

## Agriculture by Sanford Roberts

### Judge orders debt moratorium

*Principal and interest payments may now be deferred across the United States under a federal court ruling.*

**O**n Oct. 27, a federal judge in North Dakota issued a bold ruling which will in effect introduce a temporary debt moratorium against the Department of Agriculture's Farmers Home Administration. Last May, Judge Bruce Van Sickle, presiding in the case of *Coleman v. Block*, enjoined the FmHA from proceeding with farm foreclosures and farm loan accelerations (declaring any loan due if payments are not made on time) in the state of North Dakota until the agency adopted certain constitutional safeguards to protect the rights of farmers. In his Oct. 27 ruling, Judge Van Sickle extended the certified class action suit beyond the class of North Dakota farmers to include the farmers of 43 other states. (Farmers in the other six states are exempted because similar cases are pending in those jurisdictions, but Judge Van Sickle gave them an option to join the North Dakota suit.)

"It is time to gather the remaining people into one action, consider the other courts' experiences and rulings in this matter, and resolve the issues, at least at the lower court level," wrote the North Dakota jurist. The judge's opinion refers to the emergency in U.S. agriculture brought about by the protracted usurious interest rate policy of Federal Reserve Chairman Paul Volcker. Since FmHA loans are pegged to the cost of government borrowing, the Volcker monetary policy is directly responsible for the tidal wave of farm foreclosures which have sparked legal actions by debt-strapped farmers in several states.

The FmHA has stubbornly refused even to acknowledge the existence of

the crisis. In mid-September, FmHA head Charles W. Shuman stated: "These things go with farming. I don't expect to see much difference in the number of farmers leaving agriculture." But according to Sarah Vogel, the attorney for the now-nationwide class of farmers, the North Dakota court order "is going to stop the FmHA from commencing a bunch of foreclosures. They have something like 17,037 farmers who were sent to the Office of General Counsel to start foreclosure as of June 30."

The heart of the case is a 1978 statute (7 U.S.C. 1981a) which permits the Secretary of Agriculture to defer principal and interest payments on FmHA loans and forego foreclosures "upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower."

USDA has interpreted the statute to be discretionary and has refused to set up any formal administrative procedure so borrowers can exercise their statutory rights. The source of this administrative reluctance might well be that some artful pleader could show the Fed's usury amounted to "circumstances beyond the borrower's control" and thus establish the precedent for a permanent debt moratorium until the Volcker policy is rolled back.

The USDA's adherence to the strict text of the statute to justify its "do-nothing" policy was sharply criticized by Judge Van Sickle last May. "This

statute is not a shining example of legislative art . . . [b]ut when the Congress assembled speaks with all the pomp and ceremony of a statutory enactment, I must presume it means something." The days of the Department's nonenforcement of 1981a are definitely numbered.

Attorney Vogel wrote in her court papers, "It is not in the public interest to subject American farmers, who are seeking to save their homes, livelihood, and way of life, to 'hearings' that can easily be characterized . . . as 'kangaroo courts.'" By virtue of his May order, Judge Van Sickle granted North Dakota farmers the right to hearings on loan deferrals caused by circumstances "beyond the borrower's control." The ruling of Oct. 27 will extend these rights to approximately one-quarter of a million farmers across the country.

Government attorneys have told *EIR* that the imposition of due process standards will infringe on the "special relationship" the county FmHA supervisor has with local farm borrowers. But other sources indicate that this "special relationship" is already being eliminated by the USDA policy of rotating personnel so that outside supervisors, less susceptible to local pressure, will carry out the FmHA foreclosures.

Until the FmHA complies with the court's order for constitutional standards of due process, they are enjoined from foreclosing on virtually any farm in the country. When *EIR* contacted the FmHA's Office of General Counsel, the spokesman stated there were no current plans to implement the procedures specified in Judge Van Sickle's order. This response to the court order means that a de facto FmHA debt moratorium will exist pending a hearing on a permanent injunction scheduled for Jan. 9, 1984.