker children out of Medicaid and CHIP because many are citizen children of immigrant parents. A 1998 study conducted by the U.S. General Accounting Office found that nearly one-third of all unenrolled children, who are eligible for Medicaid, come from immigrant families. Enrollment in Medicaid is also down because recipients of cash assistance – and those who are moving from welfare to work – are no longer automatically enrolled in Medicaid. Many poor families are unaware that they continue to be eligible for Medicaid even if they are no longer receiving cash assistance benefits (e.g., Temporary Assistance for Needy Families).

Efforts to overcome the reluctance of immigrant families to enroll their children in Medicaid and CHIP are now underway. In May 1999, the Clinton Administration announced important new immigration guidelines. These guidelines make clear that the lawful receipt of Medicaid or CHIP benefits will not be considered in determining whether to grant an application for legal resident status (i.e., a green card). To get out the word on its new policy, the Immigration and Naturalization Service (INS) is attending community

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PROMOTORES DE SALUD PROMOTING HIV/AIDS PREVENTION: THEN AND NOW

by Shelley Davis and
Myrtelina Gonzalez

This project was initiated by the Farmworker Justice Fund, Puentes de Amistad and Valley AIDS Council with the purpose of providing HIV prevention information to the migrant and seasonal farmworker community. Traditionally this community has lacked access to current and reliable information with reference to HIV/AIDS and other sexually transmitted diseases. FJF's objective was to recruit 50 farmworker men, women and youth or their family members and teach them about HIV/AIDS so that they in turn could educate their communities on HIV/AIDS prevention

In reviewing what we have accomplished since 1997, we realize that while we have accomplished much, our greatest success by far has been to have assisted in the development of a core group of Promotores de Salud. This group has not only provided information to over 5,000 farmworker family members, but they have made great personal strides in self-confidence, pride, and leadership.

Let us look back at that first FJF two-day training for Promotores and think about the individuals who were sitting in those classrooms. They were individuals who had a desire to make a difference but who did not have much formal education or experience speaking in front of crowds. Few had ever spoken freely about sexual behaviors or condom use within their own family circles, let alone in public. The majority were women and most still labored in the fields. Even so they took two days off their regular schedules to sit there and learn about HIV/AIDS, for themselves, their fam-

ilies, and their friends. They had come to a point in their lives where they had decided to take a stand and take action to control their lives. So they sat there for two days and absorbed all they could.

Women, who never spoke about sex because of the cultural taboos associated with that subject, are now known as the "Condom Lady".

Then they went out into their communities and started knocking on doors, speaking in fields and going any other place where they could be heard on such an important health issue. And heard they have been. Drawing on the common bond that comes from sharing the same experiences, language, and culture, the Promotores have been able to convey an HIV/AIDS prevention message in terms their peers can really understand.

The initiative they have shown for getting their voices heard is nothing short of incredible. Women, who never spoke about sex because of the cultural taboos associated with that subject, are now known as the "Condom Lady".

The leadership qualities that have been awakened within the Promotores have allowed this project to progress to the point that it has. FJF has supplied the information, the materials and sparked the initial flame that spurred the Promotores into action, but it has definitely been the Promotores' desire and will power to make HIV/AIDS prevention a reality that has made it a success. They connect directly to people, drawing on their individual personalities and

capacities and they have amazed us all in the way that they have done their work. They have seen their diligence rewarded when parents have come to them requesting that they speak to their children for them about HIV/AIDS.

The Promotores have not only provided information to their communities but they have recently begun speaking at national and regional conferences such as, the Annual National Conference of the National Council of La Raza and the regional conferences, HIV Innovations Along the Border and the 2nd Annual Lay Health Educators Conference. In Yuma, Arizona the Promotores wrote their own HIV/AIDS Prevention Play which they performed for the Southern Arizona HIV Prevention Community Planning Council.

So in closing, we must acknowledge each one of the Promotores who overcame their personal doubts and adversities in order to carry out this mission, with all its difficulties and its many rewards. ❀

STILL LAGS BEHIND PAST ENROLLMENT IN MEDICAID ALONE

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meetings, airing public service announcements and issuing brochures in many foreign languages. Community groups can download copies of INS brochures from its web site: www.usdoj.gov.

The 12 states with the largest number of uninsured children are: Arizona, California, Florida, Georgia, Illinois, Louisiana, New Jersey, New York, North Carolina, Ohio, Pennsylvania and Texas. These states account for two-thirds of all uninsured children in the United States. ❀

WATCH FOR THE DEBUT IN LATE JANUARY OF www.fwjjustice.org

THE WTO: WILL THE U.S. GOVERNMENT ALWAYS HELP EMPLOYERS AND IGNORE MIGRANT FARMWORKERS?

by Bruce Goldstein

The protests during the Seattle meeting of the World Trade Organization sent a strong message about the need to recognize the needs of workers and the environment as the WTO members, pushed by multi-national corporations, set new rules to expand international trade. Farmworkers will be vitally affected by these developments.

Agriculture is a key element of the new round of WTO discussions. Agricultural businesses in the United States have a strong agenda in WTO and the U.S. Government is strenuously representing their interests. The American Farm Bureau Federation, the Florida Fruit and Vegetable Association, and other organizations representing large employers of migrant farmworkers played an active role in the Seattle WTO proceedings, assisted by Secretary of Agriculture Dan Glickman and U.S. Trade Representative Charlene Barshefsky.

American agriculture has benefited already from a tremendous expansion of exports. The Clinton Administration and Congress want the WTO to facilitate further growth in exports, including in the labor-intensive sector of fruits, vegetables and horticulture ("FVH").

The "break in the action" at WTO following the Seattle protests offers an opportunity to re-think where WTO should be headed. This article will not examine the trade organization's views on labor standards and the environment. Obviously, though, farmworkers will suffer if occupational safety and health standards, such as restrictions on the use of cancer-causing pesticides, are treated by the WTO as illegal interference with global trade.

More broadly, however, we should be asking: In whose interests is our Government acting during the WTO debates over agriculture?

The American government has actively assisted fruit and vegetable growers in securing and expanding markets overseas. Partly as a consequence of such efforts, this sector of agriculture has enjoyed a rapid expansion of its ability to export crops. According to the U.S. Department of Agriculture, the value of exports of fruits and vegetables and related horticultural crops increased as follows:

Time Period	Value of Exports of FVH Products
Fiscal year 1988 (1987-88)	\$4.01 billion
Fiscal year 1990	\$5.57 billion
Fiscal year 1994	\$8.54 billion
Fiscal year 1996	\$10.03 billion
Fiscal year 1999	\$10.27 billion

We are competing quite well at the global level. According to the USDA, not only has the value of exports of these products gone up, but the USA's share of the world market for fruits, nuts and vegetables grew from 12.8% in 1986 to 17.4% in 1995. Despite a recent slowdown due to the Asian economic crisis, exports are expected to continue to increase as the buying power of developing nations grows. For example, one of the steps China took to gain President Clinton's support for membership in the WTO was to open the Chinese market to American citrus fruit. The deal announced in April 1999 could increase exports by up to \$100 million per year for California, Arizona and Florida citrus.

Meanwhile, farmworkers' wages declined in real terms and conditions for most farmworkers worsened.

According to a study prepared for Congress by the U.S. General Accounting Office (Dec. 1997), "Our analysis of agricultural wage data shows declining real wage rates. Since the late 1980's, annual average hourly wages for agricultural workers have been flat or have declined in real terms. . . and real annual average hourly wage rates for piece workers fell." Poverty rates increased among farmworkers during that time, so that most farmworkers live in poverty, according to the Department of Labor. Farmworkers also are denied

basic job protections that are guaranteed to other employees, even though farmworkers frequently need such protections more than others do. The few protections that do exist are routinely violated, in part because Congress has enacted weak enforcement mechanisms and has cut back the enforcement resources of the Department of Labor and the Legal Services Corporation.

Why should farmworkers' conditions worsen as the market for their employers' product expands with government assistance?

The quid pro quo for government's continued help to American agribusiness in seizing opportunities in foreign markets abroad should be adoption of public policies that lead to substantial improvement in farm-

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FJF CO-SPONSORS CONTINGENT WORKER CONFERENCE

by Bruce Goldstein

In November 1999, the Farmworker Justice Fund and the National Employment Law Project (NELP) co-sponsored a small strategy conference on "contingent workers." The conference, held in Washington, D.C., was called "The Subcontracted Worker Initiative Strategy Forum."

The 50 participants examined the expansion of such tactics as subcontracting, out-sourcing, using temporary agencies, and other forms of reconfiguring the workplace.

The first day of the conference examined the economic structure and employer practices in various industries, ranging from farms to home health care, the garment industry, hotels, high-tech jobs and poultry processing plants. One of the purposes was to allow activists in different geographic areas and sectors of the economy to see the common methods by which employers have been seeking to minimize their responsibility to their workers.

The second day analyzed strategies for improving wages and working conditions for subcontracted workers, especially those in low-wage occupations. Some of the efforts that have been made on these issues include legislation to re-define employment relationships, enforcement of existing law, new approaches to labor organizing, media campaigns, and building collaborations within communities.

The conference included representatives from labor unions and worker centers, as well as resource people from legal assistance programs, academia and foundations. Andy Stern, President of the Service Employees International Union, where the conference was held, welcomed the participants during a luncheon speech that was well-received.

NELP's Cathy Ruckelshaus and FJF's Bruce Goldstein organized the conference, commissioned several research papers from experts in the field and co-wrote a paper on the legal frameworks for responding to subcontracted work relationships.

FROM THE PROMOTORES DE SALUD: IN THEIR OWN WORDS

by Shelley Davis and
Myrtelina Gonzalez

For the past three years, FJF, in collaboration with Puentes de Amistad in Somerton, Arizona and Valley AIDS Council in McAllen, Texas, has organized 50 promotores de salud to take the message of HIV/AIDS prevention to farmworker families. Over a two-year period, the promotores have educated more than 5,700 farmworker men, women and youth. Each of the three promotores de salud who speak here has been with the program since its inception.

Floribella Redondo of Yuma, AZ has 29 years of experience as a campesina. "When I was invited to participate as a health promoter and I attended the HIV/AIDS training offered by the Farmworker Justice Fund I felt important because I knew that my life had changed radically. I was not just a farmworker anymore, now I was a promoter for the prevention of HIV/AIDS. During the training, I was surprised to see how ignorant I was on the subject. At the training's completion, I felt anxious to return to the fields to share everything that I had learned with my co-workers. I was lucky that the supervisors and foremen supported me and it gave me joy to see the way in which my co-workers received the information I provided."

Marybel Camacho of Somerton, AZ has 22 years of experience as a

campesina. They will issue a report on the conference which will include these papers and summaries of the proceedings. The conference was made possible by a generous grant from the Ford Foundation. ❀

"When I was invited to become a health promoter to help farmworkers, I liked the idea because as a farmworker myself, I understand the needs that we have to obtain information about health, living conditions, laws and immigration. I also understood the problems we faced because of our inability to speak English and our lack of time because of our work schedule. I provide information to people at the work site, in churches and in their homes. As a woman I am making things happen that I had only dreamed of. I am making my dreams a reality."

Rosario (Chayito) Sanchez of San Luis, AZ has 20 years of experience as a campesina. "It has been a pleasure for me to return to the fields to take information about HIV/AIDS to my people because I was also a farmworker for many years and my husband is still one. I see and recognize the need the farmworkers have of information. Our people do not have the opportunity to get any kind of information on health issues due to their work schedules. Their schedules are generally from 4 or 5 in the morning to 7 or 9 in the evening, which leaves them without any time to seek out information. I feel satisfied when I see their expressions or when I hear their comments of gratitude. Gracias Señorita por traernos esta información, gracias por preocuparse por nosotros. (Thank you Miss for bringing us this information, thank you for caring about us.) ❀

FARMWORKER HEALTH GROUPS, UNIONS AND ADVOCATES MEET TO DISCUSS PUBLIC POLICY

by Shelley Davis

Poverty, inadequate housing, occupational hazards and lack of access to primary health care are factors contributing to the poor health status of migrant and seasonal farmworkers and their families. Addressing cross-cutting issues such as these is necessary in order to achieve a lasting and fundamental improvement in the health of farmworker family members. Yet often the complex and unique needs of farmworker families are not considered by state and federal policymakers. Farmworker unions, health groups and advocates recently met in Washington D.C. to change that.

To draw attention to the critical needs of farmworkers and overcome their limited political power, farmworker unions, health care providers and advocates recognize that they must work together and with allies to intervene in the public policy arena. To begin such a dialogue, a Farmworker Policy Symposium was held on September 9-10, 1999. The event was sponsored by the Farmworker Justice Fund, Inc. with the support of the Migrant Health Program, and the crucial collaboration of many other groups.

Three issues were selected for discussion. They were: improving access to health care; increasing pesticide safety; and securing helpful policies in the federal immigration and guestworker arena. After the discussions, recommendations emerged.

To set the stage, the symposium began with a presentation on the federal rules governing the extent to which

non-profit organizations can influence public policy without affecting their tax-exempt status. Nan Arens of Alliance for Justice gave the presentation.

Many avenues are open to non-profit groups to participate in public policy forums. Non-profit groups can freely engage in advocacy before the executive branch of national, state or local governments (e.g., President Clinton) or administrative agencies, like the Environmental Protection Agency (EPA) or local zoning boards without any IRS restrictions. As such, health center personnel can comment on proposed environmental regulations or appear before zoning boards deliberating on migrant housing. Similarly, non-profit groups are free to bring matters to court or appear in judicial proceedings as a friend of the court.

Limitations arise when non-profit groups seek to directly influence legislation by lobbying Congress or promoting grassroots efforts to do so. But legislative lobbying is not precluded. Rather, the Internal Revenue Code limits the amount of money which may be spent on such activities. Depending on the organization's choice, the amount spent to influence legislation can be an "insubstantial" amount or a fixed percentage of funds spent on tax-exempt purposes (e.g., 20% of the first \$500,000 spent on tax exempt activities.) The latter, often more generous standard applies when an organization elects it by filing a revocable election under § 501h. The IRS limitations only come into play when groups seek to directly influence specific legislation. Many other con-

tacts with legislators, such as providing an objective analysis of pending legislation, are not considered lobbying for IRS purposes.

Two presenters, Heather Mizeur of the National Association of Community Health Centers and Elia Gallardo of California Primary Health Care Association, initiated the discussion on improving access to health care and increasing enrollment in Medicaid and the State Children's Health Insurance Program (CHIP). Efforts to increase funding for health centers in order to overcome the cut-backs imposed by the Balanced Budget Act of 1997 were the focus of Heather's presentation. She urged participants to support passage of legislation to secure a prospective payment system for Medicaid.

To increase participation of migrant children in Medicaid and CHIP, Elia Gallardo explained, California has developed an innovative program, using public health initiatives. Through such an initiative, California has sought federal permission to provide care utilizing more than 10% of its CHIP dollars. (Without special permission, a state has discretion to spend 10% of its CHIP allotment for administrative and outreach activities as well as special health care initiatives).

Proposed guestworker legislation, Bruce Goldstein explained, could have a devastating impact on farmworker health by dramatically lowering their wages and worsening their working conditions. Bills pending before Congress could result in an influx of

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MEET TO DISCUSS PUBLIC POLICY

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500,000 foreign workers who would have no federally mandated labor protections. Current H-2A requirements for a minimum wage rate, guaranteed free housing, and productivity restrictions would be lost. Such a program would undercut existing labor protections and wage gains for U.S. farmworkers as well.

Other immigration issues were also discussed. Since the enactment of welfare and immigration reform legislation in 1996, many restrictions have been imposed on access to government benefits by both legal and undocumented immigrants. Restrictions also were imposed on an immigrant's ability to secure permanent legal status (e.g., a green card). Elia Gallardo highlighted some of the pending legislation which would restore access to Medicaid and CHIP for some legal immigrants who entered the U.S. after August 22, 1996.

Recognizing, treating, reporting and preventing pesticide-related illnesses was the focus of the presentation by Shelley Davis of FJF. Many improvements in pesticide safety must be secured to reduce the tens of thousands of pesticide-related injuries to farmworkers which occur each year. Over 100 pesticide active ingredients have been identified by EPA as possible or probable human carcinogens. Dozens of others are neurotoxins or cause reproductive or developmental harm. By actively participating in EPA's administrative process, migrant health centers and farmworker advocates, could help to end the use of

many of these dangerous products. Expanding the new health-based standards of the Food Quality Protection Act to cover occupational risks to farmworkers would greatly improve safety but requires advocacy for a legislative change.

A host of recommendations emerged for both short- and long-term solutions. They include the following: To immediately improve access to health care, advocacy is needed to encourage states to adopt presumptive and continuous eligibility, expedite approval of applications and outstation eligibility workers at clinics and other convenient locales. Longer term efforts should be directed to securing multi-state reciprocity plans and universal coverage of farmworker families. In the guestworker area, immediate efforts should be directed towards defeating the pending legislation. Long-term activities should focus on securing improved living and working conditions for farmworker families and obtaining a legalization program for experienced undocumented farmworkers to create a fully lawful workforce. Other immigration recommendations included support for legislation which would extend Medicaid/CHIP to all children and pregnant women who obtained legal status after August 22, 1996 (e.g., eliminating the 5-year bar and sponsor liability and deeming provisions) and liberalizing the provisions of the Violence Against Women Act. In the pesticide area, short-term recommendations included expanded training of migrant clinic personnel to recognize, treat and report pesticide poisoning, while longer term solutions would

include increasing worker protections and extending the health standards of the Food Quality Protection Act to cover the occupational exposures of farmworkers. A full report on the symposium and all its recommendations is available from FJF, upon request. ❀

THE WTO

Continued from Page 7

workers' conditions. The Congress and the Administration should (1) eliminate the many discriminatory labor laws that relegate farmworkers to worse conditions than other workers, (2) enforce the laws more effectively and more often through governmental and non-governmental organizations, and (3) adopt new policies that take affirmative steps to raise farmworkers' wages, build more farmworker housing, and empower farmworkers to improve their own conditions.

But no such demands have been made on agriculture by government. Instead, we see an extraordinarily selfish, expensive campaign led by agribusiness, with help from members of Congress, to gain further advantages over farmworkers. The growers are lobbying for new labor laws and immigration policies that would prevent migrant and seasonal farmworkers from ever improving their abysmal conditions.

It is long past the time for our Government to stop acting as if by helping agricultural employers secure foreign trade it also helps farmworkers. Agricultural employers should be told that if they want to benefit from Government assistance in exploiting the opportunities in a new era of global trade, they must stop exploiting the vulnerability of their farmworkers. ❀

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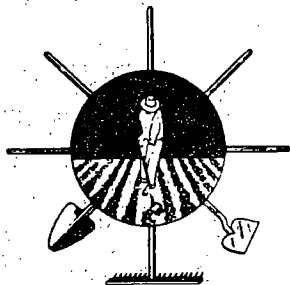
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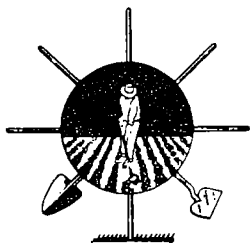
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El Paso Times
Monday, Nov. 22, 1999

13A

OPIN

Bracero plan isn't catching on

By Domenico Maceri

Hispanic Unk News Service

With an estimated 2 million undocumented workers in the United States, do we need more foreign workers? Yes, say some growers, backed heavily by Republican lawmakers. The Democrats say no, that there are no labor shortages in agriculture.

Years ago, both parties agreed there were shortages, and Congress passed H-2A, a bill that allowed growers to bring in seasonal workers legally during harvest time. However, the growers complained that it was too cumbersome and bureaucratic.

In response, the U.S. Senate last session approved a modification of the H-2A program that would have satisfied growers, according to some members on both sides of the aisle, including Oregon's Ron Wyden, a Democrat, and Gordon Smith, a Republican from Oregon.

Critics said the proposed law would have enabled growers to bring as many workers as they want and would put the onus on the federal government to prove that U.S. workers were not available or willing to do the job. Growers would not have to provide housing or even pay minimum wages, so long as a group of workers was paid on average the minimum wage.

