Policy Analysis

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Michael McMenamin

Michael McMenamin, a contributing editor of *Inquiry,* is the coauthor (with Walter McNamara) of *Milking the Public: Political Scandals of the Dairy Lobby from LBJ to Jimmy Carter* (Chicago: Nelson-Hall, 1980). He is a partner in the Cleveland law firm of Walter, Haverfield, Buescher & Chockley.

Executive Summary

U.S. farm policy is a boring subject. Expensive -- increasingly so -- but boring nonetheless. The only people who find it even mildly interesting are those whose livelihoods directly depend upon it -- farm-state politicians, bureaucrats in the U.S. Department of Agriculture, and farmers -- particularly those who have large farms.

Who Benefits?

The rest of the country, when it bothers to think about farm policy and the estimated $35 billion in corporate welfare that the federal government will give to farmers this year,[1] probably agrees with H. L. Mencken. Writing in 1924, when the farm population still made up more than 25 percent of gainfully employed persons in the country, Mencken made the following observation:

Let the farmer, so far as I am concerned, be damned forevermore. To Hell with him, and bad luck to him. He is a tedious fraud and ignoramus, a cheap rogue and hypocrite, the eternal Jack of the human pack. He deserves all that he ever suffers under our economic system, and more. Any city man, not insane, who sheds tears for him is shedding tears of the crocodile.

No more grasping, selfish and dishonest mammal, indeed, is known to students of the Anthropoidea. When the going is good for him he robs the rest of us up to the extreme limit of our endurance; when the going is bad he comes bawling for help out of the public till. Has anyone ever heard of a farmer making any sacrifice of his own interests, however slight, to the common good? Has any one ever heard of a farmer practicing or advocating any political idea that was not absolutely self-seeking -- that was not, in fact, deliberately designed to loot the rest of us to his gain?[2]

Some 60 years later, Mencken's comments have lost none of their relevance. There are fewer farmers now, but collectively they are wealthier; they continue to produce far more food than the nation can consume; and they continue to find ever more inventive ways to compel consumers to pay more for food than they would pay voluntarily.

Farmers have always been politically powerful in the United States. They have managed to maintain their political power despite the great changes in farming. From a broad-based constituency that found its public voice in the populist revolt of the late 19th century, farming has come in the present day to a norm of giant agricultural cooperatives, a farm population less than 5 percent of the U.S. total, and "family" farms that are capital-intensive and many times the size

of the farms of earlier generations.

Because of the political clout of farmers, the Reagan administration's farm policy is no better than any that came before it. From the presidency of Calvin Coolidge in Mencken's time to that of Jimmy Carter, nothing improved. In one sense the present case is far worse: Reagan came to power pledging to restore a free market in farming, yet less than three years later, his secretary of agriculture, John Block, has been effectively co-opted by organized farm interests and the bureaucracy of the Department of Agriculture. Now Block presides over price-support programs expected to cost more than $21 billion this year. Such programs only cost $3.5 billion during the last year of the Carter administration.[3] Secretary Block would strongly deny that this situation is all his fault; in all fairness, Congress does bear much of the responsibility.

It is undeniable, however, that in a highly visible area of farm policy where a president could take direct action (without the approval of Congress) to restore free-market conditions, Block, as the head of USDA, has consistently (and usually successfully) opposed free-market solutions proposed by the Office of Management and Budget (OMB). The specific area is that of agricultural marketing orders. By his actions, Block has effectively communicated to congressional allies and adversaries alike that he is not serious about the free-market rhetoric he occasionally uses. Agricultural marketing orders are the federal government's most blatant interference with a free market in farming. Yet Congress and the entire country see Block and the Reagan administration opting for business and politics as usual.

Marketing Orders and Competition

The Agricultural Marketing Agreement Act of 1937 authorizes the secretary of agriculture to establish "marketing orders" for milk, fruits, vegetables, and specialty crops (such as almonds, walnuts, and filberts). Such marketing orders amount to government-enforced cartels. In their most anticompetitive, anticonsumer form, they establish production quotas, allocate the quotas among producers, forbid producers to sell more than the amounts allocated, and use the power of the federal government to fine producers who attempt to sell more than their quota.