Thanks to lobbying from Hispanic groups and the efforts of Deputy White House Chief of Staff Maria Echaveste, who grew up in a migrant family, the legis-

lation failed to get through Congress. The administration did not support it, claiming there is no shortage of workers.

Hundreds of thousands of undocumented workers toil on U.S. farms under miserable conditions, without benefits, always fearful that immigration officers will catch and deport them. Clearly, they would all be better off if they were allowed to work legally in the United States. However, every time an attempt is made to bring agricultural workers legally into the United States, people who care about immigrant workers remember the bracero program. By several accounts, including Wyden's and Smith's, the program was a failure.

The nearly 5 million Mexican workers who took part in the program between 1942 and 1964 were little more than indentured servants. Workers' rights were not protected, despite agreements prepared by Mexican and U.S. officials. Workers could not leave an employer without risking deportation. Mexican authorities refused to allow their workers to be recruited into Texas because of rampant discrimination there.

But the fact that the bracero program was a failure does not mean that a new program could not work well. Unfortunately, while Republicans organize these government programs, Democrats keep insisting they are unnecessary. They seem to think there is no problem. In its attempt to win elections, Democrats focus

on courting the middle class. Noncitizen foreign workers, legal or illegal, do not vote.

And on top of that, the presence of undocumented workers depresses wages for unskilled U.S. workers whom the Democratic Party is supposed to represent.

Republicans seem to play the role of white knight in their attempts to bring in people to work legally; Democrats give the impression of not caring at all, hoping that whatever shortages there may be will cause wages to rise and force growers to value and better treat their current workers, undocumented or not.

Neither, however, offers an appropriate response. Canada can point the way. For the past several years Mexican workers have been going to Canada to do seasonal jobs. The numbers are small, but the cooperation between the Mexican and Canada governments ensures fairness to all.

Democrats need to cooperate with Republicans to guarantee that programs to bring workers into the United States protect immigrants' rights. Bipartisanship brought about the North American Free Trade Agreement, which helps companies sell their products across borders. How about a similar program to help workers sell their services legally and escape the vise of smugglers and unscrupulous employers?

Domenico Maceri teaches foreign languages at Allan Hancock College in Santa Maria, Calif. He can be reached by e-mail at dmaceri@aol.com

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November 4, 1999 Thursday, CHICAGO SPORTS FINAL EDITION

SECTION: COMMENTARY; Pg. 29; ZONE: N

LENGTH: 954 words

HEADLINE: AGRICULTURE'S CYNICAL ANSWER TO FARM WORKERS' POVERTY

BYLINE: Daniel Rothenberg. Daniel Rothenberg is an assistant professor at the University of Michigan. He is the author of "With These Hands: The Hidden World of Migrant Farmworkers Today."

BODY:

Last week, a bill was introduced in the Senate that, if passed, may well be the most serious threat to the rights of farm workers in the last 30 years. The new law would allow agricultural employers to import tens of thousands of foreign laborers from poor countries to work in the United States for low wages with the promise that, if they continue for five years without complaint, they might be allowed to receive legal residency.

Farm workers are the poorest and most marginalized laborers in the United States. They earn an average annual income of \$6,500 and commonly suffer abuses that would be inconceivable in other industries.

Over the past 20 years, farm workers' real wages have fallen roughly 25 percent and the value of their earnings continues to drop even as the American economy surges forward with record growth rates. Not surprisingly, the only people willing to pick our country's fruits and vegetables are those with the fewest options, including large numbers of undocumented immigrants who represent nearly four out of every 10 farm workers.

The agricultural industry is correct in seeking to address its reliance on undocumented laborers and it is understandable that the industry might advocate a program building on the relationship between growers and their largely immigrant Latino work force. Still, the proposal is a cynical means of playing off the extraordinary imbalance of power between a \$170 billion industry and our nation's most vulnerable workers.

To understand what is wrong with the proposal it is important to consider both our nation's history of special agricultural guest-worker programs, which have been plagued by scandal and abuse, as well as the underlying logic of the

industry's growing reliance on undocumented immigrants.

The largest guest-worker system in United States' history was the bracero program, which began in 1942 as a special measure to address wartime labor shortages and then continued for 22 years, allowing 5 million Mexican workers to enter the country. Bracero laborers were recruited from poor rural communities to work for specific employers on temporary contracts whose limited protections were rarely enforced. By relying on temporary, foreign workers who could be sent home at any time and subsequently blacklisted, employers were freed from the responsibilities of dealing with domestic workers with the capacity to file formal complaints, organize, litigate, or otherwise defend themselves according to the principles of a democratic society.

As a result of the bracero program, American agriculture grew dependent upon a special class of temporary foreign workers, which depressed farm wages for domestic laborers and institutionalized substandard conditions throughout the industry. The bracero program finally was terminated in 1964, at a time when the nation was making admirable progress in confronting discrimination and poverty. After the program's demise, the social networks and employment relations established over years of formal recruitment spurred a mass wave of Mexican immigration that was partially responsible for what became the "crisis" of undocumented immigration of the 1970s and 1980s, proving that large guest-worker programs often have significant unintended consequences.

There is a small guest-worker program, known as the H-2A program, which allows growers who believe they are facing labor shortages to petition the government to authorize the importation of workers. In theory, the program protects domestic workers by favoring their employment and guaranteeing decent wages while protecting guest-workers through established contracts that set wages and working conditions and guarantee housing and transportation. Even with these contractual protections, the H-2A program has been a source of significant and sustained abuse, as revealed in repeated exposes and litigation. Problems with the program have led sectors of the agricultural industry, such as Florida sugar producers and West Virginia apple growers, to terminate their reliance on H-2A workers.

Now, 35 years after the demise of the bracero system and with clear knowledge of the problems plaguing the H-2A program, the agricultural industry has a new proposal that actually deprives both domestic and foreign workers of the limited and inadequate protections provided by previous guest-worker programs. What is striking about this new plan is that it comes at a time when every reliable study has concluded that there exists an adequate supply of farm workers to harvest America's crops. Still, while there is no shortage of farm laborers, the industry finds itself hiring an ever increasing number of undocumented immigrants, who are among the few workers willing to accept such difficult labor

~~Speak at the Women in the Law session~~

for low wages and no benefits.

When the reduction of protections is coupled with the promise that workers who participate in the program might be allowed to gain legal residency after five years of docile labor, the true nature of this proposal is revealed. The new guest-worker program is an attempt by the agricultural industry to legalize its undocumented-immigrant workforce without improving substandard conditions. It encourages imported laborers to accept whatever they are provided, in the belief that they might one day be allowed to work under conditions that the rest of us take for granted.

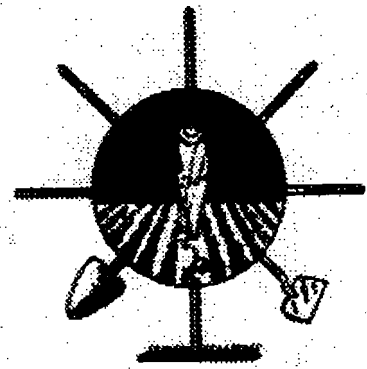
At a time of economic growth and prosperity, when the agricultural industry could be taking steps to improve the lives of our country's poorest workers, they have proposed a new guest-worker program that mocks our country's vision of itself as an egalitarian nation that offers a fair deal to anyone willing to work hard for a living.

GRAPHIC: GRAPHICGRAPHIC: Illustration by Barbara Cummings.

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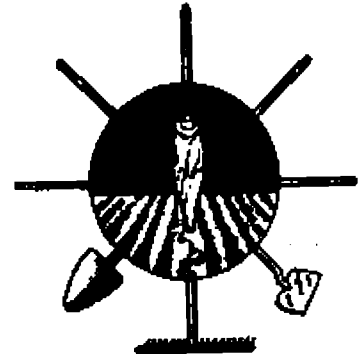
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PRESS RELEASE

Contact: Bruce Goldstein

December 1, 1999

Migrant Farmworkers and the WTO Government Aids Employers That Have Anti-Labor Policies

American agribusiness is forcefully demanding that the U.S. government bring its full negotiating power to reach an agreement in the World Trade Organization that would continue the expansion of exports of agricultural products. The negotiation over agricultural products is seen as key to the WTO's next round of discussions. At the same time, these agricultural employers are pressing the U.S. Government for new anti-labor domestic policies.

Before the U.S. Government jumps whole-hog into representing the interests of agricultural employers on the global scale, some understanding should be reached about the treatment of the industry's farmworkers inside the United States. **"As a condition of using the U.S. government's power in WTO to advance the interests of agricultural employers, agribusiness should be required to agree to improve wages and working conditions and housing opportunities for migrant and seasonal farmworkers. But that is not happening. Instead, we see an extraordinarily selfish, expensive campaign by agribusiness to secure new labor laws and immigration policies that would prevent migrant and seasonal farmworkers from ever improving their abysmal conditions,"** said Bruce Goldstein, Co-Executive Director of the Farmworker Justice Fund, Inc., a national advocacy group for migrant and seasonal farmworkers.

The American Farm Bureau Federation, the Florida Fruit and Vegetable Association, and other organizations representing large employers of migrant farmworkers are: (1) taking an active role in Seattle WTO proceedings, assisted by Secretary of Agriculture Dan Glickman and U.S. Trade Representative Charlene Barshefsky, and are **also** (2) lobbying Congress strenuously for new labor laws and immigration policies that would subject farmworkers in the United States to an indentured servitude through new "guest worker" programs, and inadequate wages and working conditions through new labor policies and restrictions on labor law enforcement. (The guestworker legislation is in S. 1814 and S. 1815. For further information, see www.crlaf.org/gworkers.htm. The labor

law proposals are in H.R. 1886, H.R. 2757, and H.R. 3121. For more information, contact Bruce Goldstein).

Secretary of Agriculture Dan Glickman promises extensive improvements in the ability of growers to sell their products abroad free of U.S. or foreign government impediments, but the best he can manage on issues of direct economic interest to farmworkers is the promise to "create a Working Group on the links between trade and core labor standards." (USDA Press Release Nov. 30, 1999). This is unacceptable.

The American Farm Bureau Federation is out in full force in the Seattle WTO events. It's position is that "Environment and labor issues should only be addressed in a manner that facilitates rather than restricts trade." Obviously, lowering wages would facilitate trade by lowering employers' costs and increasing their profits from that trade.

Agribusiness has already enjoyed a rapid expansion of its ability to export labor-intensive crops. According to the U.S. Department of Agriculture's Foreign Agricultural Service, the value of exports of fruits and vegetables and related horticultural crops increased as follows:

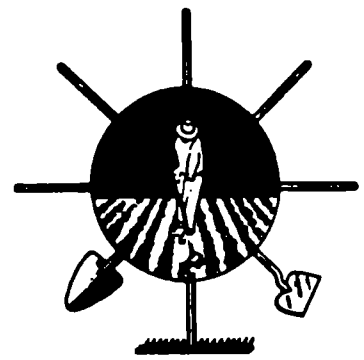
- Fiscal year 1988 (1987-88): \$4.01 billion
- Fiscal year 1990: \$5.57 billion
- Fiscal year 1994: \$8.54 billion
- Fiscal year 1996: \$10.03 billion
- Fiscal year 1999 \$10.27 billion

The recent slowdown in exports of these "specialty crops" (as contrasted with capital-intensive major commodities such as grains and soybeans) caused by economic declines in Asian countries is expected to be reversed as the buying power of developing nations grows. Meanwhile, farmworkers' wages declined in real terms and conditions for most farmworkers worsened. Most farmworkers live in poverty and are denied basic job protections guaranteed to other employees, even though farmworkers' jobs generally are lower paying, more dangerous, and more likely to be the subject of illegal employment practices.

The *quid pro quo* for government's help to American agribusiness in seizing the growing consumer markets abroad should be adoption of public policies that lead to a substantial improvement in farmworkers' conditions. The Congress and the Administration should (1) eliminate the many discriminatory labor laws that relegate farmworkers to worse conditions than other workers, (2) enforce the laws more effectively and more often through governmental and non-governmental organizations, and (3) adopt new policies that take affirmative steps to raise farmworkers' wages, build more farmworker housing, and empower farmworkers to improve their own conditions. //

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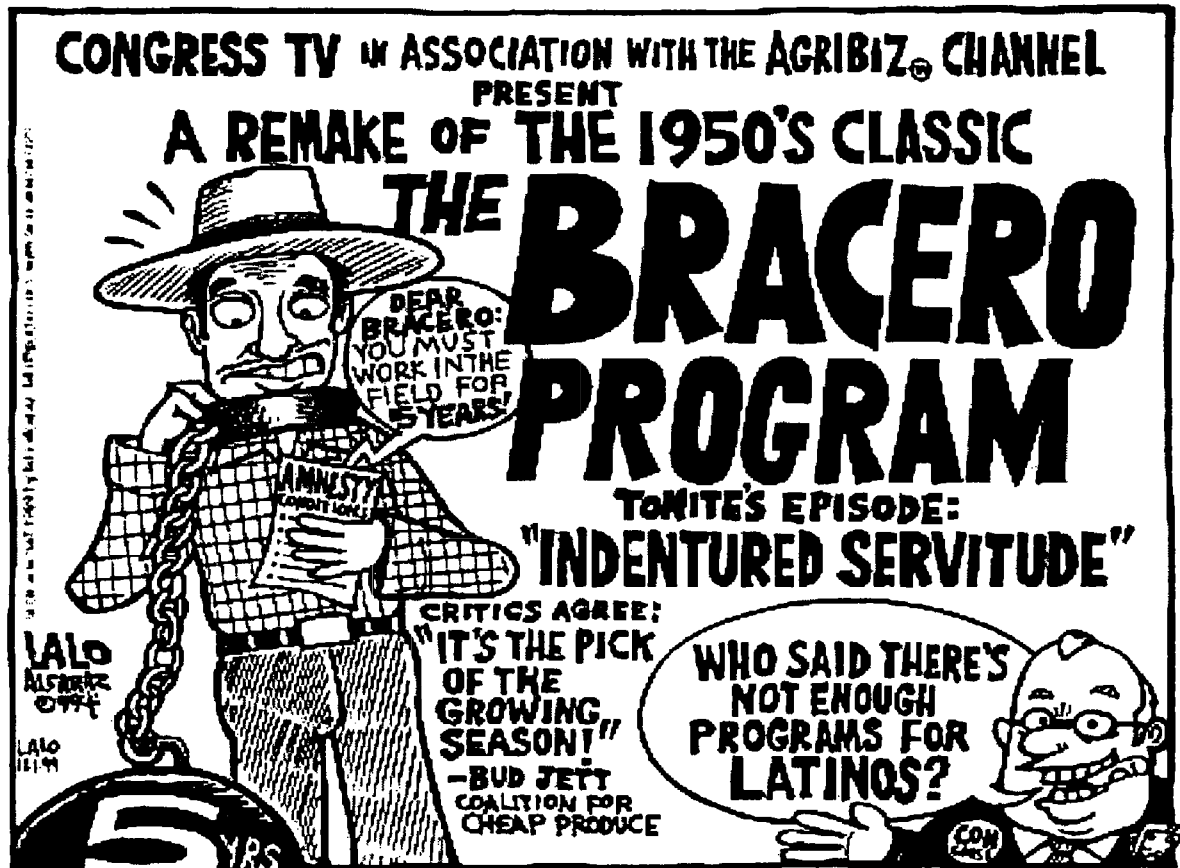


Media Coverage of the New Agricultural Guestworker Proposals

We thought you would be interested in some of the response to the agribusiness-supported legislative proposals to create a new guestworker ("adjustment") program and to revise the existing H-2A guestworker program.

1. Cartoon by "Lalo" (Lalo Alcaraz) which appeared in Hispanic Link and other places in November 1999.
2. Miami Herald Editorial, November 10, 1999
3. Article by Prof. Daniel Rothenberg, Chicago Tribune, November 4, 1999, "Agriculture's cynical answer to farm workers' poverty. Rothenberg is author of the well-received book, With These Hands: The Hidden World of Migrant Farmworkers Today (1998).
4. Cartoon by Kevin Siers, Charlotte Observer, November 2, 1999, about the current H-2A guestworker program, which accompanied a three-part series about the treatment of H-2A farmworkers in North Carolina.
5. Article by Mark Krikorian, Center for Immigration Studies, in The National Review, September 14, 1998, "Slave Trade."
6. The Nation, Editorial, "Bill of Wrath," May 11, 1998.

For further information, contact Bruce Goldstein, Farmworker Justice Fund, Inc.



Miami Herald
November 10, 1999

OPINION

JOHN S. ANCHUT (1884-1983) **The Miami Herald** JAMES L. KADOT (1908-1971)
ALBERTO BRAGUEN FLEISHER • TOM FIEDLER EDITORIAL FAGLS EDITOR • LARRY OLAMSTEAD MANAGING EDITOR • MARTINA MUSGROVE AND JOE OGLESBY ASSOCIATE EDITORS • JOE NATOLI DE DESK

EDITORIALS

CONGRESS HEADS TO ADJOURNMENT

THINGS TO DO, AND NOT TO DO

Having shelved gun-control and juvenile-crime bills, campaign-finance reform, a "patient's bill of rights" for those in managed-health-care plans, Medicare drug benefits and Social Security reforms, Congress now is rushing to cut the last of the budget deals and adjourn. In those last-minute deals could come a heap of help — or trouble.

MEDICARE FIXES

The 1997 balanced-budget deal has cut payments to hospitals, nursing homes, therapeutic services and home health care by 20 percent. All will be whacked again in 2000 if Congress doesn't sheathe the hatchets.

Among the hardest hit will be patients in nursing homes who, because of caps on total reimbursable services, would after a stroke be forced to choose between, say, speech or physical therapy. Two nursing-home chains have gone belly up, others may follow. The Senate bill, S 1788, would inject a welcome \$1.1 billion into the Medicare-Medicaid programs. Pass it and stave off crisis.

RESEARCH CAN WAIT?

Here's a bad idea: Delay \$7.5 billion in funding for the National Institutes of Health until Sept. 29, the last day of fiscal year 2000. Why? So Republicans and Democrats can tell voters that they increased funding for cancer and other medical research without taking any blame for busting the budget. It's one more accounting trick, and a cruel one at that. Neither party should get away with it.

FARMWORKER JUSTICE

Florida Democratic Sen. Bob Graham again proposes legislation to "improve the troubled agricultural labor system" — for agribusiness.

The bill promises legal status for more than

500,000 undocumented farmworkers — though requirements will make it nearly impossible to qualify. Other provisions erode the few protections that currently exist for "guest-workers." Thus, farmers are ensured of an ever-cheaper, readily exploitable labor force. The so-called "reforms" aren't.

To really fix the "ag-labor problem," Congress ought to provide farmworkers the full benefits and protections applied to other workers: decent wage, overtime, unemployment compensation and collective bargaining rights.

WAGE HIKE LINKED TO TAX CUTS

So what if President Clinton vetoed tax cuts for the rich. They're back, or at least \$76 billion worth (over 10 years), which were attached yesterday to a Senate bill raising the minimum wage by \$1 to \$6.15 over three years.

Highly paid (\$130,000-plus) corporate executives would get to stash more money tax-free into pension funds, and fairness rules now requiring uniform contribution rates would be relaxed, allowing companies to contribute, say 6 percent to executive pensions, and 5 percent to other employees. Those who can afford to buy health and long-term care insurance would be allowed to deduct between 25 percent and 100 percent of the premiums. And businesses now deduct 50 percent of the cost of "business meals" — the three-martini lunch — would get to deduct 80 percent.

None of these breaks benefit the 75 percent of taxpayers in the 15 percent bracket. The Institute on Taxation and Economic Policy found that 91 percent of the tax benefits of these pension provisions go to the 10 percent of Americans with highest incomes; the bottom 60 percent get less than 1 percent.

If Congress is determined to cut taxes, split the benefits to rich and poor.

OFTEN THE TEST OF COURAGE
IS NOT TO DIE BUT TO LIVE. – *Vittorio Alfieri*



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port Britain in a crisis like the Falklands or to expect Britain's support in a crisis like last month's bombing of Sudan and Afghanistan. The rest of the time they forget about the place. There is no organized pro-British diaspora in the U.S. which is constantly urging support for the mother country and which could therefore to be asked to agitate for Britain-in-NAFTA. But there are nations that enjoy both diaspora backing and the general good will of American democracy—and that would make highly plausible candidates for NAFTA membership alongside Britain. Namely, the new market democracies of Eastern Europe—Poland, Hungary, the Czech Republic, etc. Their accession, indeed, would help to underpin economically the political stability that their NATO accession (or the prospect of it) has already established. And the old “captive nations” lobby in the U.S. would be a powerful advocate for it, and by extension for Britain's accession too.

It might even be not wholly unwelcome to the EU. France would probably resist the idea at first as a kind of American economic encirclement of Europe. But other members might see it as a way to postpone full EU membership for the new democracies more or less indefinitely—which is plainly what they would like to do—by supporting this alternative option.

The Germans would be especially keen to do so if the offer were also extended to Turkey, which the EU has irresponsibly alienated by excluding it even from early consideration for membership (as a result of which this key country is drifting eastward toward an Islamic identity). And over time Germany, Italy, and Britain could probably persuade the French to accept EU membership in this enlarged NAFTA, as they previously obtained French consent to the GATT Uruguay Round, on the grounds that they would exercise more influence on its development from inside than outside.

But a Franco-German central bloc in Europe—as one member of this new NAFTA—could then proceed to full federal union without dividing the Atlantic alliance and threatening a superpower rivalry to the United States.

There are, of course, a lot of “ifs” about this scenario. There are none about the likely outcome of our present inaction. □

Slave Trade

Permitting guest workers sounds like the perfect solution to the immigration imbroglio. Look again.

MARK KRIKORIAN

A BILL to substantially increase the number of foreign high-tech workers admitted under temporary visas has stumbled in Congress, mainly because of divisions among Republicans and a strong veto threat from the White House. The House leadership postponed until after the August recess a vote on the bill to

increase the number of “H-1B” visas for computer programmers and other skilled workers by almost 200,000 over five years, from the current 65,000 a year to 115,000 by 2002. And the bill

Mr. Krikorian is Executive Director of the Center for Immigration Studies in Washington, D.C.

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may simply fade away because, in the words of one House Republican staffer, "How many people want to vote for 190,000 new foreign workers two months before an election?"

But even if it doesn't become law this year, the implicit model of immigration it embodies will be with us for some

*Today's captive workers
come voluntarily, but
they can't strike, can't
switch jobs, can't
even complain.*

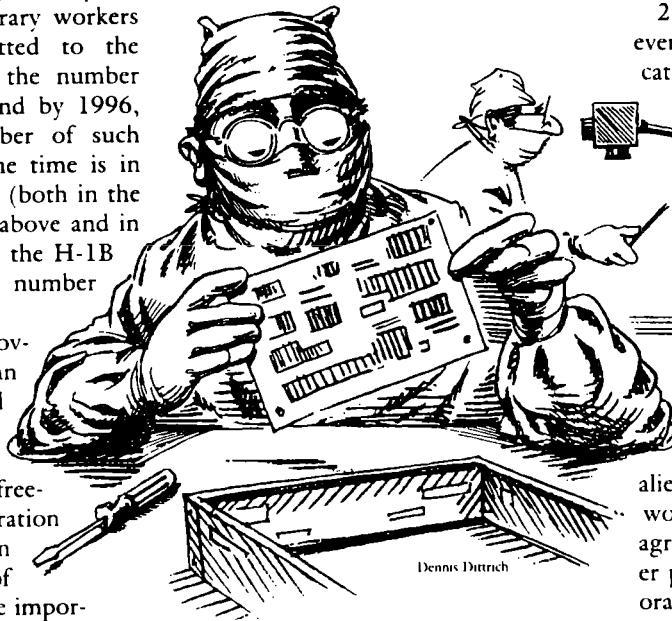
time. Under this new dispensation, "nonimmigrants" (the technical term for those on temporary visas) are admitted for long periods of time to work for specific employers, without the ability to change the terms of employment or switch employers. Though most of today's immigrants are able to participate freely in the labor market, the number of captive foreign workers has been growing steadily. In 1981, only 44,770 temporary workers and trainees were admitted to the United States; by 1990, the number had grown to 139,587, and by 1996, 227,440. The total number of such workers present at any one time is in the hundreds of thousands (both in the visa categories mentioned above and in others), and proposals like the H-1B bill would increase that number dramatically.

The model that has governed our law for more than a hundred years treated immigrants as free workers, able to compete in the labor market. This free-worker model of immigration was formally articulated in the Contract Labor Law of 1885, which prohibited the importation of aliens under contract for the performance of labor or services of any kind. This was a reaction to the importation of "coolie" labor from China, a practice which itself succeeded the institution of indentured servitude. And it was a recognition that the freedom of workers to negotiate wages and working conditions and to change jobs is essential to capitalism—just as indentured servitude was a manifestation of pre-

capitalist labor relations, like vassalage or serfdom.

Today's emerging immigration model harks back to those pre-modern arrangements. Like their predecessors, today's captive workers come voluntarily, for the chance of earning more money or settling permanently, but they can't strike, can't switch jobs, can't even complain. Some critics compare this captive-worker model to slavery, but actually, for employers, it's much better than slavery: they don't have to make huge capital investments in purchasing workers, nor do they have to feed and clothe the guest workers, nor support them in their old age. Employers enjoy the benefits of a manorial relationship without the costs.

The bipartisan U.S. Commission on Immigration Reform was unequivocal in its opposition to the captive-worker model of immigration. Commenting on farm workers, but with an eye toward all nonimmigrant worker programs, the Commission wrote that it "unanimously and strongly agrees that such a program would be a grievous mistake. . . . Experience has shown that such limitations are incompatible with the values of democratic societies worldwide."



Today's emerging captive-worker model of immigration has three components.

1. *High-tech Braceros:* The H-1B visa program was invented in 1990 because of congressional panic over a labor shortage which never materialized. The program allows for 65,000 temporary visas, good for up to six years, for people in "specialty occupations" tied to a specific employer. The captive nature of this labor force

doesn't start with the H-1B visa. Many of the workers arrive on student visas, then extend them for one year to get "practical training" (tied to an employer). Only then do they get H-1B visas.

Getting assigned to a different employer is difficult; and since the main payoff of an H-1B visa is sponsorship by one's employer for a green card, the worker doesn't want to have to start the sponsorship process over by switching jobs, possibly dragging things out so long that the temporary visa expires first. Once the immigrant acquires a green card, he's free to work anywhere he wants, but his period of indenture is long enough for his employer to profit handsomely from the arrangement.

So it's no surprise that high-tech companies are pushing for an increase in these visas. They could instead have sought the reallocation of some family-based green cards to the employment-based categories. John O'Sullivan suggested that policy in these pages ("Silicon Implants," June 1), and business could almost certainly get Congress to approve it. But computer firms want to prevent job-hopping, and simply increasing the number of immigrant programmers won't do that.

2. *Keeping Them on the Farm:* During every Congress, the indefatigable advocates for agribusiness float proposals for new agricultural guest-worker programs, contending that the existing H-2A program allows too few temporary farm workers to enter the country (the figure is around 20,000 per year). In July, these advocates finally got the Senate to approve a new program with neither numerical limits nor worker protections.

Farmers perennially claim that if they did not have either illegal aliens or captive guest workers, crops would rot in the fields and American agriculture would implode. Guest-worker programs thus become the only honorable means of producing food. But most agricultural economists agree that American agriculture could survive, indeed thrive, without either illegal workers or captive guest workers. While some marginal producers would go under, the industry as a whole would adapt and become stronger, as the smaller labor force became more stable (because of better pay and benefits) and more productive (through more efficient use of labor and more extensive

mechanization). In any case, labor costs account for a very small portion of the retail price of produce.

3. *Kuwait in the Pacific*: The Commonwealth of the Northern Mariana Islands (CNMI) offers the most sobering look at the development of the captive-worker model of immigration. The United States granted commonwealth status to the islands in 1986, part of the deal being that the CNMI would control immigration in order to protect the native culture.

Instead, the local administration has used this authority to import a turnkey garment industry staffed entirely by guest workers. These Chinese, Filipinos, and others now number 35,000, compared to only 25,000 U.S. citizens. The captive workers are subjected to all the indignities one would expect, including withholding of pay, sexual exploitation, coerced abortions—the Chinese are even prohibited by their contracts from going to church. The natives, meanwhile, are almost entirely employed by the government or on welfare. Foreigners account for more than 90 per cent of the private-sector workforce. The only comparable examples in the world are Persian Gulf dictatorships like Kuwait and the United Arab Emirates.

Many Republican congressmen have resisted a Clinton Administration initiative to extend U.S. immigration and labor laws to the islands. This would make sense if a conservative alternative, like independence, were also on the table. But many conservative lawmakers, staffers, and journalists have touted the islands as a “phenomenal economic success” and an “experimental laboratory of liberty,” as if the CNMI were

society: all of us, including immigrants, are human beings, created in the image of God, not mere factors of production to be used and discarded. (After the failure of Germany’s guest-worker program,

one writer lamented, “We asked for workers, but they sent us men.”)

Conservatives cannot applaud the emerging consensus among GOP lawmakers: pro-immigration, anti-immigrant. □

Security Blanket

If the public is ever to feel comfortable with Social Security reform, it needs to see a trial run.

JOHN HOOD

IT has long been a free-market dream: changing Social Security from a redistributionist, pay-as-you-go social program to a personalized system of private retirement accounts. Once confined to Cato Institute seminars and Philadelphia Society meetings, the idea now has lawmakers of all ideological stripes buzzing. And yet, a big political obstacle remains. Privatizing Social Security would be reform on a grand scale, involving many billions of dollars—and the retirement prospects of many elderly and near-elderly voters.

What reformers need is a trial run, a demonstration that average folks can manage their money just as well as government bureaucrats can (or, indeed, better). Supporters point to Chile, Australia, and Great Britain as proof that it can be done.

But promising as these examples are, most Americans won’t

be convinced until they have seen an example closer to home. Policymakers can create one: by letting states privatize Unemployment Insurance.

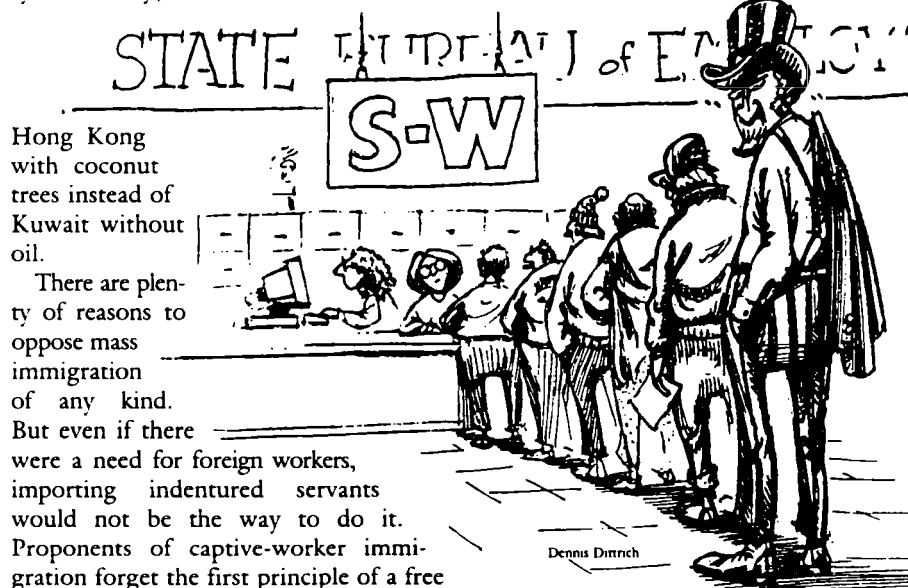
The Unemployment Insurance program was created by the same legislation as its bigger cousin, the Social Security Act of 1935. A joint federal-state program, UI provides two services: the promise of UI benefits in the event of a layoff, and the operation of Employment Service job offices throughout the country.

UI is one of our largest social programs. Like Social Security, it is financed by payroll taxes—to the tune of \$23 billion in 1997. Also like Social Security, it runs an annual surplus, and its accumulated “trust fund” (\$35 billion as of last year) must by law be invested only in federal Treasury securities and thus serves to mask the true size of the federal budget deficit.

There is another similarity to Social Security: Unemployment Insurance is an outmoded program that offers a bad deal to workers and is a drag on the economy.

In the first place, workers are eligible for UI benefits only if they have lost their job involuntarily and through no fault of their own. If you choose to leave one job in search of a better one, resign to follow your spouse to a new city, or are fired for what your manager calls “cause” (even if this is untrue), you cannot make a claim.

Mr. Hood is president of the John Locke Foundation, a state-policy think tank in Raleigh, North Carolina, and the publisher of a new monograph entitled Savings & Loans: Reforming Unemployment Insurance through Competition and Compound Interest.



EDITORIALS

its restructuring demands that cause economies to contract and joblessness to expand—does act to insure that its loans benefit average citizens and promote prosperity. Bello, who also co-directs a research institute in Bangkok, was outraged by this testimony. And when he tried to confront Geithner outside the committee room, a young Treasury Department aide pushed him away while another aide hustled Geithner toward the door.

After Geithner escaped, Bello explained to reporters that during the recent I.M.F. negotiations with Thailand, Korea and Indonesia, he never saw the I.M.F. reaching out to public organizations. "All the deals were arranged behind closed doors with the bureaucrats," he said. "There was no consultation with the public. And how can they say this is promoting prosperity? In Thailand, 800,000 people will be out of work. In Korea, they have what they call 'I.M.F. suicides,' when a laid-off worker kills himself and his family."

Geithner had come to the Hill as an escort for Karin Lissakers, the U.S. executive director of the I.M.F., who was making a historic appearance. The I.M.F. is fifty-one years old and Washington is responsible for \$36 billion of its funding, but no Congressional committee has ever publicly questioned the chief U.S. representative to the fund. Imagine allowing a government agency to spend that much without a single hearing.

Both Republican chairman Spencer Bachus and independent socialist Bernie Sanders, the ranking minority member, are foes of the I.M.F.—further proof that aspects of globalization bring left and right together—and oppose the Administration's current request for \$18 billion in new I.M.F. funds. Lissakers did her best to make her job seem technical and dull, but some interesting information emerged. She disclosed that of the 2,000 decisions that the I.M.F. board has made since 1993, only about a dozen ever came to a formal vote. This surprised the subcommittee. After all, Congress has passed several measures directing the U.S. representative to the I.M.F. to vote certain ways. "For twenty years, members of Congress have been wasting their time,"

Sanders observed. He also learned that an amendment he passed with Barney Frank in 1994 to cut off I.M.F. loans to nations with poor human rights records was not as clear as they thought. Why didn't it compel Washington to vote against loans to Indonesia? he asked. Well, Geithner explained, the State Department tells Treasury what countries are to be shunned, and Indonesia is not on the list. But, Sanders replied, the State Department's own human rights reports say Indonesia commits "serious human rights abuses." Yes, Geithner answered, but State used different criteria for the human rights report than for the no-loan list. Sanders shook his head in frustration.

The point of the hearing was to stir up opposition to the \$18 billion funding request. It waltzed through the Senate, but opponents in the House are trying to block it. To that end, the subcommittee heard the testimony of a rainbow coalition of I.M.F. opponents, including consumer advocate Ralph Nader and Edwin Feulner, president of the Heritage Foundation. Conservatives dislike the I.M.F. for its internationalism and its interference with market forces. Progressives disapprove of its secrecy and the ways its loans assist corporations and cronies at the expense of workers and families. (In Congress, though, progressive critics of the I.M.F. are split. Representative Barney Frank advocates attaching tough conditions to the money and forcing reform; Sanders and his allies feel they've been there and done that and take a just-say-no stand.) Representatives of the Institute for Policy Studies—and the American Enterprise Institute—spoke against the fund. And so did Bello. An Administration official wasn't willing to listen to him, but a right-wing committee chairman was. The politics of globalization makes a strange bed, Bello. DAVID CORN

Bill of Wrath

Has there ever been a time when U.S. immigration policy seemed more nakedly driven by the needs of big business? It's a question worth worrying about, as pointed up by several recent events. One is the government's conclusion, after a six-month review, that a program under which wealthy investors were given green cards if they created U.S. jobs has been badly manipulated. (The Immigration and Naturalization Service moved to freeze new visas under the program; then, bowing to Congressional pressure, it allowed 1,500 exceptions.) Another is the lobbying effort of the high-tech industry, which is coming under fire for trying to expand—through a proposal by Michigan Senator Spencer Abraham—visa allocations designated H-1B, for hard-to-fill jobs.

Yet another, more serious, event is Congress's latest attempt to pass a guest farm-worker bill. In scale it hardly seems like the sort of legislation that would rile the ghosts of John Steinbeck or Edward R. Murrow: It's a mere two-year pilot program that would allow 40,000 "non-immigrants" to work temporarily in the United States—a far cry from past versions of similar legislation, like that of 1981 or 1996, which, respectively, allowed up to 50,000 and 250,000 people annually to work here temporarily.

But don't be misled. The Commission on Immigration Reform recently called the bill a "grievous mistake," and that's no over-

CALVIN TEBBLEN

THE HUMAN SIDE OF AL GORE

His tax returns show Albert Gore
Could stand to give away some more.
And though he always seems to strain
To feel disaster victims' pain,
They find him distant, inasmuch
He's never close enough to touch.
It's said that he will have to learn
Just how to demonstrate concern.
No matter, though, what Albert does, he
Will never seem all warm and fuzzy.

EDITORIALS

statement. This proposal, the Temporary Agricultural Worker Act, goes beyond the notorious bracero programs of 1917–22 and 1942–64 in its ambition. It essentially privatizes immigration policy, giving agribusiness what it's always wanted, a free hand.

"A lot of Congressmen realize we're going to have to do something," says Bryce Quick, an aide to Oregon Representative Robert Smith, who, like most insiders, thinks the bill will eventually become law. Agribusiness in fruits, vegetables, nuts and other labor-intensive crops has lobbied intensively for it, and Smith, the bill's main House proponent, has grandly claimed that farmers will lose a third of their crops if it doesn't become law. That's farfetched, but he's probably right that cheap, reliable labor is hard to come by these days. There are a number of reasons—a beefed-up I.N.S., much tighter Social Security registration of farm laborers, the encroaching suburbanization of rural areas and the growers' desire to control the most variable of costs, labor. This partly explains why Lamar Smith, the House's leading anti-immigration voice, now backs the bill (although Smith also won concessions in reducing immigration in two other categories).

Just how cheap, though, does agribusiness want labor? After all, domestic workers are available. A December 1997 General Accounting Office report found that in eleven of the twenty geographic areas it studied, the jobless rate reached double digits.

But that irony is the least of the bill's flaws. Although it throws a few bones in the direction of workers' rights, like workers' compensation and minimum wage, overall it represents a giant leap backward. It enshrines the nineteenth-century "mud-sill" theory of work, in which capital basically owns labor, against which no less a figure than Abraham Lincoln fought. Guest farm workers would essentially become second-class citizens, temporary indentured servants. This isn't simply because workers can't bring their families. Nor is it that it peels away thirty years of such farm workers' rights as collective bargaining, overtime pay, vacation pay, sick leave and health insurance. Look at three other critical areas.

First, there's no housing provision. Growers have to provide housing only when "it is prevailing practice in area and occupation to do so." In other words, as Bruce Goldstein, co-head of the Farm Worker Justice Fund, points out, the majority of employers in an area must have been providing housing already—and most workers must have been receiving housing—which is highly unlikely in towns that have been fighting low-income housing. Workers will thus have to make do with whatever they can get, which in the past has often meant sleeping in fields, shacks or even caves.

Second, there's no provision insuring that farm laborers will be given work most of the time they're here. Under a similar program, employers must guarantee that laborers work three-quarters of the contract period, but under this proposal they don't. That might sound innocuous, but many growers use that condition to hire as many guest farm workers as they can, using overrecruitment to goad workers into doing whatever the growers want.