Even academic apologists for marketing orders acknowledge their anticompetitiveness. James E. Anderson, a professor of political science at the University of Houston, has admitted:

Marketing orders combine the regulatory power of the national government with the initiative of and self-administration by producer groups (and sometimes handlers) in an effort to improve the economic situation of producers. Authorized to engage in various activities to manipulate market supply, demand, or both, producers under an order generally retain full control over their decisions to produce. Some freedom of control is given up in marketing decisions. Although marketing orders may provide some benefits for consumers and handlers, they appear to provide the most benefits to producers. This should not be surprising, given their origin. . . .[4]

The origin of marketing orders lies in the 1920s. Farmers then were trying to decide guidelines voluntarily. Now the marketing orders, through government power, impose compulsory direction from without. During World War I, producers of certain specialty crops in California organized themselves into marketing associations on a crop-by-crop basis, mostly in specialty crops grown in limited areas (citrus fruits, raisins, and nuts.)

These groups were successful for a while, and their popularity spread. One of the leaders in organizing the marketing associations was Aaron Sapiro, an attorney for the State Marketing Bureau in California. He tried energetically to spread the California concept to other areas of the country. In an address to Virginia tobacco growers in 1920, Sapiro described the principles of California cooperatives as follows:

I am going to give you in a few words the principles of the California Cooperative. . . . somebody is going to say . . . "That about raisins . . . not a word of it applies to tobacco." Now I know the difference between raisins and tobacco . . . these things are different, but we happen to be in touch with 26 different commodity associations, and we learned that the principles that apply to one apply to others . . . . if you apply [these principles] to the tobacco association . . . your chance for success is excellent. . . . incorporate. . ., but . . . without capital stock. . . .no fly-by-night stuff, no one-year contracts; . . . five years or nothing. . . We do not tie up growers with a rope of sand; we tie them up with a rope of steel. When they sign the contracts we never hesitate to go into court if [a grower] tries to "welsh." . . . we never organize unless we . . . are big enough to hire the biggest [growers] in the country. Three-fourths of all the growers

signed up for raisins; three-fourths for prunes. We did not start up our egg association until we had signed up the owners of a million hens . . . . Several of our associations in California have 92% of the products of the State. . . . Ninety-seven per cent of all the berries in central California move through an organization. . . .if the world consumes one hundred and fifty million pounds of prunes a year and we have a crop of one hundred and eighty million pounds . . ., we [carry over] thirty million pounds of prunes. . . . We don't let one man's prunes break the market against other prunes.[5]

The concept of voluntarily establishing, allocating, and enforcing limits on production was not successful. Too many farmers were unwilling to bind themselves with "a rope of steel" and instead wanted the freedom to market their products in their own way. It is generally acknowledged that by 1926, most of the cooperative associations that were based on the California model had collapsed. They were defeated by the free-market forces of farmers seeking better prices than the associations offered.

During the same period, farm interests were using their political power to foster marketing associations. In the early 1920s, the Capper-Volstead Act was passed by Congress. This act was designed to make sure that it would not constitute a violation of the antitrust laws for a cooperative association of farmers to market their products. In 1926, the Division of Cooperative Marketing was created within the U.S. Department of Agriculture, with a mandate to give technical advice and assistance to cooperative associations or to farmers interested in forming such an association. In 1929, Congress passed the Agricultural Marketing Act, under which Congress established a revolving fund of $500 million to be lent to marketing cooperatives to assist them in their operations. These developments consolidated bureaucracy and funds backing cooperatives on a national scale.

The Great Depression and the Roosevelt administration brought about even more comprehensive changes. The concept of government compulsion was introduced. During the thirties, there was conflict over the extent of the government's authority to regulate agriculture. The Agricultural Adjustment Act of 1933 not only provided for price supports and production controls but also authorized the secretary of agriculture to enter into marketing agreements as an alternative to imposing production controls. In the next two years, however, the authority of the Agricultural Adjustment Administration to enforce the agreements was called into question. Because of this, Congress passed legislation in 1935 to provide for compulsory marketing orders to be issued by the secretary of agriculture. In 1936, the Supreme Court declared the Agricultural Adjustment Act unconstitutional. But Congress rescued its provisions for marketing orders and incorporated them into the Agricultural Marketing Agreement Act of 1937. That stands as the basic legislation under which marketing orders continue to operate.