Third, and worst of all, there's no contract. Monte Lake, the bill's chief lobbyist, acknowledges that it requires not a contract but an "attestation"—employers must "attest" to the job order they filled out at a state agency. Otherwise, the only requirement is that, as the bill's summary states, the "Job Service reviews [the job order] only for completeness and obvious inaccuracies." With no

contract, the government has almost nothing to enforce in a bill that already doesn't provide much in the way of enforcement. Even if proponents are right that most growers are small farmers with forty or fifty acres of land, that's misleading. Laws aren't passed because we assume employers are naturally virtuous. Indeed, the shocking abuses in the Northern Mariana Islands about which Congress recently heard testimony—child prostitution, forced abortions, human rights abuses—exist because of a similar guest worker program.

It's interesting that the proposal's backers don't try to rebut the arguments against it. Instead, they inveigh against a similar program, the H-2A law. "There's almost a foot high of paperwork you have to go through with H-2A," grumbles an aide to Robert Smith. But instead of the current law's 300-odd pages of paperwork, the guest farm-worker bill's paperwork would go to the opposite extreme, requiring only a dozen or so pages. Other counterarguments are similarly unpersuasive—probably the best one contends that a guest worker bill would actually be a step up for most illegal aliens.

Excuses aside, there's something dishonest about the way advocates are pressing this cause. The bill puts the burden of effort on farm workers and none on the group that's reputedly demanding cheap produce: consumers. If the bill's proponents are willing to repeat *Grapes of Wrath* or *Harvest of Shame*—era mistakes, they ought to explain why to consumers and their colleagues in Congress. Big business, especially in the realm of immigration, could use a dose of old-fashioned democracy.

MARK STRICHERZ

Mark Stricherz is a reporter-researcher for The New Republic.

Liquid Asset

Mark the date: March 21, 1998. On that day, water—yes, water, the H₂O of oceans, rivers, lakes and rains—officially became a corporate commodity. The corporate stranglehold on humanity may now be regarded as complete.

It was in Paris on March 21 that a United Nations conference on water decreed that henceforth, as Reuters reported,

(Continued on Page 58)

AMPLIFICATION

Jeremy Rifkin's April 13 article on "Human Life as Intellectual Property" was largely adapted from his new book, *The Biotech Century: Harnessing the Gene and Remaking the World*. Since Rifkin's book is heavily footnoted but his *Nation* article was not, readers were unable to see that valuable information derived from the nongovernmental organization Rural Advancement Foundation International. Those interested in the subject, particularly in corporate concentration in the life sciences, can find related material at RAFI's Web site, www.rafi.ca.

End the harvest of shame

Second of a two-part series on the plight of farm workers

THE ABUSE OF New York's farm workers — who labor long hours in the fields with none of the job protections taken for granted by other workers — was sealed when the state Legislature passed a law in 1937 effectively barring them from joining unions.

Shamefully, that law is still on the books — as are numerous others that deny farm workers rights guaranteed to every other job sector.

Six decades of legal discrimination is a disgrace. Enough is enough. It's time to rewrite the laws.

That's precisely what a panel of experts from Cornell University recommended in 1991. Its comprehensive study, commissioned by then-Gov. Mario Cuomo, concluded that "there is no reason to single out farm workers for separate and unequal treatment under the law."

No reason then, and no reason now. But nothing has changed in the eight years since the report was issued.

That farm workers are victims of legal discrimination is indisputable. State labor law specifically excludes them from being defined as employees. The reason is as obvious as it is sinister. New York's Constitution grants employees protection from retaliation if they choose to bargain collectively. Farm workers do not have that protection. The exploitation is codified in law.

"The issue at hand," the Cornell panel wrote, "is one of principle, not utility. In the interest of equity and fairness, farm workers ought to enjoy the same rights and protections as nonfarm employees."

These are not the ravings of wild-eyed agitators. The report is the product of a panel of distinguished Ivy League experts with intimate links to growers. Cornell is New York's official land grant college, chartered to promote agricultural research. It runs the state's cooperative extension program to aid farm producers.

Yet the Cornell report was dead on arrival in Albany. Blame the Republican-controlled state Senate. The Democrat-led Assembly has passed numerous agricultural reforms. This year alone, it passed legislation that would have granted farm workers a day of rest per week and forced growers to apply sanitation mandates to worker housing.

In the Senate, Olga Mendez (D-Manhattan) has sponsored several reform bills, but the Senate's GOP majority killed them. Said she: "The Republicans generally side with the farm owners, who are well organized. But if average New Yorkers knew about these shameful conditions, they would not tolerate it."

LAST YEAR, after years of pressure by worker advocates, state Sen. Nicholas Spano (R-Yonkers), chairman of the Labor Committee, backed a bill requiring field toilets and wash-up facilities at farms with more than five employees. This year he is sponsoring a measure to raise the state's minimum wage to \$7.65 an hour. It also would eliminate the unfair two-tiered system that forces farm workers to wait longer than other workers to get minimum wage hikes. Predictably, the session is almost over, and the bill is still in committee.

"The time has come to treat agricultural workers the same way we treat other workers," Spano said. True. But his words would ring truer if they were backed by action. Said one upstate pastor who advocates for farm workers: "Spano says he's with us, but in the end we have nothing to show for it."

Reform will come only when state Senate Majority Leader Joe Bruno wants it. And the chances are not good. The concerns of farm workers have zero weight compared to the interests of his members from rural districts, whose fortunes are rooted to the growers.

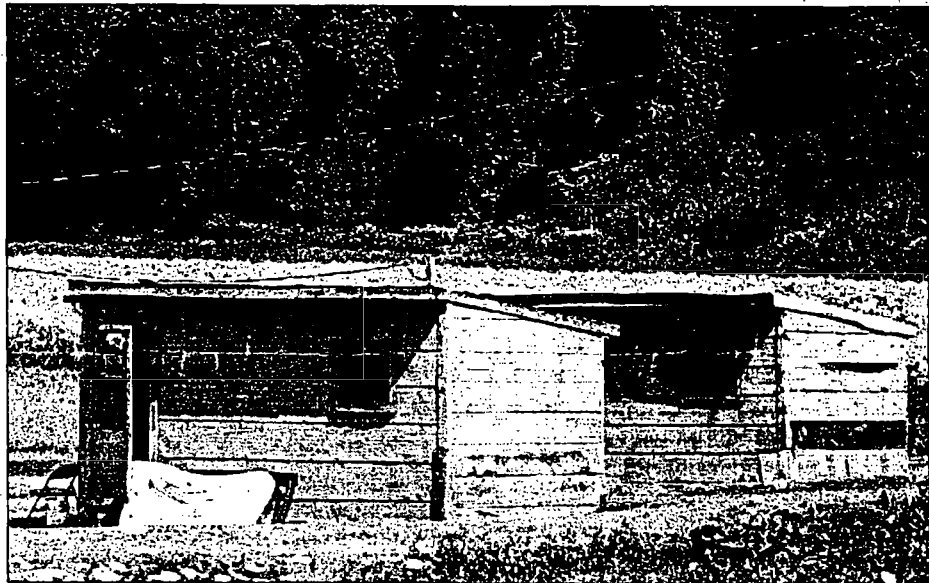
Bruno told this page he is "very sympathetic" to workers. But, he added, "unemployment in this state is at a 20-year low. People don't have to work on a farm."

People don't have to be cops or firefighters or teachers, either, but that hasn't stopped Bruno and his colleagues from giving those unions numerous perks and benefits. The double standard stinks.

Farm workers — many of them non-white migrants, most of them dirt poor — have no voice in Albany. A few small, ill-funded advocacy groups — like CITA, a storefront operation in Florida, N.Y., with 400 worker members, and the statewide Farmworkers Legal Services, with only two lawyers — valiantly try to redress unfair labor practices. But it's a losing battle.

To his credit, Denis Hughes, the head of the state's AFL-CIO, is supporting Spano's minimum wage bill. But otherwise, no one in the what's-in-it-for-me labor movement has applied an ounce of pressure to the Legislature.

Aligned against the workers is the powerful Farm Bureau, with 30,000 members and 40 employees, including four full-time registered lobbyists. Last year in its newsletter, the bureau about 11 agriculture bills "killed through NYFB effort" — legislation



HOWARD SIMMONS/DAILY NEWS

Field hands live in these shacks while working in the onion fields of Orange County, N.Y.



"The time has come to treat agricultural workers the same way we treat other workers."

NICHOLAS SPANO
N.Y. State Senator

LEGAL DISCRIMINATION AGAINST FARMWORKERS

	ALL OTHER WORKERS	FARMWORKERS
Collective bargaining	Yes	No
Overtime	Yes	No
Day of rest	Yes	No
Disability Insurance	Yes	No
Employment Insurance	Yes	No*
Safety Training	Yes	No
Heat relief	Yes	No

*Not available for most farmworkers

that would have expanded unemployment insurance for farm workers, granted them a day off per week and allowed them to bargain collectively without fear of firing.

The result: The only advances farm workers have managed to win are access to drinking water on the job, not made law until 1996, and Spano's limited field-toilet law. This is what passes for reform in Albany.

Indeed, the Farm Bureau is tied so tightly to the levers of government that next week its top lobbyist is becoming the state's deputy commissioner for economic develop-

ment and agricultural policy.

Farm Bureau President John Lincoln implies that the unionization issue is being whipped up by outside agitators. "The interest in collective bargaining," he claims, "is not coming from the workers." Of course not. Not in a Catch-22 world where workers can legally be fired for attempting to organize.

As for the growing numbers of illegal in the fields, Lincoln says the solution is to change the federal H2A visa program to allow more foreigners to work legally on New York's farms. That would be just fine for the owners. The H2A visas are so restrictive that workers can be fired at will and deported. Instead of being expanded, the program should be changed so guest workers are free to change employers. That would give growers some incentive to treat them better.

The growers' fear of collective bargaining is baseless. Allowing farm workers to unionize didn't destroy California agriculture. Since Cesar Chavez won bargaining protections for farm workers in the 1970s, the Golden State farm economy hasn't collapsed. On the contrary, California has the largest agricultural sector in the country, eight times the size of New York's. Nine of the nation's top 10 farm counties are in California.

And, ironically, many farm workers in California choose not to join unions. The same thing, many experts believe, would happen in New York. But the important word is "choose." Workers in New York have no choice.

The growers like to portray themselves as fiercely independent, rugged individualists. The implication is that only weaklings need someone else to bargain for. But the farm owners are anything but independent.

They are clamoring to join the Northeast Dairy Compact, which operates as a legal cartel to ensure high profits for dairy farmers by driving up retail prices. Growers also receive corporate welfare in the form of subsidies, crop supports, price supports and low-interest loans. New York farmers got \$43.3 million in direct federal payments in 1997, the latest year for which figures were available. That's up 56% from the year before. And, of course, the law disrupts the free market by specifically denying protections to their labor force.

All of which belies growers' claims that the simple reforms would cost too much. A variety of factors, ranging from local weather to global markets, cause industry profits to fluctuate widely from year to year. Giving workers basic rights might cost consumers a few extra pennies at the supermarket, but it won't topple New York's farm economy.

Besides, in all other industries, higher wages and better conditions go hand in hand with higher productivity. Agriculture should be no different.

The early years of this century saw major advances in workers' rights. As we enter the next century, the last excluded group must be included. It is only fair and right.

Finally, New York's harvest of shame will disappear like the dust of the Great Depression.

DAILY NEWS

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Agriculture's cynical answer to farm workers' poverty

By Daniel Rothenberg

Last week, a bill was introduced in the Senate that, if passed, may well be the most serious threat to the rights of farm workers in the last 30 years. The new law would allow agricultural employers to import tens of thousands of foreign laborers from poor countries to work in the United States for low wages with the promise that, if they continue for five years without complaint, they might be allowed to receive legal residency.

Farm workers are the poorest and most marginalized laborers in the United States. They earn an average annual income of \$8,500 and commonly suffer abuses that would be inconceivable in other industries.

Over the past 20 years, farm workers' real wages have fallen roughly 25 percent and the value of their earnings continues to drop even as the American economy surges forward with record growth rates. Not surprisingly, the only people willing to pick our country's fruits and vegetables are those with the fewest options, including large numbers of undocumented immigrants who represent nearly four out of every 10 farm workers.

The agricultural industry is correct in seeking to address its reliance on undocumented laborers and it is understandable that the industry might advocate a program building on the relationship between growers and their largely immigrant Latino work force. Still, the proposal is a cynical means of playing off the extraordinary imbalance of power between a \$170 billion industry and our nation's most vulnerable workers.

To understand what is wrong with the proposal it is important to consider both our nation's history of special agricultural guest-worker programs, which have been plagued by scandal and abuse, as well as the underlying logic of the industry's growing reliance on undocumented immigrants.

The largest guest-worker system in United States'

history was the *bracero* program, which began in 1942 as a special measure to address wartime labor shortages and then continued for 23 years, allowing 5 million Mexican workers to enter the country. *Bracero* laborers were recruited from poor rural communities to work for specific employers on temporary contracts whose limited protections were rarely enforced. By relying on temporary, foreign workers who could be sent home at any time and subsequently blacklisted, employers were freed from the responsibilities of dealing with domestic workers with the capacity to file formal complaints, organize, litigate, or otherwise defend themselves according to the principles of a democratic society.

As a result of the *bracero* program, American agriculture grew dependent upon a special class of temporary foreign workers, which depressed farm wages for domestic laborers and institutionalized substandard conditions throughout the industry. The *bracero* program finally was terminated in 1964, at a time when the nation was making admirable progress in confronting discrimination and poverty. After the program's demise, the social networks and

employment relations established over years of formal recruitment spurred a mass wave of Mexican immigration that was partially responsible for what became the "crisis" of undocumented immigration of the 1970s and 1980s, proving that large guest-worker programs often have significant unintended consequences.

There is a small guest-worker program, known as the H-2A program, which allows growers who believe they are facing labor shortages to petition the government to authorize the importation of workers. In theory, the program protects domestic workers by favoring their employment and guaranteeing decent wages while protecting guest-workers through established contracts that set wages and working conditions and guarantee housing and transportation. Even with these contractual protections, the H-2A program has been a source of significant and sustained abuse, as revealed in repeated exposés and litigation. Problems with the program have led sectors of the agricultural industry, such as Florida sugar producers and West Virginia apple growers, to terminate their reliance

on H-2A workers.

Now, 35 years after the demise of the *bracero* system and with clear knowledge of the problems plaguing the H-2A program, the agricultural industry has a new proposal that actually deprives both domestic and foreign workers of the limited and inadequate protections provided by previous guest-worker programs. What is striking about this new plan is that it comes at a time when every reliable study has concluded that there exists an adequate supply of farm workers to harvest America's crops. Still, while there is no shortage of farm laborers, the industry finds itself hiring an ever increasing number of undocumented immigrants, who are among the few workers willing to accept such difficult labor for low wages and no benefits.

When the reduction of protections is coupled with the promise that workers who participate in the program might be allowed to gain legal residency after five years of docile labor, the true nature of this proposal is revealed. The new guest-worker program is an attempt by the agricultural industry to legalize its undocumented-immigrant workforce without improving substandard conditions. It encourages imported laborers to accept whatever they are provided, in the belief that they might one day be allowed to work under conditions that the rest of us take for granted.

At a time of economic growth and prosperity, when the agricultural industry could be taking steps to improve the lives of our country's poorest workers, they have proposed a new guest-worker program that mocks our country's vision of itself as an egalitarian nation that offers a fair deal to anyone willing to work hard for a living.

Daniel Rothenberg is an assistant professor at the University of Michigan. He is the author of "With These Hands: The Hidden World of Migrant Farmworkers Today."

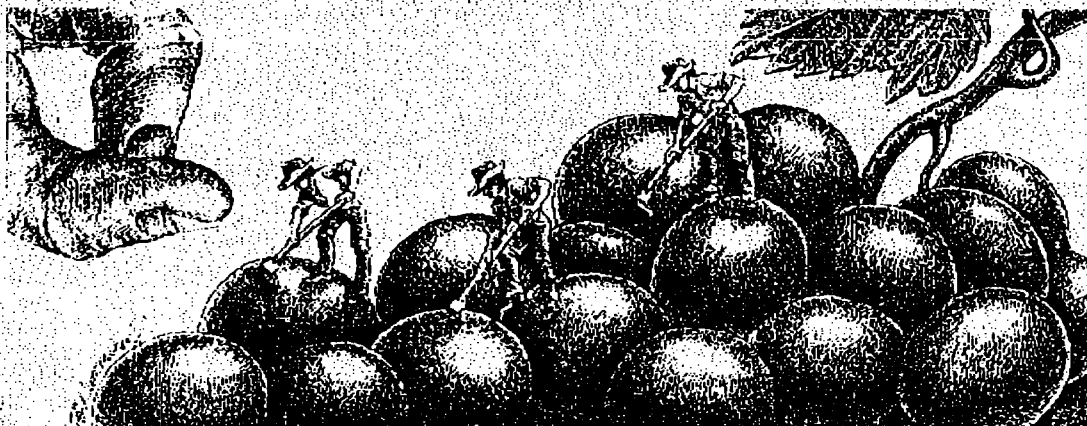
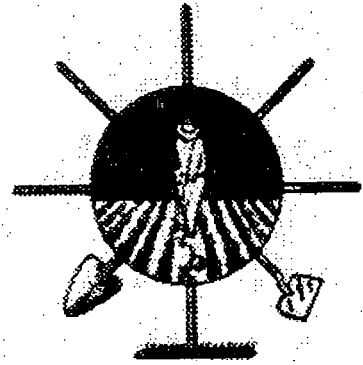


Illustration by Barbara Cummings

CHICAGO TRIBUNE

NOVEMBER 4, 1999

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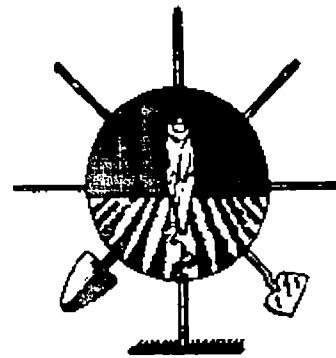
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The Agribusiness Proposals for a New "Guestworker" Program Should Be Rejected
-- Supporters of Farmworkers Should Oppose S. 1814 and S. 1815 --

I. The Proposed "Adjustment Program" Would Indenture Foreign Workers to Agriculture and Suppress Improvements in Labor Conditions for All Farmworkers

- Undocumented Workers Would Be Permitted to Apply for Non-Immigrant (Guest Worker) Visas With a Later Possibility of Permission to Apply for Immigration Status

The October 27, 1999 legislation's "adjustment" program would create a new system of "non-immigrant" agricultural workers. They would be permitted to perform only temporary or seasonal jobs in agriculture. To enter the program, workers would need to apply within one year after enactment of the bill. They would have to show that they had worked at least 150 days in agricultural employment during the one year ending October 27, 1999. Then, they would form a pool of farmworkers who would need to work 180 days per year in agriculture to maintain their status. They would need to leave the United States each year for at least 65 days. To earn the right to apply for permanent resident alien status, these guestworkers would have to provide employment records to show that they worked 180 days per year in each of five years. They would have seven years to complete this requirement. For those who complete the work process and are otherwise eligible, the issuance of green cards will be staggered over 5 years. There will be a waiting list whose members will be given temporary resident status and the right to work at any job.

- The Guestworkers Would Have Few Rights and Would Be Vulnerable to Exploitation

Non-immigrant guestworkers historically have little bargaining power and virtually no political rights. Guestworkers in the proposed "adjustment" program would be very vulnerable.

First, the bill contains none of the kinds of labor protections that have been included in agricultural guestworker programs during the last 55 years. Even the notoriously abusive *bracero* program had considerable labor protections in the law and in the workers' employment contracts. The *bracero* program, much like today's H-2A program, required recruitment of U.S. farmworkers, and required employers to provide housing, transportation benefits, minimal working conditions and protection against wage depression. The *bracero* program should not be repeated, but incredibly, this proposal lacks even the labor protections that were in the *bracero* program.

Second, many of the farmworkers who join the adjustment program as guestworkers will not secure enough work to retain their status. It will be very difficult for many farmworkers to obtain and prove the required 180 days of agricultural employment each year. The National Agricultural Workers Survey found that seasonal farmworkers average only 26 weeks of work and work is not available every day of

the week. About one-fourth of farmworkers in this country survive by working in non-farm jobs for part of the year, but these guestworkers would be forbidden to work outside agriculture.