Consequences of Marketing Orders

Today, the legacy left to us by that depression-era legislation includes tons of oranges rotting in the sun under a mandate from the USDA. That is a well-publicized national scandal; more damaging but less visible is how the USDA drains billions of dollars each year from taxpayers to transfer to farmers. As New York Times reporter Ann Crittenden wrote:

From afar, it looks like a red haze on the horizon. But . . . it [later] becomes clear that what lies in the distance is actually mounds of oranges.

Stretching in all directions are millions and millions of navel oranges . . . all abandoned to rot under the California sun. The oranges have been dumped under what is known as a Federal marketing order.[6]

Oranges are left rotting so as to keep prices high for farmers and to keep consumers from buying oranges at lower prices. Does the government know what it is doing? Does it care? The response of USDA bureaucrat Ben Darling is "Oranges are not an essential food. People don't need oranges. They can take vitamins."[7] There is a striking similarity between conditions of today and those of California in the 1930s, the time and place where it all began. Agricultural writer Doug Foster drew an apt analogy with the following passage from John Steinbeck's book, The Grapes of Wrath:

"Men who have created new fruits in the world cannot create a system whereby their fruits may be eaten. And the failure hangs over the State like a great sorrow.

"The works of the roots of the vines, of the trees, must be destroyed to keep up the price, and this is the saddest, bitterest thing of all. Carloads of oranges dumped on the ground. . . . A million people hungry, needing the fruit -- and kerosene sprayed over the golden mountains.

"There is a crime here that goes beyond denunciation. There is a sorrow here that weeping cannot symbolize. There is a failure here that topples all our success."[8]

How Marketing Orders Function

According to the statutory language, the purpose of marketing orders established by the Secretary of Agriculture includes establishing "orderly marketing conditions" as well as "minimum standards of quality and maturity," always, of course, in the "public interest." And, if pressed, Secretary of Agriculture John Block could undoubtedly come up with a rationale to explain how those billions of rotting oranges serve some higher purpose than the greed of the citrus farmers.

Such marketing orders are established for commodities by a vote of the producers in the geographic area for which the order is proposed. Once the marketing order is established, the details of enforcement are developed by committees of producers. The details cover items such as standards of quality and size (which seldom change) as well as controls on the volume of produce to be sent to market (a determination that can change each week). These detailed regulations are forwarded to the secretary of agriculture. At the USDA the producers' decisions are rubber-stamped; then they are published in the Federal Register, whereupon they have the force of law.

There are now 47 marketing orders in effect for fruits, vegetables, and nuts. In 1980 the value of all produce sent to market under these orders was $4.7 billion. Of these 47 marketing orders, 11 include controls limiting the amount of produce that may be marketed. Commodities produced under these 11 orders alone were worth $1.7 billion in 1980. These marketing orders include detailed regulations on such matters as "shipping holidays" that legally prohibit crop shipments on Christmas and other holidays, minimum grades and sizes, standardization of container sizes, and assessments for research and advertising. On the surface, such provisions may seem neutral. However, standardized container sizes and especially quality standards have been established and enforced by American producers to discriminate against imported produce.

Controlling Volume

The most pernicious and arbitrary aspects of marketing orders involve volume controls. In various ways these limit the amount of a commodity that is allowed to reach the market. Marketing orders use four methods to control how much of a commodity reaches the market.

Allotments

Each producer is assigned a maximum amount that he is allowed to sell each season. That is determined by his assigned base allotment. The maximum he is allowed to sell each year is calculated as a percentage of his base. This practice not only restricts the supply of a product but it also limits entry: Under the law, a producer cannot sell anything without a base. The two marketing orders that prescribe such allotments are for hops and spearmint oil.

Allocations

A second way to control volume is to allocate marketing of crops between primary markets (for fresh produce) and secondary markets (such as processed foods, produce for nonfood uses, and exports). Because demand is less elastic in primary markets, producers can increase their average revenues by restricting sales to those markets. Such allocations are used in marketing orders for almonds, filberts, walnuts, and raisins.

Prorates

The most restrictive controls are prorating provisions. They limit the quantity of produce a producer may ship to

primary markets during a given time, which can be as short as a week or as long as an entire season. Quantities above the prorated limits must be held for later shipment or sold into secondary markets. There, because supply is not artificially limited, the prices are much lower. Marketing orders that have prorating restrictions include the navel oranges, Valencia oranges, and lemons of California and Arizona.

Reserve Pools

A "reserve pool" is a method of volume control that requires producers to withhold a portion of their products from the primary market. The specified portion is to be held in "reserve" to be released into a secondary market (which by definition does not compete with the primary market). Reserve-pool requirements are contained in marketing orders for tart cherries, almonds, walnuts, raisins, prunes, hops, and spearmint oil.

By issuing new guidelines for marketing orders in January 1982, Secretary Block attempted to justify the existence of volume controls. He called the controls a valuable tool for effective marketing, "serving the interests of both producers and consumers through market stabilization." "Market stabilization," as any antitrust lawyer or economist will tell you, is simply another phrase for price fixing, in this case by growers who allow only enough products to reach the market to fix prices at the level they want. As a case in point, the March 1983 packinghouse price of fresh lemons (as reported by the USDA) was $5.90 per box. The price of the same lemons when sold for processing was 24 cents per box.[9]

The effect of volume controls in marketing orders is to make it illegal to sell crops beyond the quotas and allotments established by the orders. This tight grip leads to otherwise inexplicable anomalies:

1. It is illegal to market California oranges and lemons in excess of the established quotas. But there are no volume controls on grapefruit, limes, Temple oranges, and Florida citrus.

2. It is illegal to market tart cherries in excess of quotas. But there are no such controls on sweet cherries.

3. It is illegal to market almonds, walnuts, and filberts in excess of marketing-order restrictions. No such restrictions apply to pecans, pistachios, and macadamia nuts.

The Need for Marketing Orders

Are these marketing orders necessary? Do they accomplish anything more than unfairly enriching the growers operating within those orders? Why are weekly production prorates claimed to be essential to the orderly marketing of oranges from California and Arizona, when Florida oranges are successfully marketed without any production controls? Why are production controls essential for tart cherries but not for sweet cherries? Why do growers of almonds, walnuts, and filberts need production controls whereas growers of pecans, macadamia nuts, and pistachios get along without them?

All these restrictions are unnecessary. Eleven crops have production controls, but the production conditions for these crops are not significantly different from the conditions for other crops, whose growers manage to grow and market their products without governmental controls.

As for Secretary Block's January 1982 marketing-order guidelines, which claim that volume controls can serve the interests of both users and consumers through "market stabilization," the guidelines are false. And the USDA knows they are false. A 1981 USDA study examined the hypothesis that the marketing orders that control the output of the entire U.S. crop should stabilize prices more effectively than marketing orders without such controls.[10] The investigators found no relationship between type of marketing order and the degree of price stability.

Prices of Crops

Moreover, as the USDA is well aware, a 1982 analysis by the OMB compared the variation in prices of crops under production controls and crops without controls, only to find that prices for controlled crops were 3.3 percent more variable on average than prices for uncontrolled crops (coefficients of variation for production-controlled crops average .411, and for uncontrolled crops coefficients averaged .398). Another OMB analysis compared prices for California

citrus (production controlled) and Texas citrus (uncontrolled) for the market years 1978/79, 1979/80, and 1980/81. This study showed that the price variations for the California crops (subject to weekly prorates) were not statistically different from the price changes in Texas oranges and grapefruit, which were uncontrolled.

As David Stockman noted this past spring, in a memorandum to members of the Cabinet Council on Food and Agriculture:

The empirical evidence is precisely what economic theory predicts: the production restraints artificially but temporarily increase growers' average returns, which attracts excessive new investment in the production for future years, which in turn leads to higher production in later years and demands for even tighter production controls. and so on.

Stockman went on to note that the customary economic devices for smoothing natural variations in output are Private Storage and Futures Markets. Because these devices are voluntary and decentralized, they are bound to be more accurate and responsive than federal regulations in balancing present against anticipated future demand. [Emphasis in original.]

Misallocation of Resources

Marketing orders with production controls present an inviting target for an administration ostensibly devoted to free-market principles. Early in the Reagan administration, Vice President Bush's Task Force on Regulatory Relief specifically identified volume controls in seven marketing orders as having contributed to resource misallocation. (The crops so controlled were hops, spearmint oil, California-Arizona navel oranges, California-Arizona Valencia oranges, and California-Arizona lemons, walnuts, and filberts.) Despite the efforts of proponents of free-market policies at OMB, almost three years into the Reagan administration nothing much has been done about the problems caused by marketing orders.