Third, under that kind of pressure on guestworkers to secure evidence of 180 work days, workers will lack the bargaining power to demand better wages and working conditions. Workers will be too afraid to challenge unlawful conduct, demand better conditions, join a labor union, or file a lawsuit, for fear of being unable to gain evidence of sufficient employment to qualify for continuing status and later adjustment to permanent residency. Some unscrupulous growers and labor contractors will refuse to provide proof of employment unless workers comply with unreasonable, even illegal, demands. The wages of all farmworkers, including citizens and permanent resident immigrants, will suffer harm from the presence of several hundred thousand guestworkers desperate to take an agricultural job under any conditions.

- The Promise of a Green Card Will Be A Cruel Hoax for Many Workers

As indicated above, many guestworkers under this program will never acquire a green card due to their inability to secure 180 days of work in agriculture each year for five years. Some will be eliminated due to confusion about the obligation to apply for a green card within the six month window immediately after completing five years of work. Others will be denied immigration status because they have committed three misdemeanor violations or one felony crime. In addition, because the issuance of green cards will be staggered over a period of 4 to 5 years or more, some guestworkers will complete their years of work only to find themselves placed on a waiting list.

- The Legislation is Anti-Family

Some families are potentially going to be divided for about 16 years under this adjustment program. While the farmworkers are guestworkers, they have no right to get visas for family members. Until the guestworkers get their green cards – six to 10 years after beginning the program – ordinarily they cannot apply for immigration visas for their family members. The waiting list for relatives in Mexico is often about six years.

- An Unfair Choice Between Undocumented and Guestworker Status

Proponents of this new adjustment program argue that undocumented workers would be better off under this program because they would be "legal" and no longer living in the shadows. Farmworkers should not be placed in the unfair position of having to choose between undocumented status and a temporary status akin to indentured servitude. In both cases, workers are extraordinarily vulnerable. Any new program should provide real immigration status.

The growers often justify the need for a guestworker program by arguing that it would help solve the problem of unlawful immigration. But that is not true, either. Guestworker programs cause illegal immigration by establishing new migration patterns and through visa overstay, hence the saying: "There is nothing more permanent than a temporary foreign worker program."

Growers continue to hire undocumented workers because they will work for cheap. A new guestworker program will not stop that. If this country improves the wages and working conditions for farmworkers, there will be less employee turnover, more labor stability, higher productivity, less farmworker poverty and less need for growers to demand new waves of foreign workers. This proposal goes in the opposite direction.

II. S. 1814 Would Weaken Labor Protections in the H-2A Guestworker Program

The legislation introduced by Sen. Gordon Smith and Sen. Bob Graham would also change the H-2A temporary foreign agricultural worker program. An agricultural employer who anticipates a labor shortage for seasonal jobs may apply for a labor certification from the Department of Labor. The employer must demonstrate that there is not an adequate number of qualified farmworkers at the place and time needed and that the wages and working conditions being offered would not "adversely affect" the wages and working conditions of similarly employed farmworkers. An H-2A labor certification entitles employers to obtain temporary visas for foreign workers who are tied to one employer and do not acquire immigration status.

The H-2A program, which began during World War II, and was revised in 1986, contains modest protections against displacement of U.S. workers, exploitation of vulnerable guestworkers, and depression in wage rates and working conditions caused by the hiring of undocumented workers and guestworkers. Many of these protections were developed under the old *bracero* program. The new legislation would remove or weaken major protections, including the following:

- **Avoiding Employment of U.S. Workers:** Under the current H-2A program's "50% rule job preference," employers must hire qualified U.S. workers who apply by the time one-half the season has elapsed. H-2A program employers must affirmatively recruit in the private marketplace (this is known as "positive recruitment") and use the federal-state Job Service to circulate job offers to areas where migrant workers may be located. *No such recruitment would be required. The new system is designed to fail U.S. workers and justify the hiring of exploitable guestworkers.*
- Employers could reject qualified U.S. workers who applied for a job directly to the employer, or through the a nonprofit group, a union, or a labor contractor. Yet, employers could use labor contractors to hire foreign workers. Employers need only consider a U.S. workers' job application if it was submitted through a "job registry," a new government agency to be established in each state.
- The job registry could have as little as 14 days to recruit U.S. migrant workers before the employer would get access to guestworker visas. Yet, guestworkers could be recruited for months.
- **No Housing Required:** The current H-2A program requires employers to offer housing, and to provide it at no cost to the worker. The Senate bill would eliminate the housing obligation and authorize employers to provide modest housing allowances (at least for four years). Due to a severe housing shortage for farmworkers, and the inadequacy of their wages and the allowance, farmworkers will not be able to find housing or to finance its development and the burden will fall on farmworkers and local communities.
- **No Minimum Work Promise:** Under the H-2A programs employers have been required to offer the opportunity to work at least $\frac{3}{4}$ of the work-days in the stated period of employment, except when there is an Act of God. This "three-fourths guarantee" gives migrant workers some indication of their potential earnings and discourages employers from over-recruiting to secure a labor surplus and drive down wages. The new bill lacks any minimum work guarantee.

- **Wage Provisions Would Lower H-2A Wage Rates**

Under the current H-2A program, employers must pay the highest of three minimum wages: the federal or state minimum wage; the local "prevailing wage," as determined by the Department of Labor using state agency wage surveys; and the H-2A "adverse effect wage rate or "AEWR." The AEWR is supposed to compensate for the depression in wages caused by the presence of foreign workers. The Reagan administration changed the AEWR methodology, lowering the rates by an average of 20%. The H-2A AEWR is now defined as the regional average wage for field and livestock workers, as found in Department of Agriculture annual surveys. Often the AEWR is higher than the local prevailing wage and therefore many H-2A employers must pay the AEWR. Under the new bill:

- **Farmworkers affected by the guestworker changes would suffer a pay cut in many instances.** The bill redefines the term "adverse effect wage rate" (or "AEWR") and in most cases, the required wage rate will be lower than under current law. The AEWR would be the local "prevailing wage" plus five percent, up to a maximum of the regional average wage for field and livestock workers.
- Employers could increase productivity standards to overcome the effects of any potential increases in prevailing wage rates. Such "speed-ups" would no longer be regulated.
- **No individual worker would be guaranteed the H-2A minimum required wage rate.** The bill sets a minimum allowable wage of the local prevailing wage or the newly defined adverse effect wage rate. But the bill allows employers a way around such wage rates. The employer may offer an incentive wage system (piece rate, "group rate," "task rate") and merely demonstrate that its employees, "taken as a group," on average earn the H-2A minimum wage rate. If the group as a whole earns the minimum rate, then some workers, by definition, are earning below that minimum rate. The workers' only real wage floor is the federal or state minimum wage, from which some agricultural employers are still exempt.
- **The employers would continue, as under the H-2A program, to be exempt from Social Security and unemployment taxes, depriving foreign workers of social security and creating incentives to use guestworkers rather than U.S. workers.**

III. There Is No Need For A New Temporary Foreign Worker Program

The U.S. Commission on Immigration Reform (Sept. 1997) concluded that a new guestworker program would be a **"grievous mistake."** The U.S. General Accounting Office (Dec. 1997) issued a report that contradicts the factual arguments made by the fruit and vegetable employers who are promoting these bills.

- There is a **surplus of agricultural labor.** The GAO analyzed unemployment data in the 20 major agricultural-production counties in the United States and found that most have **double-digit unemployment rates.** Nor is there an impending shortage.
- Employers have not sought to stabilize the labor market. Farmworkers' **wages have declined** in real terms during the last decade, and **poverty rates have increased** during the last few years, according

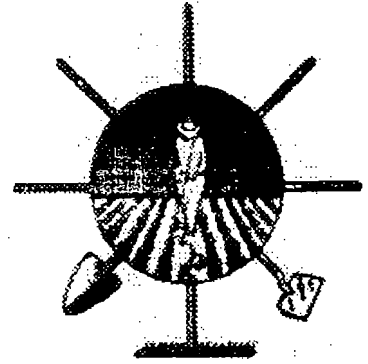
to the Department of Labor. If there were a labor shortage, we would have seen employers increasing wage rates and offering other inducements. **Rampant violations of minimum and other labor protections persist, according to recent studies.**

- **Labor-intensive agribusiness can afford to pay a living wage.** Agricultural productivity has increased substantially. The value of production of fruits, vegetables and horticulture -- labor-intensive crops -- grew by 52% to \$15.1 billion between 1986 and 1995. Exports of these products nearly *quadrupled* between FY 1986 and FY 1997, reaching \$10.6 billion. Farmworkers did not share in that increase.
- The GAO found that INS immigration-enforcement resources have not been and will not be spent on agricultural work sites. The growers used political clout to stop INS. So employers will undoubtedly continue to hire exploitable undocumented workers, who make up 37% or more of the labor force.
- The GAO found **that the H-2A guestworker program approves 99% of employers' applications**, despite a labor surplus. The Department of Labor recently responded to grower complaints by speeding up the H-2A process through regulatory changes. The H-2A program contains modest labor protections that are not adequately enforced and should have been strengthened long ago.
- It's bad policy. Growers claim that this legislation will reduce illegal migration, but "guestworker" programs don't stop unlawful migration; they *cause* it. And American society does not benefit by importing non-immigrant workers who lack a meaningful opportunity to acquire the democratic rights or economic opportunities of immigrants and citizens. As long as agribusiness continues its backwards labor relations practices, there will be high turnover, resulting in more hiring of undocumented workers. **If we need farm laborers, we should offer them temporary, and then permanent, resident alien status – immigration status – and employers should improve their job terms to attract and retain them.**

Farmworker supporters also should be aware of bills in the House by Rep. Canady (H.R. 1886), Hastings (H.R. 2757) and Radanovich (H.R. 3121) to weaken the principal federal employment law for farmworkers, the Migrant and Seasonal Agricultural Worker Protection Act of 1983 ("AWPA"). Rep. Cass Ballenger, chair of the workforce protections subcommittee, held a hearing on these bills in October and promised to work with the growers next year. The same organizations are leading the charge for the guestworker bills and the AWPB bills: the American Farm Bureau Federation and the National Council of Agricultural Employers.

11/1/1999

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AGRIBUSINESS IS LOBBYING FOR A NEW "GUESTWORKER" SYSTEM THAT WOULD BE FAR WORSE FOR MIGRANT WORKERS THAN THE CURRENT "H-2A" PROGRAM

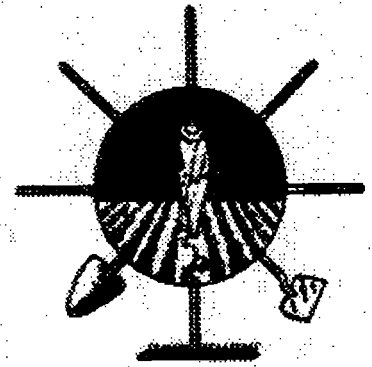
But Take a Look at What North Carolina Thinks of the Way Migrant Farmworkers Are Treated Under the H-2A Program

The Tuesday, Nov. 2, Charlotte Observer has a wonderfully devilish political cartoon on the H-2A program. It accompanies the third day of articles in a series about the H-2A program in North Carolina. It's available in color at:

<http://www.charlotte.com/siers.htm>



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Press Release

Farmworker Justice Fund, Inc. (202) 776-1757
Bruce Goldstein October 21, 1999**CONGRESSIONAL HEARING TODAY****HEARING IN HOUSE SUBCOMMITTEE TO CONSIDER BILLS BY
AGRIBUSINESS TO REPEAL FARMWORKER LABOR PROTECTIONS**

The House Subcommittee on Workforce Protections chaired by Rep. Cass Ballenger of North Carolina will hold a hearing on H.R. 1886, "The MSPA Clarification Act," and H.R. 2757, "Housing Opportunities for Migrant Employees" Thursday, at 2:00 p.m. in room 2175 Rayburn House Office Building. In a lopsided hearing, 5 agribusiness representatives will testify but only one persons representing farmworker interests will be able to testify.

The purpose of these bills is to wipe away several of the principal protections in the main employment law for migrant and seasonal farmworkers, The Migrant and Seasonal Agricultural Worker Protection Act OF 1983 ("AWPA" or "MSPA"). The principal author was Rep. George Miller, who is expected to attend the hearing. The industry groups testifying for this disgraceful legislation are representatives of the National Council of Agricultural Employers, the American Farm Bureau Federation, the Florida Fruit and Vegetable Association, and the Washington Growers' League.

AWPA currently requires most large agricultural employers to: disclose terms of employment accurately and comply with those terms; ensure that housing, if provided, meets local and federal standards; and confirm that vehicles used to transport farmworkers meet basic safety standards and are insured. The law also requires employers to hire only registered farm labor contractors ("crewleaders") to recruit, solicit, hire, employ, furnish or transport migrant and seasonal farmworkers.

The Canady bill would change current law by removing "employer" status from many employers of farmworkers, and by eliminating statutory coverage of certain types of employer conduct, thereby relieving them of the labor law obligations under the Act. Growers could simply hire farm labor contractors -- and characterize them as independent contractors -- to hire, supervise, and pay the workers, or to transport them, and the growers would not be deemed either "employers" or "joint employers" of the harvest workers on their farm. For example, the Canady bill would revise the definition of the word "employ" by restricting courts to considering only five specified criteria, a test that has never existed before and will ordinarily benefit the employers at the expense of the law's effectiveness and fairness.

The bill would eliminate AWPA's federal minimum insurance standards for vehicles used to transport farmworkers. This bill would ensure an increase in deaths, injuries and lack of access to medical care caused by the use of unsafe, uninsured vehicles for transporting farmworkers. Farmworkers who are injured will be unable in many states to collect enough damages from their transporters to pay for their medical coverage.

The Canady bill, and the Hastings bill, HR 2757, would eliminate AWPAs critical role in promoting safe and sanitary farmworker housing. The bill would remove farmworker housing from federal standards whenever there existed a state or local law, no matter how weak or rarely enforced. Michael Ramos of the Washington Association of Churches will testify about the effect that this proposal would have on farmworkers in Washington State, where growers want to use "pup tents" and call it "housing" that meets standards. (Federal standards allow tents and outhouses, but not the kind that the growers want.)

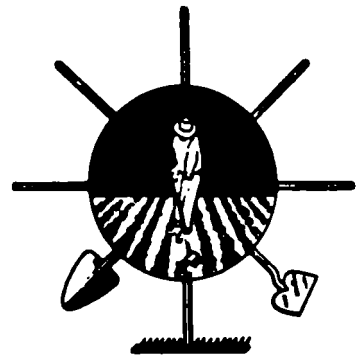
Meaningful law enforcement efforts would be eliminated by severely restricting the ability of workers and the Government to investigate and bring cases against violators. The Canady bill would change AWPAs enforcement mechanisms by returning us to an era of "voluntary compliance" or "self-policing" that Congress long ago concluded had never worked in agriculture.

The Canady bill's harm would extend to responsible, law-abiding businesses, not merely workers. Many agricultural employers ensure that their farmworkers -- even if supervised, housed or transported by a crewleader -- receive AWPAs minimum standards. Such employers would suffer unfair competition from companies that could lower their own labor costs by using the Canady bill's gargantuan loopholes.

The industry groups pressing for this weakening of laws for farmworkers -- who already the most mistreated of America's workers as well as the poorest -- are also the ones leading the charge for a new "guest worker" program, which would allow them to bring in several hundred thousand temporary foreign workers on restricted visas at wages and working conditions worse than allowed under the current (H-2A) guest worker program, and worse even than under the notorious "bracero program," which ended in 1964 after 22 years of notorious abuses. Guest worker legislation is expected to be introduced in the House and Senate any day and then tacked onto a must-pass spending bill.

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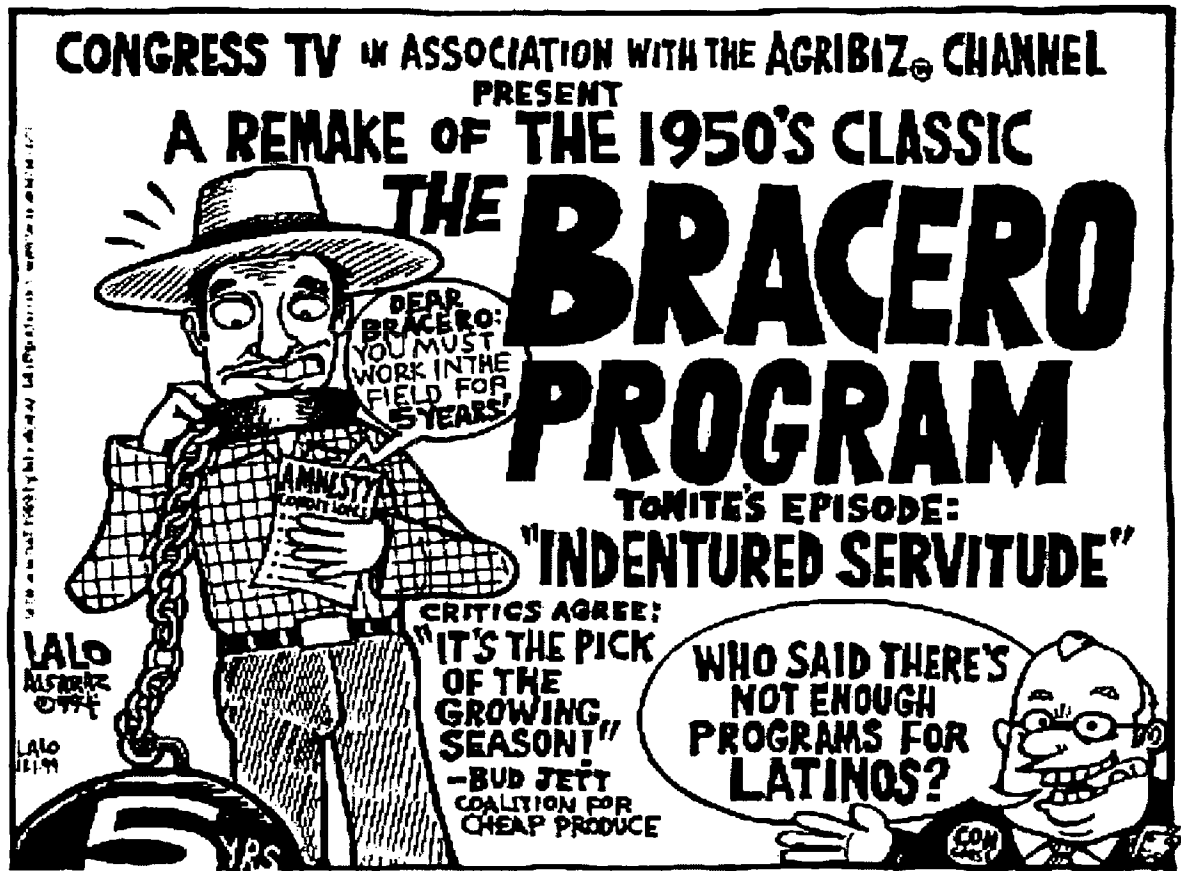
Media Coverage of the New Agricultural Guestworker Proposals

We thought you would be interested in some of the response to the agribusiness-supported legislative proposals to create a new guestworker ("adjustment") program and to revise the existing H-2A guestworker program.

1. Cartoon by "Lalo" (Lalo Alcaraz) which appeared in Hispanic Link and other places in November 1999.
2. Miami Herald Editorial, November 10, 1999
3. Article by Prof. Daniel Rothenberg, Chicago Tribune, November 4, 1999, "Agriculture's cynical answer to farm workers' poverty. Rothenberg is author of the well-received book, With These Hands: The Hidden World of Migrant Farmworkers Today (1998).
4. Cartoon by Kevin Siers, Charlotte Observer, November 2, 1999, about the current H-2A guestworker program, which accompanied a three-part series about the treatment of H-2A farmworkers in North Carolina.
5. Article by Mark Krikorian, Center for Immigration Studies, in The National Review, September 14, 1998, "Slave Trade."
6. The Nation, Editorial, "Bill of Wrath," May 11, 1998.