Recent Investigation by the Administration

The issue came to a head during the spring of 1983. Over USDA opposition, the OMB managed to bring the question of production controls in marketing orders before the President's Cabinet Council on Food and Agriculture. The politicking was reported in the Washington Post as follows:

The White House is considering a sharp break from 45 years of U.S. agriculture policy by curtailing farm "marketing orders" that allow growers to restrict the flow of certain . . . crops. .

Advocates of such a move say it would mean lower consumer prices and demonstrate President Reagan's commitment to free-market principles he has long espoused. But [the move] is strongly opposed by Agriculture Secretary John R. Block and some of the nation's most powerful farm cooperatives and agricultural blocs. . . . One of the leading critics [of marketing orders] has been David A. Stockman, director of the Office of Management and Budget, whose staff sought unsuccessfully in the last two years to challenge marketing orders for specific crops. However, OMB has lost most of those internal battles to the Agriculture Department, which oversees the orders.[11] Danny Boggs, executive secretary of the Cabinet Council, presented the issue to the Council in the following way:

How should the Administration deal with agricultural marketing order provisions, imposed by vote of existing producers, that regulate the flow of produce sold or allocated to particular markets?

The free-market option endorsed by the OMB was a mild one:

Issue an Administration policy statement that season-long marketing volume restrictions will no longer be approved by either USDA or OMB.

The memo outlined the following points as "arguments for" curtailing marketing orders:

< [Curtailing marketing orders] [w]ould establish the marketplace -- rather than a producer committee backed by the Federal government -- as the instrument for resource allocation and price setting and thus would be consistent with the

Administration's commitment to economic liberty and efforts to dismantle entry and marketing restrictions for oil, gas, air and surface transportation.

Would not lead to major economic dislocations in-as-much as there is little difference between the production characteristics of the 11 market volume control crops and those of the majority of fruits, vegetables, and specialty crops that are not subject to market volume controls (while California/ Arizona orange growers claim weekly marketing pro-rates are essential, Florida orange growers manage without them).

Would avoid subjecting consumers to higher costs generated by the operation of market volume controls.

Would be one of the few decisive administrative actions that the Administration could take to further its policy of free markets as a key to economic productivity.

Would minimize ambiguities of current policy on agricultural marketing orders. The "do nothing" approach urged by the USDA was presented as follows in the Boggs memo:

Endorse the Secretary of Agriculture's authority to continuing [sic] to apply current administration policies as outlined in the marketing order guidelines, which permit approval of season-long controls on market volume.

The arguments cited in favor of the "do nothing" approach were minimal. It was claimed that that approach

- Would permit the Secretary of Agriculture to carry out his statutory responsibilities in a timely manner, thereby eliminating economic and political damage in the agricultural sector from delay in program administration.

Would continue to give producers an opportunity to maintain stability in their markets without imposing costs on the Federal Treasury.

Would create a more cooperative environment in which the Secretary could work with producers to remove the more onerous marketing order restrictions.

Presidential Actions and Inaction

The outcome? The OMB's already mild option of eliminating season-long restrictions on marketing volume at a stroke of the presidential pen was turned down. Instead, the president ordered without fanfare that within five years allotments be eliminated from only two minor marketing orders, those governing hops and spearmint. Without publicity, the president also mildly limited the use of reserve requirements in marketing orders for such items as tart cherries and raisins, and ruled to stop growers from using marketing orders to set aside reserves as a device to increase prices. The president nevertheless provided that reserves would still be permitted whenever the crops were more than 110 percent greater than crops in recent years.[12]

These positive steps were long overdue. Why the lack of publicity? The answer is because the president did nothing about the restrictive marketing orders of California and Arizona orange growers. This omission is significant because their abuses are the most highly visible and (not coincidentally) these growers are politically powerful. All the president did about the orange growers was to instruct the USDA to "provide for greater flexibility" regarding the establishment of volume restrictions. The OMB attempted to put the best face on its defeat by telling the Wall Street Journal that the president's decision meant that the USDA would have to "phase out the most restrictive features of the orders."[13] If OMB was restrained, USDA was positively euphoric. USDA Assistant Secretary C. W. McMillan told the Associated Press that Reagan's decision "represents a clear victory for [Agriculture Secretary Block] in preserving marketing orders and his ability to administer the programs."[14] Karen Darling, a USDA special assistant, told the New York Times that "the whole thing was threatened [but now] marketing orders have indeed been preserved."[15] Vern Highley, administrator of USDA's agricultural marketing service, told UPI that Reagan's decision "affirmed the Administration's support for the marketing-order concept."[16]

And what has the "marketing-order concept" done for consumers lately? Enriching Chilean citrus growers is a recent example. Officials of Riverbend Farms, Inc., reported on August 22, 1983, that they were forced to import lemons

from Chile to meet demand, while tons of lemons were left to rot on the company's own southern California farms. Said one company official:

The situation is ironic because we have plenty of high quality lemons in our Ventura County lemon groves that are ready to be harvested for market. We are going to have to let much of the fruit in the Ventura groves drop and rot on the ground because of the prorate system in the marketing order . . . two-thirds to three-fourths of the 60,000 cartons of lemons we have in our Ventura County groves go to waste even though there is a demand for it.[17]

Volume-control marketing orders should be viewed as a symbol of the intellectual bankruptcy of U.S. farm programs -- policies of farmers, by farmers, for farmers and no one else. Such marketing orders have blatant production controls that subject violators to fines and (ultimately) imprisonment for civil contempt.[18] If these continue to exist, the Reagan administration will have no moral basis for questioning the present state of farm policy -- which consists of little more than handing Congress a blank check and letting it fill in the amount.

On balance, the Reagan administration's farm policy -- as symbolized by its inaction on marketing orders -- has been long on rhetoric and short on performance. Indeed, if taken seriously, the rhetoric accompanying Reagan's farm policy could give the free market a bad name. The antidote is to take some good advice on politics: "Watch what we do, not what we say."[19]

FOOTNOTES

[1] Ward Sinclair, "Costly Farm Supports Make GOP Nervous About Toll on '84 Vote," Washington Post, 14 August 1983, p. A3.

[2] H. L. Mencken, "The Husbandman," in A Mencken Chrestomathy (New York: Alfred A. Knopf, 1949), p. 360.

[3] Ward Sinclair, p. A3.

[4] James E. Anderson, "Who Benefits from Farm Programs?" in Food Policy and Farm Programs, vol. 34, no. 3 of Proceedings of the Academy of Political Science, ed. Don F. Hadwiger and Ross B. Talbot (New York, 1982), p. 155.

[5] Aaron Sapiro, "Cooperatives to Control Marketing," in Agricultural Thought in the Twentieth Century, ed. George McGovern (Indianapolis and New York: Bobbs-Merrill, 1967), pp. 95, 96, 98.

[6] Ann Crittenden, "Growers' Power in Marketing Under Attack," New York Times, 25 March 1981, p. 1.

[7] Quoted in Doug Foster, "Forbidden Fruit," Inquiry, 11 May 1981, p. 23.

[8] Ibid.

[9] Data found in the monthly "Agricultural Prices," a publication of Crop Reporting Board of the Statistical Reporting Service.

[10] Edward V. Jesse and Aaron C. Johnson Jr., Effectiveness of Federal Marketing Orders for Fruits and Vegetables (Washington, D.C.: USDA Economic Research Service, 1981).

[11] David Hoffman, "White House Considers Scrapping a Long-time Crop Restriction," Washington Post, 18 April 1983.

[12] Jeffrey H. Birnbaum, "Reagan Moves to Curb Power of Farm Boards," Wall Street Journal, 4 May 1983, p. 4.

[13] Ibid.

[14] The Associated Press, 6 May 1983, Friday P.M. cycle.

[15] Robert D. Hershey Jr., "Reagan Acts to Modify Farm Marketing Orders," New York Times, 5 May 1983, section

D, p. 2. [16] United Press International, 5 May 1983, Thursday A.M. cycle.

[17] United Press International, 23 August 1983, Tuesday P.M. cycle.

[18] They do. And they are still strictly enforced. The UPI wire carried a report on July 1, 1983, that two Fresno, California, grower-shippers of fruit were sued in federal court for marketing orders. Schletewitz Farms was accused of eight counts of handling fruit that did not meet minimum marketing-order standards. P. R. Farms was accused of 39 counts of violating various of marketing-order regulations.

[19] John Mitchell, quoted in Good Advice, compiled by William Safire and Leonard Safire (New York: Times Books, 1982), p. 260.