For further information, contact Bruce Goldstein, Farmworker Justice Fund, Inc.

Cartoon by Lalo Alcaraz, available at www.lacucaracha.com/roach.html.



Miami Herald
November 10, 1999

OPINION

JOHN S. ANGLIT 1189-1930 The Miami Herald JAMES L. KNIGHT 1100-1921 ALBERTO BARDUEN FIELDS-PR • TOM FIEDLER EDITORIAL PAGES EDITOR • LARRY OLMIHEAD MANAGING EDITOR • MARTINA MUSGROVE AND JOE OGLESBY ASSOCIATE EDITORS • JOE NATOLI PRE-JUDGE

EDITORIALS

CONGRESS HEADS TO ADJOURNMENT

THINGS TO DO, AND NOT TO DO

Having shelved gun-control and juvenile-crime bills, campaign-finance reform, a "patient's bill of rights" for those in managed-health-care plans, Medicare drug benefits and Social Security reforms, Congress now is rushing to cut the last of the budget deals and adjourn. In those last-minute deals could come a heap of help — or trouble.

MEDICARE FIXES

The 1997 balanced-budget deal has cut payments to hospitals, nursing homes, therapeutic services and home health care by 20 percent. All will be whacked again in 2000 if Congress doesn't sheathe the hatchets.

Among the hardest hit will be patients in nursing homes who, because of caps on total reimbursable services, would alter a stroke be forced to choose between, say, speech or physical therapy. Two nursing-home chains have gone belly up, others may follow. The Senate bill, S 1788, would inject a welcome \$1.1 billion into the Medicare-Medicaid programs. Pass it and stave off crisis.

RESEARCH CAN WAIT?

Here's a bad idea: Delay \$7.5 billion in funding for the National Institutes of Health until Sept. 29, the last day of fiscal year 2000. Why? So Republicans and Democrats can tell voters that they increased funding for cancer and other medical research without taking any blame for busting the budget. It's one more accounting trick, and a cruel one at that. Neither party should get away with it.

FARMWORKER JUSTICE

Florida Democratic Sen. Bob Graham again proposes legislation to "improve the troubled agricultural labor system" — for agribusiness.

The bill promises legal status for more than

500,000 undocumented farmworkers — though requirements will make it nearly impossible to qualify. Other provisions erode the few protections that currently exist for "guest-workers." Thus, farmers are ensured of an ever-cheaper, readily exploitable labor force. The so-called "reforms" aren't.

To really fix the "ag-labor problem," Congress ought to provide farmworkers the full benefits and protections applied to other workers: decent wage, overtime, unemployment compensation and collective bargaining rights.

WAGE HIKE LINKED TO TAX CUTS

So what if President Clinton vetoed tax cuts for the rich. They're back, or at least \$76 billion worth (over 10 years), which were attached yesterday to a Senate bill raising the minimum wage by \$1 to \$6.15 over three years.

Highly paid (\$130,000-plus) corporate executives would get to stash more money tax-free into pension funds, and fairness rules now requiring uniform contribution rates would be relaxed, allowing companies to contribute, say 6 percent to executive pensions, and 5 percent to other employees. Those who can afford to buy health and long-term care insurance would be allowed to deduct between 25 percent and 100 percent of the premiums. And businesses that now deduct 50 percent of the cost of "business meals" — the three-martini lunch — would get to deduct 80 percent.

None of these breaks benefit the 75 percent of taxpayers in the 15 percent bracket. The Institute on Taxation and Economic Policy found that 91 percent of the tax benefits of these pension provisions go to the 10 percent of Americans with highest incomes; the bottom 60 percent get less than 1 percent.

If Congress is determined to cut taxes, spread the benefits to rich and poor.

OFTEN THE TEST OF COURAGE
IS NOT TO DIE BUT TO LIVE. – *Vittorio Alfieri*



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port Britain in a crisis like the Falklands or to expect Britain's support in a crisis like last month's bombing of Sudan and Afghanistan. The rest of the time they forget about the place. There is no organized pro-British diaspora in the U.S. which is constantly urging support for the mother country and which could therefore to be asked to agitate for Britain-in-NAFTA. But there are nations that enjoy both diaspora backing and the general good will of American democracy—and that would make highly plausible candidates for NAFTA membership alongside Britain. Namely, the new market democracies of Eastern Europe—Poland, Hungary, the Czech Republic, etc. Their accession, indeed, would help to underpin economically the political stability that their NATO accession (or the prospect of it) has already established. And the old “captive nations” lobby in the U.S. would be a powerful advocate for it, and by extension for Britain's accession too.

It might even be not wholly unwelcome to the EU. France would probably resist the idea at first as a kind of American economic encirclement of Europe. But other members might see it as a way to postpone full EU membership for the new democracies more or less indefinitely—which is plainly what they would like to do—by supporting this alternative option.

The Germans would be especially keen to do so if the offer were also extended to Turkey, which the EU has irresponsibly alienated by excluding it even from early consideration for membership (as a result of which this key country is drifting eastward toward an Islamic identity). And over time Germany, Italy, and Britain could probably persuade the French to accept EU membership in this enlarged NAFTA, as they previously obtained French consent to the GATT Uruguay Round, on the grounds that they would exercise more influence on its development from inside than outside.

But a Franco-German central bloc in Europe—as one member of this new NAFTA—could then proceed to full federal union without dividing the Atlantic alliance and threatening a superpower rivalry to the United States.

There are, of course, a lot of “ifs” about this scenario. There are none about the likely outcome of our present inaction. □

Slave Trade

Permitting guest workers sounds like the perfect solution to the immigration imbroglio. Look again.

MARK KRIKORIAN

A BILL to substantially increase the number of foreign high-tech workers admitted under temporary visas has stumbled in Congress, mainly because of divisions among Republicans and a strong veto threat from the White House. The House leadership postponed until after the August recess a vote on the bill to

increase the number of “H-1B” visas for computer programmers and other skilled workers by almost 200,000 over five years, from the current 65,000 a year to 115,000 by 2002. And the bill

Mr. Krikorian is Executive Director of the Center for Immigration Studies in Washington, D.C.

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may simply fade away because, in the words of one House Republican staffer, "How many people want to vote for 190,000 new foreign workers two months before an election?"

But even if it doesn't become law this year, the implicit model of immigration it embodies will be with us for some

Today's captive workers come voluntarily, but they can't strike, can't switch jobs, can't even complain.

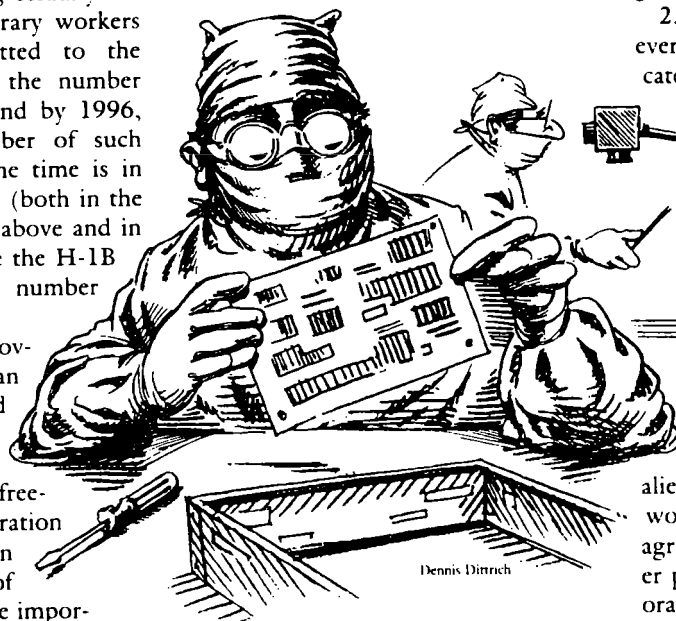
time. Under this new dispensation, "nonimmigrants" (the technical term for those on temporary visas) are admitted for long periods of time to work for specific employers, without the ability to change the terms of employment or switch employers. Though most of today's immigrants are able to participate freely in the labor market, the number of captive foreign workers has been growing steadily. In 1981, only 44,770 temporary workers and trainees were admitted to the United States; by 1990, the number had grown to 139,587, and by 1996, 227,440. The total number of such workers present at any one time is in the hundreds of thousands (both in the visa categories mentioned above and in others), and proposals like the H-1B bill would increase that number dramatically.

The model that has governed our law for more than a hundred years treated immigrants as free workers, able to compete in the labor market. This free-worker model of immigration was formally articulated in the Contract Labor Law of 1885, which prohibited the importation of aliens under contract for the performance of labor or services of any kind. This was a reaction to the importation of "coolie" labor from China, a practice which itself succeeded the institution of indentured servitude. And it was a recognition that the freedom of workers to negotiate wages and working conditions and to change jobs is essential to capitalism—just as indentured servitude was a manifestation of pre-

capitalist labor relations, like vassalage or serfdom.

Today's emerging immigration model harks back to those pre-modern arrangements. Like their predecessors, today's captive workers come voluntarily, for the chance of earning more money or settling permanently, but they can't strike, can't switch jobs, can't even complain. Some critics compare this captive-worker model to slavery, but actually, for employers, it's much better than slavery: they don't have to make huge capital investments in purchasing workers, nor do they have to feed and clothe the guest workers, nor support them in their old age. Employers enjoy the benefits of a manorial relationship without the costs.

The bipartisan U.S. Commission on Immigration Reform was unequivocal in its opposition to the captive-worker model of immigration. Commenting on farm workers, but with an eye toward all nonimmigrant worker programs, the Commission wrote that it "unanimously and strongly agrees that such a program would be a grievous mistake. . . . Experience has shown that such limitations are incompatible with the values of democratic societies worldwide."



Today's emerging captive-worker model of immigration has three components.

1. *High-tech Braceros:* The H-1B visa program was invented in 1990 because of congressional panic over a labor shortage which never materialized. The program allows for 65,000 temporary visas, good for up to six years, for people in "specialty occupations" tied to a specific employer. The captive nature of this labor force

doesn't start with the H-1B visa. Many of the workers arrive on student visas, then extend them for one year to get "practical training" (tied to an employer). Only then do they get H-1B visas.

Getting assigned to a different employer is difficult; and since the main payoff of an H-1B visa is sponsorship by one's employer for a green card, the worker doesn't want to have to start the sponsorship process over by switching jobs, possibly dragging things out so long that the temporary visa expires first. Once the immigrant acquires a green card, he's free to work anywhere he wants, but his period of indenture is long enough for his employer to profit handsomely from the arrangement.

So it's no surprise that high-tech companies are pushing for an increase in these visas. They could instead have sought the reallocation of some family-based green cards to the employment-based categories. John O'Sullivan suggested that policy in these pages ("Silicon Implants," June 1), and business could almost certainly get Congress to approve it. But computer firms want to prevent job-hopping, and simply increasing the number of immigrant programmers won't do that.

2. *Keeping Them on the Farm:* During every Congress, the indefatigable advocates for agribusiness float proposals for new agricultural guest-worker programs, contending that the existing H-2A program allows too few temporary farm workers to enter the country (the figure is around 20,000 per year). In July, these advocates finally got the Senate to approve a new program with neither numerical limits nor worker protections.

Farmers perennially claim that if they did not have either illegal aliens or captive guest workers, crops would rot in the fields and American agriculture would implode. Guest-worker programs thus become the only honorable means of producing food. But most agricultural economists agree that American agriculture could survive, indeed thrive, without either illegal workers or captive guest workers. While some marginal producers would go under, the industry as a whole would adapt and become stronger, as the smaller labor force became more stable (because of better pay and benefits) and more productive (through more efficient use of labor and more extensive

mechanization). In any case, labor costs account for a very small portion of the retail price of produce.

3. *Kuwait in the Pacific*: The Commonwealth of the Northern Mariana Islands (CNMI) offers the most sobering look at the development of the captive-worker model of immigration. The United States granted commonwealth status to the islands in 1986, part of the deal being that the CNMI would control immigration in order to protect the native culture.

Instead, the local administration has used this authority to import a turnkey garment industry staffed entirely by guest workers. These Chinese, Filipinos, and others now number 35,000, compared to only 25,000 U.S. citizens. The captive workers are subjected to all the indignities one would expect, including withholding of pay, sexual exploitation, coerced abortions—the Chinese are even prohibited by their contracts from going to church. The natives, meanwhile, are almost entirely employed by the government or on welfare. Foreigners account for more than 90 percent of the private-sector workforce. The only comparable examples in the world are Persian Gulf dictatorships like Kuwait and the United Arab Emirates.

Many Republican congressmen have resisted a Clinton Administration initiative to extend U.S. immigration and labor laws to the islands. This would make sense if a conservative alternative, like independence, were also on the table. But many conservative lawmakers, staffers, and journalists have touted the islands as a “phenomenal economic success” and an “experimental laboratory of liberty,” as if the CNMI were

society: all of us, including immigrants, are human beings, created in the image of God, not mere factors of production to be used and discarded. (After the failure of Germany’s guest-worker program,

one writer lamented, “We asked for workers, but they sent us men.”)

Conservatives cannot applaud the emerging consensus among GOP lawmakers: pro-immigration, anti-immigrant. □

Security Blanket

If the public is ever to feel comfortable with Social Security reform, it needs to see a trial run.

JOHN HOOD

IT has long been a free-market dream: changing Social Security from a redistributionist, pay-as-you-go social program to a personalized system of private retirement accounts. Once confined to Cato Institute seminars and Philadelphia Society meetings, the idea now has lawmakers of all ideological stripes buzzing. And yet, a big political obstacle remains. Privatizing Social Security would be reform on a grand scale, involving many billions of dollars—and the retirement prospects of many elderly and near-elderly voters.

What reformers need is a trial run, a demonstration that average folks can manage their money just as well as government bureaucrats can (or, indeed, better). Supporters point to Chile, Australia, and Great Britain as proof that it can be done.

But promising as these examples are, most Americans won’t

be convinced until they have seen an example closer to home. Policymakers can create one: by letting states privatize Unemployment Insurance.

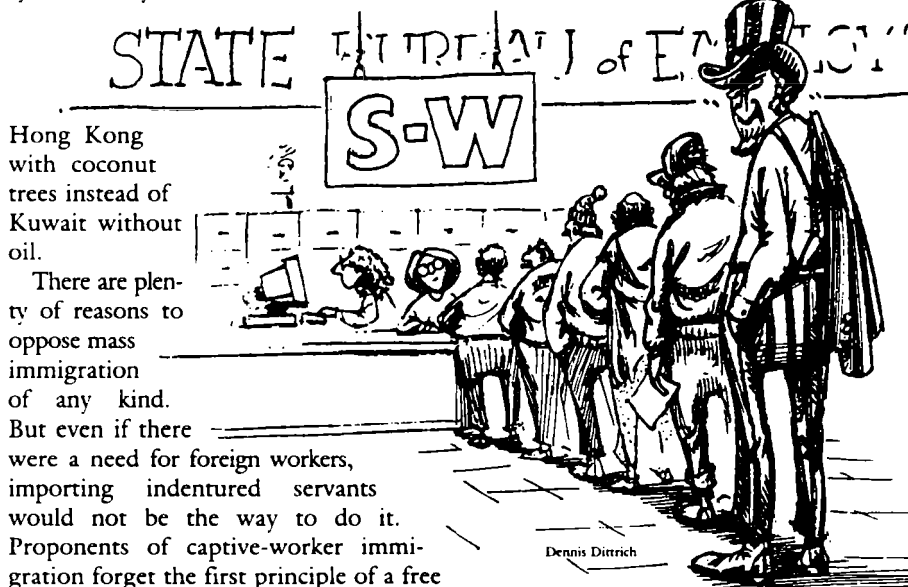
The Unemployment Insurance program was created by the same legislation as its bigger cousin, the Social Security Act of 1935. A joint federal-state program, UI provides two services: the promise of UI benefits in the event of a layoff, and the operation of Employment Service job offices throughout the country.

UI is one of our largest social programs. Like Social Security, it is financed by payroll taxes—to the tune of \$23 billion in 1997. Also like Social Security, it runs an annual surplus, and its accumulated “trust fund” (\$35 billion as of last year) must by law be invested only in federal Treasury securities and thus serves to mask the true size of the federal budget deficit.

There is another similarity to Social Security: Unemployment Insurance is an outmoded program that offers a bad deal to workers and is a drag on the economy.

In the first place, workers are eligible for UI benefits only if they have lost their job involuntarily and through no fault of their own. If you choose to leave one job in search of a better one, resign to follow your spouse to a new city, or are fired for what your manager calls “cause” (even if this is untrue), you cannot make a claim.

Mr. Hood is president of the John Locke Foundation, a state-policy think tank in Raleigh, North Carolina, and the publisher of a new monograph entitled Savings & Loans: Reforming Unemployment Insurance through Competition and Compound Interest.



Dennis Dittrich

EDITORIALS

its restructuring demands that cause economies to contract and joblessness to expand—does act to insure that its loans benefit average citizens and promote prosperity. Bello, who also co-directs a research institute in Bangkok, was outraged by this testimony. And when he tried to confront Geithner outside the committee room, a young Treasury Department aide pushed him away while another aide hustled Geithner toward the door.

After Geithner escaped, Bello explained to reporters that during the recent I.M.F. negotiations with Thailand, Korea and Indonesia, he never saw the I.M.F. reaching out to public organizations. "All the deals were arranged behind closed doors with the bureaucrats," he said. "There was no consultation with the public. And how can they say this is promoting prosperity? In Thailand, 800,000 people will be out of work. In Korea, they have what they call 'I.M.F. suicides,' when a laid-off worker kills himself and his family."

Geithner had come to the Hill as an escort for Karin Lissakers, the U.S. executive director of the I.M.F., who was making a historic appearance. The I.M.F. is fifty-one years old and Washington is responsible for \$36 billion of its funding, but no Congressional committee has ever publicly questioned the chief U.S. representative to the fund. Imagine allowing a government agency to spend that much without a single hearing.

Both Republican chairman Spencer Bachus and independent socialist Bernie Sanders, the ranking minority member, are foes of the I.M.F.—further proof that aspects of globalization bring left and right together—and oppose the Administration's current request for \$18 billion in new I.M.F. funds. Lissakers did her best to make her job seem technical and dull, but some interesting information emerged. She disclosed that of the 2,000 decisions that the I.M.F. board has made since 1993, only about a dozen ever came to a formal vote. This surprised the subcommittee. After all, Congress has passed several measures directing the U.S. representative to the I.M.F. to vote certain ways. "For twenty years, members of Congress have been wasting their time,"

Sanders observed. He also learned that an amendment he passed with Barney Frank in 1994 to cut off I.M.F. loans to nations with poor human rights records was not as clear as they thought. Why didn't it compel Washington to vote against loans to Indonesia? he asked. Well, Geithner explained, the State Department tells Treasury what countries are to be shunned, and Indonesia is not on the list. But, Sanders replied, the State Department's own human rights reports say Indonesia commits "serious human rights abuses." Yes, Geithner answered, but State used different criteria for the human rights report than for the no-loan list. Sanders shook his head in frustration.

The point of the hearing was to stir up opposition to the \$18 billion funding request. It waltzed through the Senate, but opponents in the House are trying to block it. To that end, the subcommittee heard the testimony of a rainbow coalition of I.M.F. opponents, including consumer advocate Ralph Nader and Edwin Feulner, president of the Heritage Foundation. Conservatives dislike the I.M.F. for its internationalism and its interference with market forces. Progressives disapprove of its secrecy and the ways its loans assist corporations and cronies at the expense of workers and families. (In Congress, though, progressive critics of the I.M.F. are split. Representative Barney Frank advocates attaching tough conditions to the money and forcing reform; Sanders and his allies feel they've been there and done that and take a just-say-no stand.) Representatives of the Institute for Policy Studies—and the American Enterprise Institute—spoke against the fund. And so did Bello. An Administration official wasn't willing to listen to him, but a right-wing committee chairman was. The politics of globalization makes a strange bed, Bello. DAVID CORN

Bill of Wrath

Has there ever been a time when U.S. immigration policy seemed more nakedly driven by the needs of big business? It's a question worth worrying about, as pointed up by several recent events. One is the government's conclusion, after a six-month review, that a program under which wealthy investors were given green cards if they created U.S. jobs has been badly manipulated. (The Immigration and Naturalization Service moved to freeze new visas under the program; then, bowing to Congressional pressure, it allowed 1,500 exceptions.) Another is the lobbying effort of the high-tech industry, which is coming under fire for trying to expand—through a proposal by Michigan Senator Spencer Abraham—visa allocations designated H-1B, for hard-to-fill jobs.

Yet another, more serious, event is Congress's latest attempt to pass a guest farm-worker bill. In scale it hardly seems like the sort of legislation that would rile the ghosts of John Steinbeck or Edward R. Murrow: It's a mere two-year pilot program that would allow 40,000 "non-immigrants" to work temporarily in the United States—a far cry from past versions of similar legislation, like that of 1981 or 1996, which, respectively, allowed up to 50,000 and 250,000 people annually to work here temporarily.

But don't be misled. The Commission on Immigration Reform recently called the bill a "grievous mistake," and that's no over-

CALVIN TIBBELL

THE HUMAN SIDE OF AL GORE

His tax returns show Albert Gore
Could stand to give away some more.
And though he always seems to strain
To feel disaster victims' pain,
They find him distant, inasmuch
He's never close enough to touch.
It's said that he will have to learn
Just how to demonstrate concern.
No matter, though, what Albert does, he
Will never seem all warm and fuzzy.

statement. This proposal, the Temporary Agricultural Worker Act, goes beyond the notorious bracero programs of 1917–22 and 1942–64 in its ambition. It essentially privatizes immigration policy, giving agribusiness what it's always wanted, a free hand.

"A lot of Congressmen realize we're going to have to do something," says Bryce Quick, an aide to Oregon Representative Robert Smith, who, like most insiders, thinks the bill will eventually become law. Agribusiness in fruits, vegetables, nuts and other labor-intensive crops has lobbied intensively for it, and Smith, the bill's main House proponent, has grandly claimed that farmers will lose a third of their crops if it doesn't become law. That's farfetched, but he's probably right that cheap, reliable labor is hard to come by these days. There are a number of reasons—a beefed-up I.N.S., much tighter Social Security registration of farm laborers, the encroaching suburbanization of rural areas and the growers' desire to control the most variable of costs, labor. This partly explains why Lamar Smith, the House's leading anti-immigration voice, now backs the bill (although Smith also won concessions in reducing immigration in two other categories).

Just how cheap, though, does agribusiness want labor? After all, domestic workers are available. A December 1997 General Accounting Office report found that in eleven of the twenty geographic areas it studied, the jobless rate reached double digits.

But that irony is the least of the bill's flaws. Although it throws a few bones in the direction of workers' rights, like workers' compensation and minimum wage, overall it represents a giant leap backward. It enshrines the nineteenth-century "mud-sill" theory of work, in which capital basically owns labor, against which no less a figure than Abraham Lincoln fought. Guest farm workers would essentially become second-class citizens, temporary indentured servants. This isn't simply because workers can't bring their families. Nor is it that it peels away thirty years of such farm workers' rights as collective bargaining, overtime pay, vacation pay, sick leave and health insurance. Look at three other critical areas.

First, there's no housing provision. Growers have to provide housing only when "it is prevailing practice in area and occupation to do so." In other words, as Bruce Goldstein, co-head of the Farm Worker Justice Fund, points out, the majority of employers in an area must have been providing housing already—and most workers must have been receiving housing—which is highly unlikely in towns that have been fighting low-income housing. Workers will thus have to make do with whatever they can get, which in the past has often meant sleeping in fields, shacks or even caves.

Second, there's no provision insuring that farm laborers will be given work most of the time they're here. Under a similar program, employers must guarantee that laborers work three-quarters of the contract period, but under this proposal they don't. That might sound innocuous, but many growers use that condition to hire as many guest farm workers as they can, using overrecruitment to goad workers into doing whatever the growers want.

Third, and worst of all, there's no contract. Monte Lake, the bill's chief lobbyist, acknowledges that it requires not a contract but an "attestation"—employers must "attest" to the job order they filled out at a state agency. Otherwise, the only requirement is that, as the bill's summary states, the "Job Service reviews [the job order] only for completeness and obvious inaccuracies." With no

contract, the government has almost nothing to enforce in a bill that already doesn't provide much in the way of enforcement. Even if proponents are right that most growers are small farmers with forty or fifty acres of land, that's misleading. Laws aren't passed because we assume employers are naturally virtuous. Indeed, the shocking abuses in the Northern Mariana Islands about which Congress recently heard testimony—child prostitution, forced abortions, human rights abuses—exist because of a similar guest worker program.

It's interesting that the proposal's backers don't try to rebut the arguments against it. Instead, they inveigh against a similar program, the H-2A law. "There's almost a foot high of paperwork you have to go through with H-2A," grumbles an aide to Robert Smith. But instead of the current law's 300-odd pages of paperwork, the guest farm-worker bill's paperwork would go to the opposite extreme, requiring only a dozen or so pages. Other counterarguments are similarly unpersuasive—probably the best one contends that a guest worker bill would actually be a step up for most illegal aliens.

Excuses aside, there's something dishonest about the way advocates are pressing this cause. The bill puts the burden of effort on farm workers and none on the group that's reputedly demanding cheap produce: consumers. If the bill's proponents are willing to repeat *Grapes of Wrath* or *Harvest of Shame*—era mistakes, they ought to explain why to consumers and their colleagues in Congress. Big business, especially in the realm of immigration, could use a dose of old-fashioned democracy.

MARK STRICHERZ

Mark Stricherz is a reporter-researcher for The New Republic.

Liquid Asset

Mark the date: March 21, 1998. On that day, water—yes, water, the H₂O of oceans, rivers, lakes and rains—officially became a corporate commodity. The corporate stranglehold on humanity may now be regarded as complete.

It was in Paris on March 21 that a United Nations conference on water decreed that henceforth, as Reuters reported,

(Continued on Page 58)

AMPLIFICATION

Jeremy Rifkin's April 13 article on "Human Life as Intellectual Property" was largely adapted from his new book, *The Biotech Century: Harnessing the Gene and Remaking the World*. Since Rifkin's book is heavily footnoted but his *Nation* article was not, readers were unable to see that valuable information derived from the nongovernmental organization Rural Advancement Foundation International. Those interested in the subject, particularly in corporate concentration in the life sciences, can find related material at RAFI's Web site, www.rafi.ca.

End the harvest of shame

Second of a two-part series on the plight of farm workers

THE ABUSE OF New York's farm workers — who labor long hours in the fields with none of the job protections taken for granted by other workers — was sealed when the state Legislature passed a law in 1937 effectively barring them from joining unions.

Shamefully, that law is still on the books — as are numerous others that deny farm workers rights guaranteed to every other job sector.

Six decades of legal discrimination is a disgrace. Enough is enough. It's time to rewrite the laws.

That's precisely what a panel of experts from Cornell University recommended in 1991. Its comprehensive study, commissioned by then-Gov. Mario Cuomo, concluded that "there is no reason to single out farm workers for separate and unequal treatment under the law."

No reason then, and no reason now. But nothing has changed in the eight years since the report was issued.

That farm workers are victims of legal discrimination is indisputable. State labor law specifically excludes them from being defined as employees. The reason is as obvious as it is sinister. New York's Constitution grants employees protection from retaliation if they choose to bargain collectively. Farm workers do not have that protection. The exploitation is codified in law.

"The issue at hand," the Cornell panel wrote, "is one of principle, not utility. In the interest of equity and fairness, farm workers ought to enjoy the same rights and protections as nonfarm employees."

These are not the ravings of wild-eyed agitators. The report is the product of a panel of distinguished Ivy League experts with intimate links to growers. Cornell is New York's official land grant college, chartered to promote agricultural research. It runs the state's cooperative extension program to aid farm producers.

Yet the Cornell report was dead on arrival in Albany. Blame the Republican-controlled state Senate. The Democrat-led Assembly has passed numerous agricultural reforms. This year alone, it passed legislation that would have granted farm workers a day of rest per week and forced growers to apply sanitation mandates to worker housing.

In the Senate, Olga Mendez (D-Manhattan) has sponsored several reform bills, but the Senate's GOP majority killed them. Said she: "The Republicans generally side with the farm owners, who are well organized. But if average New Yorkers knew about these shameful conditions, they would not tolerate it."

LAST YEAR, after years of pressure by worker advocates, state Sen. Nicholas Spano (R-Yonkers), chairman of the Labor Committee, backed a bill requiring field toilets and wash-up facilities at farms with more than five employees. This year he is sponsoring a measure to raise the state's minimum wage to \$7.65 an hour. It also would eliminate the unfair two-tiered system that forces farm workers to wait longer than other workers to get minimum wage hikes. Predictably, the session is almost over, and the bill is still in committee.

"The time has come to treat agricultural workers the same way we treat other workers," Spano said. True. But his words would ring truer if they were backed by action. Said one upstate pastor who advocates for farm workers: "Spano says he's with us, but in the end we have nothing to show for it."

Reform will come only when state Senate Majority Leader Joe Bruno wants it. And the chances are not good. The concerns of farm workers have zero weight compared to the interests of his members from rural districts, whose fortunes are rooted to the growers.

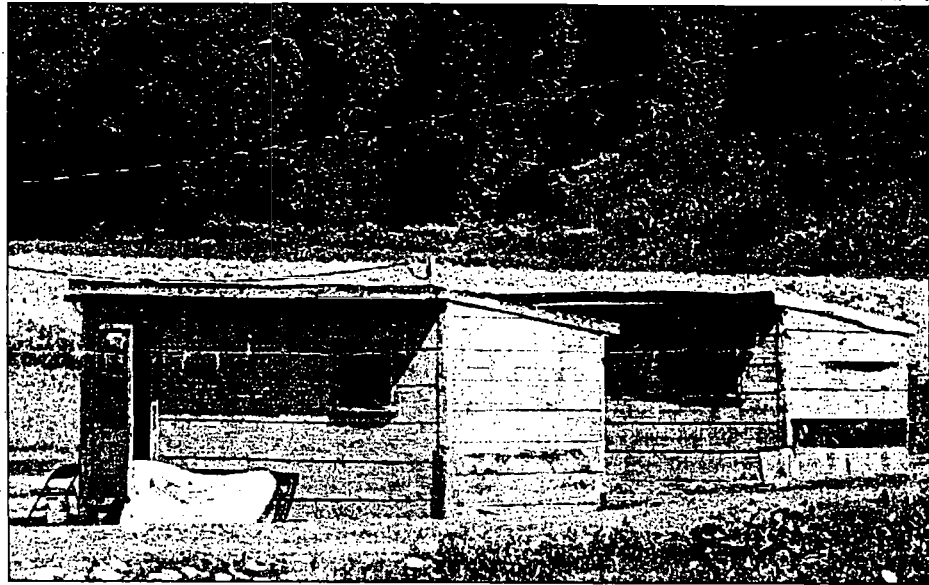
Bruno told this page he is "very sympathetic" to workers. But, he added, "unemployment in this state is at a 20-year low. People don't have to work on a farm."

People don't have to be cops or firefighters or teachers, either, but that hasn't stopped Bruno and his colleagues from giving those unions numerous perks and benefits. The double standard stinks.

Farm workers — many of them non-white migrants, most of them dirt poor — have no voice in Albany. A few small, ill-funded advocacy groups — like CITA, a storefront operation in Florida, N.Y., with 400 worker members, and the statewide Farmworkers Legal Services, with only two lawyers — valiantly try to redress unfair labor practices. But it's a losing battle.

To his credit, Denis Hughes, the head of the state's AFL-CIO, is supporting Spano's minimum wage bill. But otherwise, no one in the what's-in-it-for-me labor movement has applied an ounce of pressure to the Legislature.

Aligned against the workers is the powerful Farm Bureau, with 30,000 members and 40 employees, including four full-time registered lobbyists. Last year in its newsletter, the bureau crowed about 11 agriculture bills "killed through NYFB effort" — legislation



HOWARD SHIMONE/DAILY NEWS

Field hands live in these shacks while working in the onion fields of Orange County, N.Y.



"The time has come to treat agricultural workers the same way we treat other workers."

NICHOLAS SPANO
N.Y. State Senator

LEGAL DISCRIMINATION AGAINST FARMWORKERS

	ALL OTHER WORKERS	FARMWORKERS
Collective bargaining	Yes	No
Overtime	Yes	No
Day of rest	Yes	No
Disability insurance	Yes	No
Employment insurance	Yes	No*
Safety Training	Yes	No
Heat relief	Yes	No

*Not available for most farmworkers

that would have expanded unemployment insurance for farm workers, granted them a day off per week and allowed them to bargain collectively without fear of firing.

The result: The only advances farm workers have managed to win are access to drinking water on the job, not made law until 1996, and Spano's limited field-toilet law. This is what passes for reform in Albany.

Indeed, the Farm Bureau is tied so tightly to the levers of government that next week its top lobbyist is becoming the state's deputy commissioner for economic develop-

ment and agricultural policy.

Farm Bureau President John Lincoln implies that the unionization issue is being whipped up by outside agitators. "The interest in collective bargaining," he claims, "is not coming from the workers." Of course not. Not in a Catch-22 world where workers can legally be fired for attempting to organize.

As for the growing numbers of illegal aliens in the fields, Lincoln says the solution is to change the H2A visa program to allow more foreigners to work legally on New York's farms. That would be just fine for the owners. The H2A visas are so restrictive that workers can be fired at will and deported. Instead of being expanded, the program should be changed so guest workers are free to change employers. That would give growers incentive to treat them better.

The growers' fear of collective bargaining is baseless. Allowing farm workers to unionize didn't destroy California agriculture. Since Cesar Chavez won bargaining protections for farm workers in the 1970s, the Golden State farm economy hasn't collapsed. On the contrary, California has the largest agricultural sector in the country, eight times the size of New York's. Nine of the nation's top 10 farm counties are in California.

And, ironically, many farm workers in California choose not to join unions. The same thing, many experts believe, would happen in New York. But the important word is "choose." Workers in New York have no choice.

The growers like to portray themselves as fiercely independent, rugged individualists. The implication is only weaklings need someone else to bargain for them. But the farm owners are anything but independent.

They are clamoring to join the Northeast Dairy Compact, which operates as a legal cartel to ensure high profits for dairy farmers by driving up retail prices. Growers also receive corporate welfare in the form of subsidies, crop supports, price supports and low-interest loans. New York farmers got \$43.3 million in direct federal payments in 1997, the latest year for which figures were available. That's up 56% from the year before. And, of course, the law disrupts the free market by specifically denying protections to their labor force.

All of which belies growers' claims that the simple reforms would cost too much. A variety of factors, ranging from local weather to global markets, cause industry profits to fluctuate widely from year to year. Giving workers basic rights might cost consumers a few extra pennies at the supermarket, but it won't topple New York's farm economy.

Besides, in all other industries, higher wages and better conditions go hand in hand with higher productivity. Agriculture should be no different.

The early years of this century saw major advances in workers' rights. As we enter the next century, the last excluded group must be included. It is only fair and right.

Then, finally, New York's harvest of shame will disappear like the dust of the C Depression.

DAILY NEWS

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Agriculture's cynical answer to farm workers' poverty

By Daniel Rothenberg

Last week, a bill was introduced in the Senate that, if passed, may well be the most serious threat to the rights of farm workers in the last 30 years. The new law would allow agricultural employers to import tens of thousands of foreign laborers from poor countries to work in the United States for low wages with the promise that, if they continue for five years without complaint, they might be allowed to receive legal residency.

Farm workers are the poorest and most marginalized laborers in the United States. They earn an average annual income of \$8,500 and commonly suffer abuses that would be inconceivable in other industries.

Over the past 20 years, farm workers' real wages have fallen roughly 25 percent and the value of their earnings continues to drop even as the American economy surges forward with record growth rates. Not surprisingly, the only people willing to pick our country's fruits and vegetables are those with the fewest options, including large numbers of undocumented immigrants who represent nearly four out of every 10 farm workers.

The agricultural industry is correct in seeking to address its reliance on undocumented laborers and it is understandable that the industry might advocate a program building on the relationship between growers and their largely immigrant Latino work force. Still, the proposal is a cynical means of playing off the extraordinary imbalance of power between a \$170 billion industry and our nation's most vulnerable workers.

To understand what is wrong with the proposal it is important to consider both our nation's history of special agricultural guest worker programs, which have been plagued by scandal and abuse, as well as the underlying logic of the industry's growing reliance on undocumented immigrants.

The largest guest-worker system in United States

history was the *bracero* program, which began in 1942 as a special measure to address wartime labor shortages and then continued for 22 years, allowing 5 million Mexican workers to enter the country. *Bracero* laborers were recruited from poor rural communities to work for specific employers on temporary contracts whose limited protections were rarely enforced. By relying on temporary, foreign workers who could be sent home at any time and subsequently blacklisted, employers were freed from the responsibilities of dealing with domestic workers with the capacity to file formal complaints, organize, litigate, or otherwise defend themselves according to the principles of a democratic society.

As a result of the *bracero* program, American agriculture grew dependent upon a special class of temporary foreign workers, which depressed farm wages for domestic laborers and institutionalized substandard conditions throughout the industry. The *bracero* program finally was terminated in 1964, at a time when the nation was making admirable progress in confronting discrimination and poverty. After the program's demise, the social networks and

employment relations established over years of formal recruitment spurred a mass wave of Mexican immigration that was partially responsible for what became the "crisis" of undocumented immigration of the 1970s and 1980s, proving that large guest-worker programs often have significant unintended consequences.

There is a small guest-worker program, known as the H-2A program, which allows growers who believe they are facing labor shortages to petition the government to authorize the importation of workers. In theory, the program protects domestic workers by favoring their employment and guaranteeing decent wages while protecting guest-workers through established contracts that set wages and working conditions and guarantee housing and transportation. Even with these contractual protections, the H-2A program has been a source of significant and sustained abuse, as revealed in repeated exposés and litigation. Problems with the program have led sectors of the agricultural industry, such as Florida sugar producers and West Virginia apple growers, to terminate their reliance

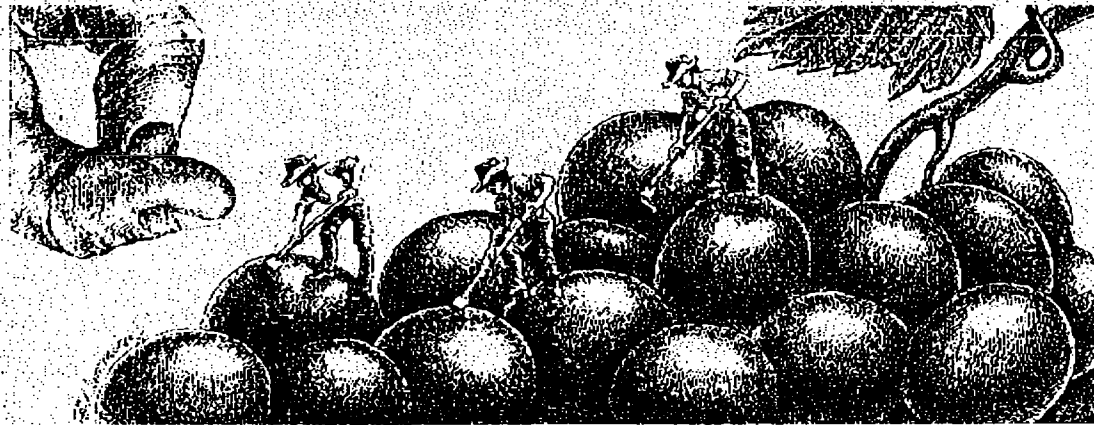


Illustration by Barbara Cummings

on H-2A workers.

Now, 35 years after the demise of the *bracero* system and with clear knowledge of the problems plaguing the H-2A program, the agricultural industry has a new proposal that actually deprives both domestic and foreign workers of the limited and inadequate protections provided by previous guest-worker programs. What is striking about this new plan is that it comes at a time when every reliable study has concluded that there exists an adequate supply of farm workers to harvest America's crops. Still, while there is no shortage of farm laborers, the industry finds itself hiring an ever increasing number of undocumented immigrants, who are among the few workers willing to accept such difficult labor for low wages and no benefits.

When the reduction of protections is coupled with the promise that workers who participate in the program might be allowed to gain legal residency after five years of docile labor, the true nature of this proposal is revealed. The new guest-worker program is an attempt by the agricultural industry to legalize its undocumented-immigrant workforce without improving substandard conditions. It encourages imported laborers to accept whatever they are provided, in the belief that they might one day be allowed to work under conditions that the rest of us take for granted.

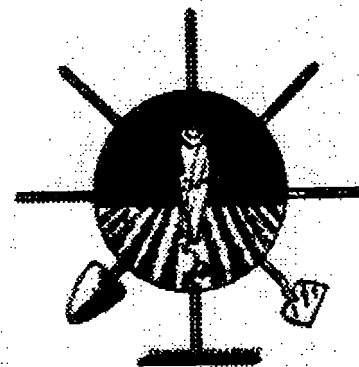
At a time of economic growth and prosperity, when the agricultural industry could be taking steps to improve the lives of our country's poorest workers, they have proposed a new guest-worker program that mocks our country's vision of itself as an egalitarian nation that offers a fair deal to anyone willing to work hard for a living.

Daniel Rothenberg is an assistant professor at the University of Michigan. He is the author of "With These Hands: The Hidden World of Migrant Farmworkers Today."

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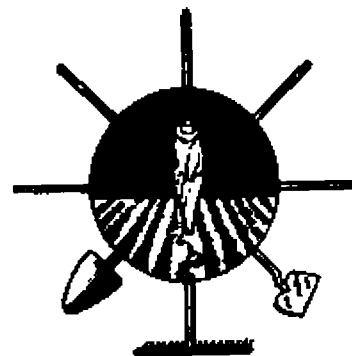
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Message:

See attached Update on Agricultural Guestworker Legislation and Related Information. Keep up with developments and read media coverage and other materials by checking the website of the CRLA Foundation (www.crlaf.org/gworkers.htm)

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FAX COVER SHEET

TO: Farmworker Supporters
FROM: Bruce Goldstein, Co-Executive Director
DATE: November 17, 1999
RE: Guestworker Legislation Update and Alert
Pages: 2

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Guestworker Update (Wednesday, Nov. 17, 1999)

1. The budget deal that is still being finalized between Congress and the White House does NOT include the agricultural guestworker legislation sought by agribusiness (S. 1814 and S. 1815). So that's great. You're all doing good work and we have the Clinton Administration to thank as well as some members of Congress. But the battle is still raging (see number 3 below).
2. The growers will probably introduce S. 1814 (which contains S. 1815's provisions) in the House of Representatives today (Nov. 17). Likely co-sponsors are Pombo (R-Calif.), Chambliss (R.-Ga.), Radanovich (R.-Cal.), and Bishop (D.-Ga.). They are pressuring Rep. Lamar Smith (R.-Tex.), chair of the immigration subcommittee, to move their bill through the hearing process.
3. The growers are lobbying fiercely in Congress and the media, attempting to claim that the legislation they support is reasonable and that it would improve things for farmworkers. Members of Congress and the media need to be told that these allegations are false. Samples of letters, and e-mail connections website that automatically send letters to Congress, are available on the guestworker legislation website: www.crlaf.org/gworkers.htm.

4. There is a lot of confusion about the legislation that you need to clear up for people. For example, some people have asserted that the estimated "500,000" adjustment guestworkers would experience an "improvement" because they would be entitled to the wage and working condition provisions of the H-2A program. But this is INCORRECT. The only employers that would need to provide the H-2A protections would be employers that applied for H-2A workers. And those H-2A protections would be dramatically weakened. More importantly, employers who do not apply for H-2A workers and who only seek to hire adjustment guestworkers would NOT need to offer the H-2A benefits. The adjustment guestworkers would be without H-2A protections (unless they managed to get a job at an H-2A employer, which is unlikely).

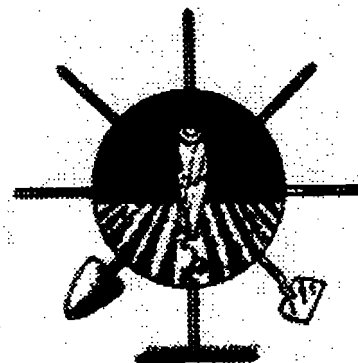
4. We have a huge battle ahead of us. The commonly held belief is that as the presidential election draws nearer it will be harder for agribusiness to get what it wants. So growers must start early, in January and February, trying to move their bills. WE MUST USE THE OPPORTUNITY OF THIS CONGRESSIONAL RECESS TO CONTACT MEMBERS OF CONGRESS WHILE THEY ARE AT HOME. And work the media.

5. I do not yet have additional information on the McConnell H-2A rider. It is in the agricultural appropriations bill that the President already signed into law. The President, in signing that bill, announced his opposition to the McConnell H-2A amendment, changing the time frames for employer applications and DOL approvals of H-2A applications. We and others asked the President's staff to negotiate a repeal or a revision of the McConnell rider through a rider on a subsequent appropriations bill. But we do not yet know the result. It's a long shot. The impact of the McConnell rider will be to grant growers access to H-2A guestworkers before there is any reasonable opportunity for US workers to be recruited or hired in these jobs.

6. The "labor law reform" that the growers have introduced will also be pushed next year by agribusiness to weaken protections for workers who are hired through labor contractors, weaken transportation safety and housing standards, and reduce labor law enforcement. The sponsors and bill numbers are Rep. Canady (R.-Fla.) (H.R. 1886 -- comprehensive bill), Hastings (R.-Wash.) (H.R. 2757 --housing), and Radanovich (R.-Cal.) (H.R. 3121--transportation). Rep. Cass Ballenger (R.-N.C.), chair of the workforce protections subcommittee and a strong opponent of many workplace standards, has promised to work with the growers next year. They will be assisted by Rep. Bill Goodling (R.-Pa.), chair of the Committee on Education and the Workforce, and an apple grower himself.

That's it for now.
Bruce

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Please Deliver to:
Irene Bueno

Fax #: 456-5581
Company: Domestic Policy Council

From: BRUCE GOLDSTEIN

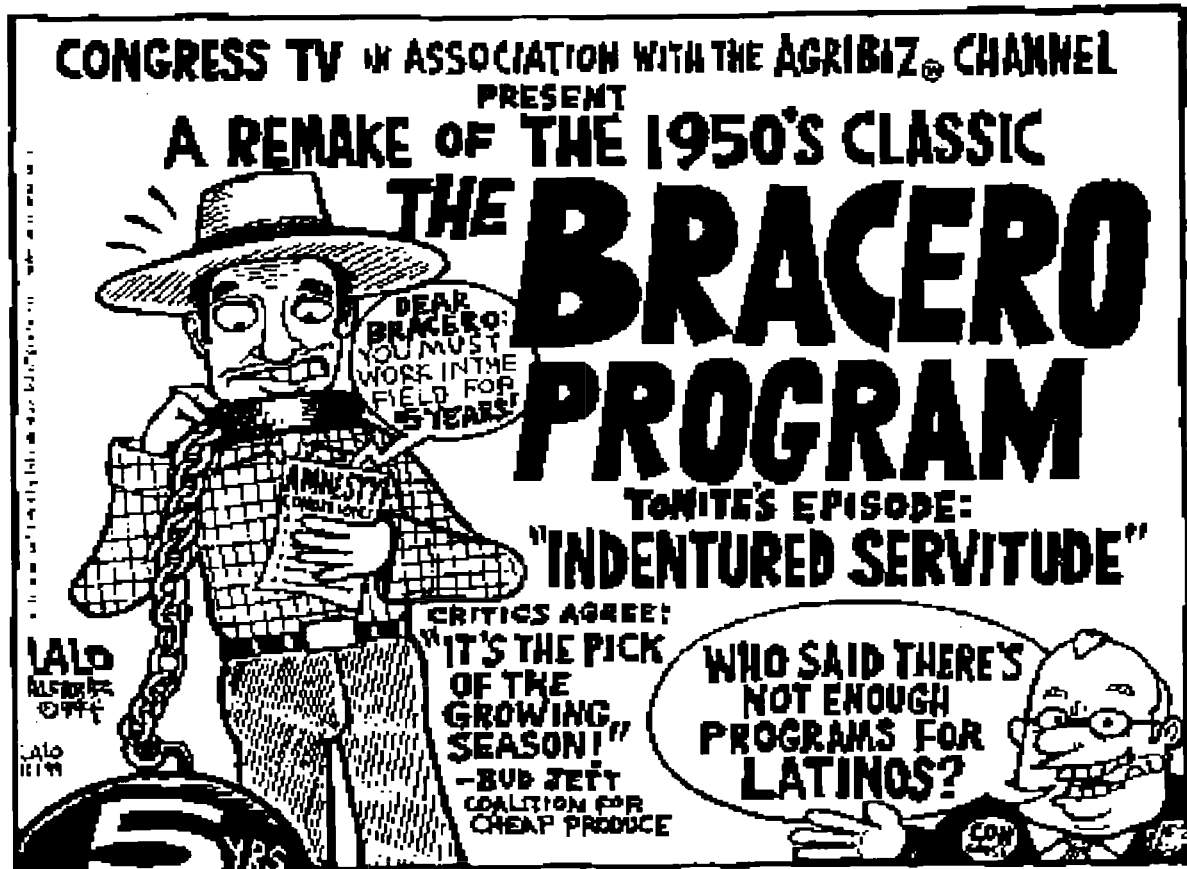
Pages: 3

Message:

The media is starting to understand the issues involved in the agricultural guestworker legislation, S. 1814 and S. 1815. See attached editorial from the Miami Herald, and a cartoon from freelance cartoonist Lalo Alcaraz.

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This cartoon appeared in November in Hispanic Link and is on Lalo's web site,
www.lacucaracha.com/roach.html



Editorial in **Miami Herald**, Wednesday, November 10, 1999 (excerpt; see heading "Farmworker Justice")

CONGRESS HEADS TO ADJOURNMENT THINGS TO DO, AND NOT TO DO

Having shelved gun-control and juvenile-crime bills, campaign-finance reform, a ``patient's bill of rights" for those in managed-health-care plans, Medicare drug benefits and Social Security reforms, Congress now is rushing to cut the last of the budget deals and adjourn. In those last-minute deals could come a heap of help -- or trouble.

MEDICARE FIXES

The 1997 balanced-budget deal has cut payments to hospitals, nursing homes, therapeutic services and home health care by 20 percent. All will be whacked again in 2000 if Congress doesn't sheathe the hatchets.

Among the hardest hit will be patients in nursing homes who, because of caps on total reimbursable services, would after a stroke be forced to choose between, say, speech or physical therapy. Two nursing-home chains have gone belly up, others may follow. The Senate bill, S 1788, would inject a welcome \$1.1 billion into the Medicare-Medicaid programs. Pass it and stave off crisis.

RESEARCH CAN WAIT?

Here's a bad idea: Delay \$7.5 billion in funding for the National Institutes of Health until Sept. 29, the last day of fiscal year 2000. Why? So Republicans and Democrats can tell voters that they increased funding for cancer and other medical research without taking any blame for busting the budget. It's one more accounting trick, and a cruel one at that. Neither party should get away with it.

FARMWORKER JUSTICE

Florida Democratic Sen. Bob Graham again proposes legislation to ``improve the troubled agricultural labor system" -- for agribusiness.

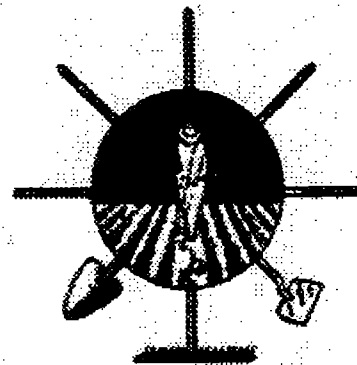
The bill promises legal status for more than 500,000 undocumented farmworkers -- though requirements will make it nearly impossible to qualify. Other provisions erode the few protections that currently exist for ``guest-workers." Thus, farmers are ensured of an ever-cheaper, readily exploitable labor force. The so-called ``reforms" aren't.

To really fix the ``ag-labor problem," Congress ought to provide farmworkers the full benefits and protections applied to other workers: decent wage, overtime, unemployment compensation and collective bargaining rights.

WAGE HIKE LINKED TO TAX CUTS

So what if President Clinton vetoed tax cuts for the rich.

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Company: Domestic Policy Council

From: BRUCE GOLDSTEIN

Pages: 3

Message:

As the Wall Street Journal article about south Texas (see attached) points out, despite the tightening job market in other areas and a decline in population, there is still double digit unemployment there, a major migrant-worker supply area. And although meat packers and poultry processors from up north recruit through radio ads in the Rio Grande Valley, you don't see organized recruiting by agribusinesses clamoring for more foreign workers through a new bracero program. Double digit unemployment rates also persist in Ariz. and Calif. rural areas.

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Economic Focus: Valley's Labor Numbers Pose a Mystery for Experts

By Michael Totty

Wall Street Journal, October 6, 1999

Labor-market experts have a mystery on their hands.

Since early this year, the Lower Rio Grande Valley has seen a surprising drop in the size of its civilian labor force. In August, for instance, there were about 4,500, or about 3%, fewer people working or looking for work in Brownsville and surrounding Cameron County than in August 1998. In neighboring Hidalgo County, the labor force was down more than 7,000, or nearly 4%.

Since the number of people with jobs in the two counties continues to grow, the drop in the labor force has had a dramatic effect on local unemployment rates. **The jobless rate in McAllen, in Hidalgo County, fell to 12.8% in August, its lowest level this decade and well below the 17.4% rate last August. In Brownsville, unemployment was 8.3%, down from 12.4% in August '98 and again the lowest this decade.** In fact, Brownsville has seen single-digit rates in five of the past six months.

So what happened to these missing workers? **It's common for the Valley labor force to fall every year from spring through summer as large numbers of migrant farm laborers leave the area,** but year-over-year declines are new.

Population experts are puzzled; their most recent studies, which go through the middle of last year, point to steady growth in the Valley population. Analysts at the Texas Workforce Commission say it would take detailed studies of worker-migration patterns to get a definitive answer.

But they have a possible solution in labor-market theory, which posits that a highly mobile work force will migrate from areas of high unemployment to regions where jobs are plentiful and workers are in short supply. In the case of the Valley, they say, workers -- especially those with technical or other readily marketable skills -- may be leaving home for the tight labor markets in Houston, Dallas, San Antonio and Austin. And they're leaving even as employers closer to home are adding jobs at a steady clip.

"People may be leaving opportunity for better opportunity," says Mark Hughes, director of the labor-information department at the Workforce Commission.

If Mr. Hughes is correct, the mystery of missing Valley workers may help explain another puzzle: how the larger cities can continue to add new jobs at a healthy clip without suffering paralyzing, and inflationary, labor shortages. Consider: The state labor force grew by about 956,000 people between 1993 and 1998, but the number of payroll jobs grew by more than 1.4 million. The Texas unemployment rate has been below 5% for the past 21 months, and the ranks of the unemployed in the state has declined by more than 37,000 workers in that period. "The question you have to ask is where are the people coming from," Mr. Hughes says. "It would appear that based on the loss of workers in the Valley, the Valley is losing workers to these

other areas."

Of course, it also leads to another question: Why is this happening now? After all, for years double-digit unemployment has been as much a fact of Valley life as the stifling summer heat. And labor experts have long thought that the tight-knit Hispanic community in the Valley resists the kind of pressures that send members out to look for work outside the area. Again, no one has a definitive answer, but anecdotal evidence suggests that the demand for labor by outside employers has only recently made leaving the Valley more attractive than staying.

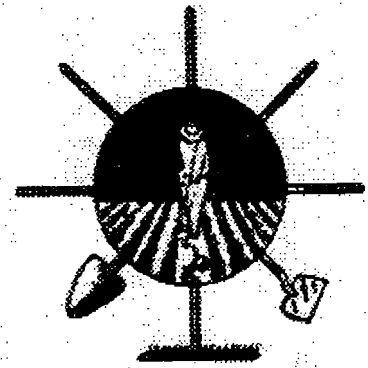
Hank Folk, executive director of Cameron Works Inc. in Brownsville, says job seekers there have become more aware of the opportunities elsewhere. Cameron Works, one of 28 work-force-development boards created to take over the functions of the old state unemployment offices, has three work-force centers in Cameron County; all stock the Sunday newspapers for Houston, Dallas, San Antonio and Austin, and the help-wanted ads are well-scoured. **Radio ads for jobs in meat-packing plants in the Midwest and chicken-processing factories in the South blanket the airwaves. Mr. Folk notes the full buses carrying people from the Valley northward.** "Those people aren't going up there for tourism," he says. "They're going up there to work."

The demand is greatest for those in technical or skilled jobs, such as welders or those in the construction trades. Here the wage differential is especially steep. A 1998 study by Valley Interfaith, a broad-based community-organizing group, found that in 18 categories of construction jobs Valley workers were paid on average between \$6 and \$12 an hour less than those in comparable positions in Houston, San Antonio and Austin. Mr. Folk says that Amfels Inc., a U.S. unit of Singapore-based Keppel Corp. that has a shipyard at the Port of Brownsville, complains that it regularly pays to train marine welders, who then leave for better-paying jobs elsewhere. Amfels officials couldn't be reached for comment.

Just as it's unclear what is causing the decline, no one knows whether it will prove to be a temporary downtick or the start of a more persistent trend. But officials are already worried about the implications if the decline continues. J.J. Garza, a legislative aide for Brownsville state Rep. Rene Oliveira and the one who first discovered the decline, worries that if the drop in the labor force turns into a slowdown in population growth, the Valley might not get an additional legislative seat as expected after the next census. What's more, he says, efforts to attract higher-paying jobs could suffer if the area is experiencing a skills drain.

But before remedies can be proposed, Mr. Garza says, officials need to know who is leaving the area and why. "There could be very severe implications, or they could be relatively minor," he says. "We just don't have an idea yet."

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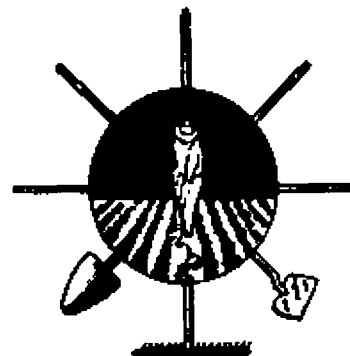
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FAX MEMO

TO: FARMWORKER SUPPORTERS
FROM: Bruce Goldstein, Co-Executive Director
DATE: October 7, 1999
RE: GUESTWORKER LEGISLATION
Pages: 2

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The Big Guestworker Issue

Sen. Graham is floating another idea, which his office refers to as "an adjustment program." It's the same proposal for a new guestworker program with the future work requirement and the right (theoretically) to later apply for a green card. No special wage protections, no housing, no recruitment.

They seem to be saying that they will exclude from this proposal any H-2A program reform. (Maybe because they are getting the McConnell amendment passed.)

The growers are trying (as you know) to argue that this would be a good thing because it would provide legal status to undocumented farmworkers. I think they are portraying this latest idea as a major step forward. They are lobbying it in Congress and the media.

So we need to make clear to our own folks that this is unacceptable and it would be worse than bracero, which at least had some protections on paper, etc., etc.

Also, there would be no guarantee that the proposal, if introduced, would not be amended to make it even worse.

The McConnell Amendment (Section 748 of HR 1906, Ag. Approps.)

Our information is that, although there are reasons to veto the agricultural appropriations bill, President Clinton probably will not veto it. Sen. Leahy and others have asked for a veto, but Sen. Daschle is asking for a signature.

There will be a Senate filibuster on agricultural appropriations for other reasons (limited disaster money for the northeast, and criticism of the dairy compact), but there is a good chance it will be overridden and that the bill will be passed and signed.

But we'll keep working on opposing the McConnell H-2A rider. Sen. Wellstone will speak on the McConnell amendment and hopefully Boxer will also. We're trying to get others. As you probably know, Rep. Becerra and Rep. Berman spoke against the McConnell rider during the House debate last Friday, when the conference report was passed by the House.